

MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE DECEMBER TERM, 1924, ON THE LIFE, CHARACTER AND PUBLIC SERVICES OF HON. CARROLL C. BOGGS, DECEASED

At the hour of half-past two o'clock P. M., December 11, 1924, other business having been suspended, the following proceedings were had:

MR. CHIEF JUSTICE DUNCAN:

This hour has been designated for the presentation of suitable memorials to the late Justice Carroll C. Boggs, who for nine years was a worthy and distinguished member of this court. The court has been advised that the Illinois State Bar Association, represented by Judge Edward C. Kramer, of East St. Louis, Judge William T. Bonham and Hon. John L. Cooper, of Fairfield, Hon. Sylvester J. Gee, of Lawrenceville, and Judge Albert Watson, of Mt. Vernon, will present memorials. The court will now hear the memorials.

HON. E. C. KRAMER:

May it please the court—Mr. C. M. Clay Buntain, president of the Illinois State Bar Association, on behalf of that organization, appointed a committee, consisting of E. C. