

MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE OCTOBER TERM, 1937, ON THE LIFE, CHARACTER AND PUBLIC SERVICES OF HON. LOTT R. HERRICK, DECEASED.

At the hour of nine o'clock A. M., October 13, 1937, other business having been suspended, the following proceedings were had:

Mr. CHIEF JUSTICE FARTHING:

This hour has been set apart for the presentation of a memorial to the late Justice Lott R. Herrick. Mr. John F. Voigt, President of the Illinois State Bar Association, will present the memorial.

Mr. JOHN F. VOIGT:

May it please the court—Once again we are reminded of the uncertainty of life, and that each, in turn, must pay his debt to nature. We are met today to present a memorial in memory of the passing of a distinguished member and late Chief Justice of this court. Mr. Justice Lott R. Herrick was for many years a member of the Illinois State Bar Association and, following an ancient custom, we members of that Association have come from all parts of the State to honor his memory:

"LOTT R. HERRICK—1871-1937,

"A lifelong resident of DeWitt county, Illinois, Lott R. Herrick was born on December 8, 1871, at Farmer City, the eldest son of George W. and Dora O. Herrick, pioneer citizens of that community. He received his early education in the public schools of Farmer City, being graduated from the Moore Township High

School, class of 1888, at the age of sixteen years. Evidencing a precocious interest in the law, as a boy of eleven he began working in his father's law office on Saturdays and during vacations, receiving from his father the training and experience that were later to serve him to good advantage as a student of the law and one of its most active practitioners. In 1888 he entered the University of Illinois, where he became affiliated with the Sigma Chi fraternity and prominently identified in student activities. His scholastic ability was rewarded in later years when he was made a member of Phi Beta Kappa, national honorary scholastic fraternity, on the basis of his distinctive academic record. He was likewise, in later years an honorary member of Phi Delta Phi fraternity. Receiving his degree of Bachelor of Arts from the University of Illinois in 1892, he entered the law school of the University of Michigan, from which he was graduated with the degree of Bachelor of Laws, in 1894, and was admitted to the bar of Illinois in the same year.

"Ever interested in his home community, Judge Herrick returned to Farmer City after his admission to the Illinois bar, becoming associated with his father in the general practice of the law. From the beginning of this association Judge Herrick manifested those qualities of scholarly industry and diligence in the interests of his clients that were to make him one of the outstanding court room lawyers of his generation.

"On April 2, 1896, Judge Herrick married Harriet N. Swigart, likewise a native of Farmer City, who, with one daughter, Helen Herrick Thomas, of Champaign, survives. A second daughter, Mildred Herrick McClelland, died in 1933, shortly before the death of Judge Herrick's mother, Mrs. Dora Herrick. This double loss left a deep impression on his life.

"In 1902, Judge Herrick achieved his first public recognition when he was elected to the office of Judge of the county court of DeWitt county. Upon the death of his father, in 1904, he resigned this office to return to private practice of the law in association with his brother, Wirt Herrick, the firm maintaining offices at Clinton as well as Farmer City.

"During the many years following this return to private practice, Judge Herrick gained an enviable reputation as an unusually vigorous and able court-room lawyer, and the extent of his practice was

such as to merit him the record of having appeared in more cases in the Supreme and Appellate Courts of Illinois than any other lawyer in his generation. His active practice carried him before the courts of each of the sixteen counties in the Third Supreme Judicial District and many more courts beyond that district.

"Throughout his life Judge Herrick maintained a keen interest in the affairs of his native city, at one time holding the office of city clerk, and for more than twenty-three years serving as a member of the board of education. He was a member of and Trustee of the Methodist Episcopal Church. He was affiliated with the Knights of Pythias, Elks and Masonic orders, a member of the Kiwanis club, a charter member of the Fortnightly Club, and a trustee of the Woodlawn Country Club, of Farmer City.

