



JUSTICE WILLIAM J. FULTON
SIXTH DISTRICT

MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE
SEPTEMBER TERM, 1961, ON THE LIFE, CHARACTER
AND PUBLIC SERVICE OF THE LATE MR. JUSTICE
WILLIAM J. FULTON

At the hour of two o'clock P.M., September 12, 1961, other business being suspended, the following proceedings were had:

MR. CHIEF JUSTICE BRISTOW:

This hour has been set aside for the purpose of receiving a memorial concerning the life and public services of the late Mr. Justice William J. Fulton. This may be a bit unusual but I think it would be appropriate to say to Justice Fulton's friends gathered here this afternoon that the family of Justice Fulton is here—a very distinguished and brilliant trio of children—William J. Fulton, United Nations correspondent for the Chicago Tribune, New York, and his wife; Robert Busey Fulton, manager of a Redwood City, California, plant of Anaconda Wire and Cable Company, and his wife; Mrs. James B. Reston (Sally Fulton Reston), Mr. Reston being a Washington correspondent of the New York Times, and their son, Tommy Reston, age 15.

At this time, I will call upon and be pleased to hear from Mr. Lowell B. Smith, Sycamore, Illinois, who was a former partner and very close friend of Mr. Justice Fulton.

MR. LOWELL B. SMITH:

May it please the court—We have assembled here today in the courtroom occupied by him for so many years, to honor the memory of our departed brother, Justice William J. Fulton, who was the oldest member of our bar association, and the last one to be summoned to the Highest Court, from which there is no appeal.

On behalf of the DeKalb County Bar Association, I have the honor to present the following memorial of his life, and his work as a lawyer and judge for more than 60 years.

Judge Fulton was born in Canada, on January 24, 1875, and when he was six years old was brought by his parents to Waterman, DeKalb County, thence to Sycamore, Illinois, where the family home has been maintained until his death.

Following his preliminary education in Waterman, Illinois, and Hartford, Indiana, schools, he attended the University of Illinois and graduated with a Bachelor of Arts degree in 1898, and was awarded a law degree at Illinois in 1900, later studying law with Judge Duane J. Carnes at Sycamore.

While at Illinois, he was a star second baseman and twice captain of the baseball team. The late George Huff, baseball coach and athletic director at the university, named "Billy" Fulton as second baseman in his selection of the all-time university team. It was said by experts that he could have been a major league player.

At the university he was a member of Phi Beta Kappa, honorary scholastic fraternity, also a member of Phi Delta Theta social fraternity, and was president of his senior class.

On November 26, 1901, he married his college sweetheart, the former Laura Busey of Urbana, Illinois. Their golden wedding anniversary was beautifully observed in 1951, in Sycamore at the Fargo Hotel.

Judge Fulton was admitted to the Illinois bar in 1901. He began his career as a law clerk, court reporter, and city attorney of Sycamore. Later he was appointed master in chancery and served until 1923. He was elected to the circuit court bench in 1923 and appointed to the Appellate Court of this District in 1930, serving both as circuit judge and Appellate Court Justice, until elected to the Illinois Supreme Court in 1942.

He became Chief Justice of the Supreme Court in 1944, and again in 1948. He was re-elected in 1951, and continued to serve until his resignation on November 1, 1954, prompted by the failing health of his wife.

Justice Fulton has a record of continuous service on the bench for 31 years, seldom equalled by any judge in the history of this State. Justice Cartwright served 36 years as circuit judge, in the

Appellate Court, and in the Supreme Court; and Justice Clyde E. Stone as county judge, circuit judge and Supreme Court judge, a total of 36 years continuously.

Judge Fulton exemplified the ideal judge, defined by Socrates when he said, "Four things belong to a judge: To hear courteously, to answer wisely, to consider soberly and to decide impartially."

He was a member of the Illinois State Bar Association and the DeKalb County Bar Association. During all his professional life he was very much interested in its affairs and he attended regularly all of the meetings of our bar association.

Judge Fulton was especially proud of his home town and was very active in its civic life. He was one of the founders of the Sycamore Building & Loan Association of Sycamore and for many years served as its president. He was an active member and president of the board of education of the Sycamore high school. He was never too busy but what he could lend a helping hand by giving advice or counseling with young lawyers in their early days of practice. He was a kindly judge, neighbor and friend, and was deeply devoted to his home and family.

