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BENJAMIN FRANKLIN HALL, FIRST CHIEF JUSTICE, TERRITORY OF COLORADO

By Fred Y. Holland of the Denver Bar

BENJAMIN FRANKLIN HALL, the first Chief Justice of the Supreme Court of the Territory of Colorado, was born at Whitehall, N. Y., on July 23, 1814. He was appointed Chief Justice of the new Territorial government by President Lincoln, who thereby testified to the highest regard for his character and ability. Judge Hall received his commission in March, 1861, and shortly thereafter began the long and perilous journey to the West, arriving in Denver three weeks later.

As chief judicial officer, the first and most important duty with which he was confronted after his arrival at the capitol was the organization of the Judiciary of the Territory. The Legislature which convened in Denver on September 9, 1861, solicited and received his advice and recommendations on all Legislation pertaining to the subject. In addition to the manifold duties incident to the organization of the Supreme Court, Chief Justice Hall found time to participate actively in the affairs of the Episcopal church, of which he was a distinguished member. It is a surprising fact, however, that the local histories of Colorado and of Denver contain very little information concerning the life of this appointee and friend of President Lincoln. Aside from the official records on file in the Supreme Court Library, I found certain statistical records of the life of Judge Hall and his ancestors in a "History of Cayuga County, N. Y.", where he spent the greater part of his life; in a brief biography in the "National Cyclopaedia of American Biography", volume 13, and in the unpublished reminiscences of Judge Hall with reference to his connection with the early Episcopal church in Denver.

Judge Hall was a direct descendant of Francis Hall, one of the English founders of the Colony of New Haven. His American ancestors were all Connecticut people, with Connecticut residences, traditions, principles, habits and manners. They were enterprising, intrepid, and well-to-do in the

communities where they resided. Judge Hall was born and reared on his father's farm in Washington County, New York. He was privileged to attend school only when his duties on the farm permitted, and at such times he alternated between attending and teaching school. At the age of twenty he began the study of law in the law office of Surrogate Judge John H. Parker, at Auburn, the county-seat of Cayuga County, New York, in 1839, and on completion thereof began the practice of law at Auburn.

Early in life Judge Hall evinced a profound interest in the history of the scriptures, and wrote several articles on the subject which were published in the New York newspapers. Encouraged by learned men of his acquaintance, one of whom was the distinguished Bishop De Lancey, he made extensive researches and wrote a scholarly treatise upon the "Judicial and Political Economy of the Hebrew Commonwealth", which was published and sold by Doubleday and Ivison, of Auburn, New York. This was the first of several books of which he was the author, the others being entitled: "The Trial of Freemen", "Our Commercial Relations with the rest of Mankind", "The Republican Party", "The Landowner's Manual", and a "Brief and Concise History of the Canadas" in two volumes.

Judge Hall took an active part in the affairs of the Community and State in which he resided. He was a member of the State Legislature of New York in 1844, and was elected Mayor of Auburn in 1854. In 1850 he was appointed by President Fillmore to compile and index the Decisions of the Attorneys General of the U. S., and the result was published in six volumes, "remarkable for their thoroughness, accuracy and excellence".

Except for the periods of time which he spent in public offices Judge Hall continued the practice of his profession until his appointment as Chief Justice of Colorado Territory in 1861. An interesting account of his first official activities as Chief Justice is given in Wharton's History of Denver, published in 1866, as follows: "Pursuant to proclamation on March 10th by the Governor of the Territory, the Supreme Court was organized at 10 o'clock A. M. in the building next the Herald office. Chief Justice Hall addressed those present

at length, in a very fine speech, closing with remarks on the qualifications of members of the legal profession, and recommending that a committee be appointed to examine those desiring admission to practice as attorneys. Wm. R. Likin, I. N. Bassett, J. T. Coleman and J. Bright Smith, were appointed such committee. On the day following the rules of the Supreme Court were adopted for observance, and about thirty attorneys were admitted to practice, among whom might be mentioned the names of Moses Hallett, H. M. Teller, J. Bright Smith, Governor Gilpin, Amos Steck, and others."

The Supreme Court consisted of three Judges, appointed by the President for a term of four years, at a salary of \$1800.00 annually. The two associate members were Stephen S. Harding and Allan A. Bradford. The Legislature at its first session divided the Territory into three Judicial Districts, and assigned one Supreme Court Judge to each district. The Judges therefore tried cases in the first instance in their respective districts, and then met as a Supreme Court to decide the cases brought up to them on appeal from their nisi prius judgments.