"In 1933, Judge Herrick was elected to the Supreme Court of Illinois representing the Third Supreme Judicial District in which he had attained such well deserved prominence as a practicing attorney. He became Chief Justice of the court at the June term, 1936, serving in that capacity until the June term, 1937. His reputation for scholarly industry was further enhanced by his splendid record as a Justice of the Supreme Court, and he was soon recognized as one of the outstanding members of that tribunal.

"In recent years the strain of such an active life in the court began to tell upon his physical condition and it became necessary for him to alternate his intensive work on the court with periods of rest and recuperation. In August of 1937 he was stricken with an illness from which he never recovered. He died on September 18, 1937, at St. Mary's hospital, in Rochester, Minnesota.

"Such, if the court please, is the simple record of the principal events in the life of our friend. They are set forth without embellishment in this short biography, the mere recital of which exemplifies the ideal lawyer, the good judge, the useful and worthy citizen of our State and Nation. The bar of Illinois mourns him today and honors his memory. A further appreciation of his character and services will be expressed by those who shall follow."

May it please the court—I move that this memorial be spread upon the records of the court.

MR. CHIEF JUSTICE FARTHING:

The court will now hear from the Hon. Edward Barry.

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May it please the court—I move that this memorial be spread upon the records of the court.

MR. CHIEF JUSTICE FARTHING:

The court will now hear from the Hon. Edward Barry.

HON. EDWARD BARRY :

May it please the court—It was my good fortune and very great pleasure to be permitted to enjoy the intimate friendship of Judge Herrick during his entire legal career. I had the privilege of knowing the high ideals, the hopes and aspirations which possessed him, and the value he placed upon true merit. Out of respect for what I think he might wish, on this occasion, I shall confine my remarks to undisputed facts and refrain from extravagant eulogy.

When he came to the bar he fully realized "that long was the way and steep and hard was the climb" but, no doubt, he was encouraged by the thought that, "In all lands and through all human story the path of duty is the way to glory." He chose that path at an early age and it was his guiding star in all the relations of life. His devotion to duty and a tireless energy in seeking to attain the high ideals he had set for himself brought well deserved and glorious success. Perhaps none of his many splendid traits of character stands out more prominently than his absolute self-control and uniform courtesy under all of the vicissitudes incident to an active professional life. His manner, bearing and discourse always bespoke the true and perfect gentleman,—a noble man in the true sense of the word. He was a man of radiant good nature, a delightful companion socially and had the happy faculty of making warm friends of his opponents without detriment to the rights of his clients. As a lawyer, judge, citizen and neighbor, in public or private life, we should admire and imitate, if we can, the unswerving steadfastness of his career, "like unto a star—without haste, yet without rest."

Thomas Carlyle said that men of genius are the special gifts of Providence—given to guide our steps along the dimly-defined and difficult pathway of human progress. That these men,—high-minded men,—constitute a State. Yea, more; they make it, they shape it, they control it. Of course, genius without labor may be mockery but Judge Herrick combined genius with arduous labor in his continued and persistent efforts to establish higher ideals and make a better State. He fully realized, as John Stuart Mill observed, that the worth of a State, in the long run, is the worth of the individuals composing it.

Judge Herrick was a man of genius, above reproach, a lawyer of unexcelled ability, thoroughly versed in the law and its pro-

cedure, a practitioner ever resourceful, of tireless energy and unquestioned integrity, and a Judge who filled with signal ability the exalted position of a Justice of this Court.

When we stop and bow at the shrine of genius, it is not hero worship, but the recognition of a fact—a truth plainly visible in the entire empire of nature. To such a man as Judge Herrick we instinctively address ourselves, "Say not good night, but in some brighter clime bid us good morning."

MR. CHIEF JUSTICE FARTHING:

The court will now hear from the Hon. Lawrence E. Stone.

HON. LAWRENCE E. STONE:

May it please the court—I am come to speak of him whom I have known and loved since that day so long ago when I first looked into a law book.

On the eighteenth day of last September, far from the home he loved so well, amid surroundings that were strange to him, unaware of the magnitude of his affliction, Lott R. Herrick took his chamber in the silent halls of death and thereupon gave to history the everlasting keeping of a career resplendent with accomplishment, full of the finest faith in enduring things and rich in the virtues which compel love and respect among one's fellows.