He was a member of the Federated Church of Sycamore, Sycamore Masonic Lodge No. 134, Elks Club, Sycamore Chamber of Commerce, and for a long time a member of the Kishwaukee Country Club.

His life work as a Justice of the Supreme Court has been inscribed in its records. These will forever be a monument to his memory. His friends and neighbors are proud of this record. They may forget the importance of the record made in the various courts, but they will not forget his friendliness, his smile, and his good nature. In his passing, not only the citizens of Sycamore, but the entire State, have lost a distinguished citizen and an outstanding public servant.

Surviving are his three children, William J. Fulton, Jr., Cos Cob, Connecticut, United Nations correspondent for the Chicago Tribune; Mrs. James (Sally) Reston, herself a very capable newspaper woman, and whose husband is the Washington, D.C., bureau chief of the New York Times, and Robert B. Fulton of Redwood City, California, president of the Sequoia Wire and Cable Company, an important subsidiary of the Anaconda Wire and Cable Company.

To them we extend our deep sympathy and hope that they will find consolation in the esteem and affection in which he was held, and in the record of long and honorable public service he has left behind.

The bench and bar mourn him today and honor his memory. We will greatly miss him.

MR. CHIEF JUSTICE BRISTOW:

The court will be pleased to hear from the Chicago Bar Association which is represented by its president, Mr. R. Newton Rooks.

MR. R. NEWTON ROOKS:

May it please the court—Lest it be deemed presumptuous of me to claim for The Chicago Bar Association a right to participate in services honoring a man who admittedly was not a Chicagoan, let me briefly recite a few of the considerations which in this instance both support that right and establish the validity of the views here expressed in the exercise of it.

William J. Fulton became a member of this court in 1942 and served more than twelve years until his resignation in 1954. The opinions which he wrote for the court are distributed through forty volumes of the official reports, from Vol. 380 of the old series to Vol. 42d of the new. Those opinions demonstrate at once the wide scope of his interest and competence and the substantial concern he had with the affairs of the Chicago area by reason of the large number of cases from that section in which he spoke for the court. These conclusions, which find support in all his reported opinions, are adequately attested by the opinions he wrote in the earliest and the latest cases in which he participated.

Thus, of the seven cases in Vol. 380 in which he wrote the opinions, four were from Cook County. The subjects with which he treated in that first term ranged from abortion to tax rates and included questions of freehold, school law, the validity of a foreign indictment and even, somewhat surprisingly at that late date, the rule in *Shelly's case*—which he reaffirmed. One of the Cook County cases presented for review the action of a trial court in committing for contempt a witness who, claiming constitutional privilege, refused to testify to a conversation he had had with the

defendant. The claim of privilege is sometimes made in spectacular context today but Justice Fulton had little difficulty with it as it was presented in that case in 1942. He affirmed the action of the trial court with the dry observation that, in his judgment, the witness had claimed the privilege not because of any real fear of incriminating himself but simply to protect the defendant, who happened to be his cousin!

Similarly, of the three cases in Vol. 4 2d, in which the court adopted the opinions of Justice Fulton, one was from Cook County and another from nearby Lake County. The Cook County case probably was the last and certainly was one of the most important of the cases in which he participated. In a twenty-page opinion he enumerated, discussed and rejected more than a dozen constitutional objections which had been raised to the validity of the statute establishing the Chicago Regional Port District. The action of this court in sustaining that legislation already has done much to foster the growth of Chicago as a world port, and the full benefit of the decision has not yet been realized.

In his earlier years as a trial judge, Justice Fulton often sat in the courts of Cook County where the members of our bar came to know him well as a trial judge of integrity, capacity and patience and as a man possessed of most endearing qualities of heart and mind. He enjoyed our universal respect and affection, both as a trial judge and in his later service on this court. He was an honorary member of The Chicago Bar Association.

And so, if your honors please, we of Chicago, conceding that we cannot claim Justice Fulton as a native son, respectfully petition for a share in this commemorative service and request that you look with favor upon the credentials here presented in our behalf, to the end that these remarks may be spread upon the permanent records of this court as a tribute of the bar of Chicago to the life and works of a well-loved and respected judge, an able and resolute lawyer, and a man of unimpeachable character and winsome disposition.

MR. CHIEF JUSTICE BRISTOW:

It was with some difficulty that the next speaker could arrange to be here with us today. The court will be pleased to hear from the Illinois State Bar Association which is represented by its president, Mr. Owen Rall.