I can find no record of any opinion having been written by Chief Justice Hall while sitting as a member of the Supreme Court. One of the first nisi prius decisions which he rendered, and which evidently was never appealed, was "the case of Joel McKee, a Texan who came to Denver with a commission from the rebel General Sibley and commenced the business of recruiting for the rebel service. McKee was arrested and his attorneys applied to Judge Hall for a writ of habeas corpus. (Nothing had been done at Washington to suspend the operation of the writ of habeas corpus as a war measure in the new Territory.) The Judge surprised them with a prompt and well considered decision, based upon the meaning imputed to that clause of the constitution by those who framed it, that being in rebellion against the Government, they had forfeited the privilege of having it granted to them".

Chief Justice Hall resigned his commission in 1863, on account of the inadequate salary, and resumed the practice of law in Auburn, N. Y. On the date of his departure an editorial appeared in the Daily Denver Commonwealth, from

which I quote: "Chief Justice Hall carries with him the best wishes of the best portion of this community to his new field of labor. A few of the lawyers and spectators complained of some of his early decisions before they understood his judicial policy. But ever since they comprehended his ideas in respect to our lands they have approved it. We think we are warranted in stating that at no period of his administration here has there been a single voice lifted against his legal ability, patience, patriotism and purity. He has been an industrious, patient, politic, able and upright Judge. By those whose ante-territorial ranch and mining titles have been upheld and confirmed by his decisions as against the rapacity of jumpers and speculators he will long be regarded as a public benefactor."

As a pioneer of the Episcopal Church, in Denver, Judge Hall, with the assistance of a few others, fitted up a large brick building on the public land in Denver for a church edifice, and had it consecrated by Bishop Talbot. He served as a senior warden as long as he remained here. Shortly after he resigned and had left Denver, the Rector and vestrymen met, passed the following resolution and had the same published in the Denver papers and church journals, elsewhere:

"Resolved, That as it was through the untiring exertions of Senior Warden Hall that we came possessed of this edifice in which our praise and prayers are offered to Almighty God, it is with profound regret that we feel obliged to accept his resignation.

"Resolved, that we bear willing and grateful testimony to the salutary influence during his residence, here, of his consistent walk and conversation as a private Christian man, of his integrity and incorruptibility as a Judge, and to the inestimable worth of his exertions to establish and maintain in this Territory, the Apostolic Church of Christ."

After retiring from the Supreme Court Bench of Colorado Territory, he was appointed to the office of Consul General of Valparaiso. But for reasons mostly of a domestic character he declined to accept it. He was then offered and accepted the position of Superintendent of Commercial Statistics in the State Department under Secretary Seward. While holding that position he compiled from documents in

the State Department the work, above referred to, entitled, "Our Commercial Relations with the rest of Mankind."

On the expiration of his service in the State Department at Washington he resumed the practice of law in Auburn, where he died September 6, 1891.

Judge Hall remained in Colorado Territory for a period of less than three years, but the patriotic motives which impelled him to accept the appointment of Chief Justice of the newly created Territory, at that crucial time in the Country's history; the untiring efforts which he gave to the office, his devotion and assistance to his church, and his accomplishments in the formation of the commonwealth all combine to make his contribution of the highest magnitude.

A new method of attempting to enforce collection of debts has been referred to the Denver Bar committee on "Illegal Practices". The form properly filled in is sent the debtor by mail. As a matter of general interest the same is reprinted below:

DISCLAIMER OF LIABILITY

JOHN DOE, *Creditor*

vs.

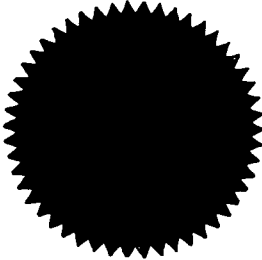
RICHARD ROE, *Debtor*

}

*Secondary service
to recover debt of
\$ x x x*

We, the undersigned, do hereby state that, although good and sufficient notice has been tendered to the above named debtor of his, her or their unpaid account, to date there is now justly due and owing to the above named creditor the sum above named; that no part of the same has been paid; that to protect the above named creditor from loss it becomes necessary to resort to SECONDARY SERVICE, and that after one week from date we DISCLAIM ALL LIABILITY for any loss of position; injury to prestige, credit standing, reputation or influence, or for any other serious losses or damages caused by its use, or to become liable for any suit or action instituted for such losses, injuries or damages incurred by the debtor as a result of SECONDARY SERVICE.

Dated, and seal attached hereto this 19th day of October, 1931.



THE X & Y STORES

Legal Division

DENVER, COLORADO

"Remember a patch on your coat and money in your pocket is better and more creditable than a writ on your back and no money to take it off."—*Benjamin Franklin.*