The contemplation of one with so much of ability, with so much of accomplishment, with so much of kindness, of charity, of justice, of industry, of courage and love, at once fills and fascinates the imagination and heart. Such a person was made to be loved. He was loved in this instance. Strong men who knew him in the serious affairs of life loved him. Educated lawyers loved him. Young men loved him. He was the mentor and guide of many. His neighbors loved him. The masses who came in touch with the charm of his delightful personality loved him, and some have been heard to say: "The world seems lonesome now that he is gone."

We pause here today in this beautiful edifice, where, in my judgment, his happiest working days were spent, to pay to his memory our tribute of love and respect, as this splendid resolution and the timely remarks of the gentleman who has preceded me so beautifully do. We desire thereby to make permanent something

of the story of his life in order that those who follow after may come to understand the true measure of his greatness.

We honor ourselves when we do this, for monuments and memorial days declare the loyalty of the living no less than the virtues of those whom they commemorate.

I have the honor today, to speak for that large class of persons who knew him; who loved him much and were so proud of him; who were blessed with the joy of intimate association with him through the years, and who now feel a personal loss, as though bereaved of a member of their own household.

Lott Herrick was an extraordinary character. He was true to the instincts, the facts and the legends of liberty. He knew and appreciated the romance of America. His private life was as spotless as a star. He was vigilant of the constitution, careful of the laws, rich in experience, wise in his contacts, industrious without counting the strokes, honest without being excited about it. He was one whose sense of justice was of that character for which all place a temple, and all seasons summer. His path was, indeed, as the shining light that shineth more and more unto the perfect day. He was a man of vision, of heart, conscience and brain. This well rounded, happily poised, symmetrical character he put, with its tremendous force, into the practice of law and, later, into the work of this court. His success has been detailed. He was a worthy successor to the galaxy of distinguished judges who have adorned this bench, a tower of strength on the present bench, and a most delightful companion as your honors know.

His friendship was of the truest and most stalwart character. Such friendship is intelligible to us. We know its meaning; can understand it and yet, it is timeless in its sweep and significance. In any day, in any century, it overflows with deepest meaning. It is warm and human. There are heart throbs in it. Neither time nor growth can exhaust its content or sound its depth. He literally lived in a house by the side of the road to be a friend of man. He had the most intense loyalty to the profession of law, to this court and to all the great institutions which have ennobled human life throughout the ages. He worked for the joy of working. He had the greatest reverence for things sacred. He was patient; he was tolerant. He was not concerned with the coldness or the barrenness of the peaks of two eternities. He did not wait until the night

of death to see the star of Hope, but in the vale between the two eternities he marched with measured tread toward the sanest ends. Putting caution against hope that it might not be premature, and hope against caution that it might not yield to dread and fear, he went forward with the largest faith in the consummation and perpetuation of things as they are. But with him the crowning sheaf of life was love. Love for the grandest country the sun sees; love for all things good and true and noble; love for home, fireside and friends and the delightful family, which of all earthly things, was his major concern; love for children, for flowers and for all things beautiful; love for his fellow-men,—the kind of love that is very sure to be linked into the fountain of all love which gave us our perfect example in the life and character of the man of Gallilee. He added to the sum of human progress and human happiness and were everyone to whom he did some kindly act, here today, this building would not contain the multitude, many of whom are from the lowly walks of life.

Is such an one dead? Is Moses dead? Is Hampden dead? Is Washington dead? Is Lincoln dead? Is anyone who was ever fit to live, dead? Disinthrilled of flesh and risen in that unobstructed sphere where passion never comes they begin their illimitable work. Their lives are grafted upon the infinite and are fruitful as no earthly life can be. Lott Herrick is not dead. He is just away. In the goodly company which has passed on he has taken his place, but his name shall flourish here in fragrance and beauty as long as hearts remain to revere truth, fidelity and goodness. He has, indeed, entered the promised land while we are still on the march. To us remains the rocking of the deep, the storm upon the land, days of duty and nights of watching, but he is sphered high above all darkness, beyond all sorrow and weariness.