MR. OWEN RALL:

May it please the court—The Illinois State Bar Association is honored to be invited to participate in these proceedings in memory of a Justice of this court who was highly respected and greatly loved by the bar of this State.

On an occasion such as this, the judicial service of the one whose memory is honored naturally is emphasized, for it is that service which justifies a busy court such as this to lay aside the pressing obligations of the term and pause to honor a departed comrade. Nevertheless, in a sense the judicial record of a Justice of this court needs no delineation for the audience present or for posterity which will have access to the printed report of these proceedings. The judicial record needs no rerecording, because it is just as certainly preserved in the reports of this court for all to see as will be the proceedings of today which will be preserved for all time.

I speak, therefore, of the man rather than of his judicial works. If these exercises do nothing more they will evidence the warm—yes, affectionate—regard in which William J. Fulton was held by his fellow judges, by the lawyers who practiced before him, and by all whose good fortune it was to come in contact with him.

Small in physical stature, Mr. Justice Fulton's appearance belied the legends of his athletic prowess as second baseman on the University of Illinois varsity baseball team—legends of speed, dexterity and great ability which could not have survived the years and flourished in the extravagance of repetition unless they had been based on fact. Of Judge Fulton, as of Napoleon, it should be said that men should be measured from the chin up. More importantly, of Judge Fulton it could be said that the size of his heart was the truest measure of the man.

Considerateness for others, Christian tolerance for the problems of his fellow beings, a very becoming modesty, and an affectionate and generous nature were attributes of this great and good man. That a judge possessing such qualities should have rendered service as trial judge, as justice of the Appellate Court, and finally as justice of this high court, to the great satisfaction of the bar and of the people of this State, is hardly a matter for surprise—rather it is a foregone conclusion, for the character of the judge determines the quality of his judgments.

Judge Fulton was possessed of great sensitivity. He was alert to the moral judgments of persons whom he respected. With his modesty and lack of self-conceit he felt secure in adhering to the dictates of the conscience of the legal profession. To the great respect which Judge Fulton paid to the good opinion of the bar he added his own sensitive conscience.

On the occasion of his first nomination as candidate for a judgeship of this court, I witnessed the sort of an inner struggle which I must believe was characteristic of Judge Fulton. Because of the acquaintanceship of my senior partners with Judge Fulton in his early career as a court stenographer and as a trial judge in his own circuit and in Chicago where he frequently sat, I had met Judge Fulton earlier and had known him better than otherwise would have been the case. In the spring of 1942, I unexpectedly met him on the train from Chicago to Springfield. He had just been nominated. He was on his way to the State capital to file his certificate of nomination in person, but nevertheless he was greatly troubled. He expressed to me grave concern that the bar might think him to be a self-seeker in running for office against a sitting judge. Perhaps with a duller conscience, I assured him that his candidacy as nominee of the party which dominated elections in his Supreme Court District was not only permissible but that the people of the State were indeed fortunate that he and not some inexperienced candidate—who, truth to tell, would have been just as certain of election—had been nominated. I am not sure that I completely satisfied Judge Fulton's own conscience, but at least I could give him some assurance that the tiny segment of the bar which I comprised was glad he was about to come to this court. Nevertheless, I was greatly impressed by the sensitivity that Judge Fulton exhibited on a matter which he thought involved the good opinion of our profession toward him.

After he served one term as a member of this court he was renominated and re-elected, and then became concerned that his judgment and mental vigor might become impaired without his realizing it. With that same sensitive conscience still controlling him, Judge Fulton pledged a younger member of this court to keep watch and to advise him whenever in the other's opinion Judge Fulton should retire. Let it be recorded, however, that the resignation of Judge Fulton was not occasioned by any such

diminution of his own capacity, but out of tender consideration for his dear wife who had become an invalid. So the very cause of Justice Fulton's leaving this high place emphasized and punctuated those great human and humane qualities which we cherish.

Others speak today of Judge Fulton's personal history and accomplishments, and in nothing that I have said do I detract one whit from the importance of those factors in the making of a worthy judge of this court, but I wish the imperishable record of these proceedings to evidence the warmth of the affection which the bar of this State—which I have the great honor to represent on this important occasion—had for a respected jurist and a beloved friend—William J. Fulton.

MR. CHIEF JUSTICE BRISTOW :

The court has received with appreciation and with gratitude these observations upon the life of our late friend and colleague who was deeply loved by all of us. I know of no one closer to Justice Fulton than the senior member of the court, whom I will call upon now to respond for the court.

MR. JUSTICE DAILY :

The Chief Justice has asked that I respond on behalf of the court and add our tribute to those that have been given this day to our former associate, Justice William J. Fulton, with whom I had the privilege of serving for over one-half of his tenure on this bench, following my acquaintance with this good man, coming from our joint service on the circuit court in our home circuits and Cook County, commencing over 35 years ago.

It is altogether fitting and proper that the bar and this court, of which Judge Fulton was so long a distinguished member, should now express and here record their estimates of his character and eminent service. He was a humble, kindly man, not given to show or self-aggrandizement, and would ask no greater reward for his services than recognition, by his judicial colleagues and the members of the profession to which he dedicated his life, that his work was well and faithfully performed. For our part, it is appropriate that we reverently give expression of our gratitude and appreciation of a man who has borne and shared with us the stress of the problems that come before us on the court.

Judge Fulton served nineteen years on the circuit bench and

for twelve of those years, under appointment by this court, also distinguished himself as a judge of the Appellate Court in both the Third and Fourth Districts. Although the latter task imposed upon him heavy and financially unrewarded burdens over and above his duties in the trial court, he gave himself to its performance ably and unstintingly. In 1942 he was elected to the Supreme Court by his fellow citizens and remained with us until 1954 when a paramount devotion to his wife, who was ill, prompted him to resign and prematurely end his days on this bench. The widespread and sincere regret occasioned by his retirement was intensified by the fact that both this court and the people of the State were deprived of his keen judicial faculties and wisdom matured by long experience and untiring industry. While serving with us, Judge Fulton was twice Chief Justice of the court and indelibly impressed his name in its annals. At the same time, as all concerned will attest, he earned the sincere respect and friendship of everyone connected with the functioning of the court, and the personal esteem and affectionate regards of all his associates.

Judge Fulton's opinions, written as a member of this court, appear in volumes 380 Ill. to 4 Ill.2d. Those opinions, more than anything that can be said here, reveal his great service to the court and to the legal profession. Their value does not lie so much in the notoriety of the case, the importance of the litigants or the presence of any particular legal issue, but in the fact that in each and every opinion he authored may be found a worthy and conscientious performance of the judicial duties entrusted to him by his constituents. This he accomplished by a careful analysis of the factual and legal issues presented, exact reasoning, logic tempered with justice, and by impartial application of the law within the boundaries of constitutional and statutory limits. Resting upon such firm foundations, his opinions will long endure as models and precedents to aid in the solution of the problems of the future.

Nor does a mere reading of his opinions tell the full story of his labors and of his valuable contributions to the court. Not only did he bring to our deliberations learning and a wide knowledge of affairs, but his thoroughness, his industry, his natural fidelity to every task he undertook, his free and frank exchange of views with his associates and the force of his example, exercised a profound and wholesome influence upon those who worked with him.

A characteristic which greatly endeared Judge Fulton to lawyers who pursued their cases in this court was his quiet courtesy and his earnestness. These traits were not reserved for his appearances upon the bench alone, but extended to the conference room and the hours of companionship he shared with his colleagues at the end of the day's work. Those hours were enriched by his humor and his unfailing good spirits. In particular, I recall his keen interest in sports and our discussions of his high accomplishments as a baseball player in his younger days.

From our day-to-day associations we came to know of Judge Fulton's love and gentleness for his wife and children, and of his justifiable pride in the accomplishments of his sons and daughter. We know, too, that his love and pride were reciprocated, and that his passing has brought great sorrow to those of his family who survived him. Their grief may be tempered, however, with the knowledge that he has left a record and a memory of a useful and honorable life. For our part, we cherish the recollection of this man's integrity and sturdy independence and his devoted loyalty to a great task.

Mourning our loss, but enriched by the memory of his friendship and cooperation, we renew our labors.

MR. CHIEF JUSTICE BRISTOW :

The remarks made here today will be spread upon the records of the court and copies thereof will be transmitted to the family of the late Mr. Justice Fulton by the Reporter of Decisions. I might add that a tape recording is being made of all that has been said here on this occasion and these tapes will also be sent to the families.

As a further mark of respect, the court will stand adjourned until 9:30 tomorrow morning.

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