And so, generous spirit, noble soul, distinguished lawyer, eminent judge, product of our finest civilization, true and faithful friend through life, companion of my boyhood days, Hail—and Farewell!

MR. CHIEF JUSTICE FARTHING:

This splendid memorial, presented by the Illinois State Bar Association, through its president, and the remarks made by these other distinguished gentlemen in speaking to the memorial, find a

quick response and approval in the hearts of those of us who were privileged to serve as members of this court with Mr. Justice Lott R. Herrick. We have known him as a judge these last four years, but some of us knew him as a friend and a great lawyer many years before. He came to this court with the honors of forty years of practice heaped high upon his brow. He had probably enjoyed a more extensive practice than any other lawyer in Illinois within the last half-century. Although he had but little judicial experience and had served but one or two years as county judge in DeWitt county, he quickly adapted himself to the changed surroundings of a reviewing court and became at once in it a tower of strength.

There are only a few qualities that men look for to determine the true estimate of another's character. They are such qualities of heart and mind as unadorned honesty; this, Judge Herrick possessed fully and completely: unadorned virtue; this, in its fullest measure, he also possessed: unwavering loyalty to the right and to the truth; this loyalty he maintained and kept unflinching through every hour of every day: friendliness, kindness, sympathetic interest in and understanding of all with whom he was associated; and these too, were among the jewels in the casket of virtues which was his and which he treasured and guarded.

Judge Herrick held closest to his heart the members of his family, for whom he had an unbounded love and affection. They were in his thoughts, consciously or subconsciously, day and night, and their happiness was his lifelong aim. Second only to his family came his profession, which at the last embraced his duties on this court. He had a consuming desire to guard well the honor and dignity of the court which he adorned. To that end, he worked early and late, untiringly and I think to his own hurt, to maintain the high standards that have always been those of this tribunal. No day or night was too long for him to spend if, by his labor and effort, a better opinion might be written or the work of the court be facilitated and accomplished and its reputation for promptness of decision maintained.

To these efforts he brought a mind well trained by his studies in the University of Illinois college of liberal arts and the law department of the University of Michigan, and the experiences of more than forty years of a widespread and varied law practice. He

brought not only ability, energy, and loyalty, honesty and integrity, but a winsome, genial and kindly attitude and demeanor. He sweetened and lightened a day's work with his shafts of wit and his fund of humor that scattered smiles and sunshine without leaving any bitterness or regret. To have known him was to love him and to name him is to sing his praise.

The members of this court are thrown so closely together in their work that it is impossible for any member of it not to know thoroughly all the virtues and all the shortcomings of all the others. Judge Herrick's virtues and abilities so far outweighed and overshadowed whatever faults he may have had that his loss is the personal and individual loss of each one of us who survives him. We sympathize deeply and keenly with his family. We mourn because he has died. We cherish his friendliness and his blessed memory. We delight to join you in extolling his virtues. We hope that his example may be a light to our feet and that his splendid achievements may inspire us to give, as he did, the best that is in us to those dearest to us and to those institutions that we most cherish.

The memorial and the addresses made are ordered spread upon the records of this court and the Reporter of Decisions of this court is directed to print them in the bound volumes containing our decisions.

And now, out of respect for the memory of our departed associate, this court will stand adjourned until nine o'clock tomorrow morning.

REPORTS
OF
Cases at Law and in Chancery

ARGUED AND DETERMINED IN THE

SUPREME COURT OF ILLINOIS.

VOLUME 367

CONTAINING CASES IN WHICH OPINIONS WERE FILED IN JUNE, OCTOBER AND DECEMBER, 1937, AND CASES WHEREIN REHEARINGS WERE DENIED AT THE OCTOBER AND DECEMBER TERMS, 1937, AND THE FEBRUARY TERM, 1938.

SAMUEL PASHLEY IRWIN,
REPORTER OF DECISIONS.

BLOOMINGTON, ILL.
1938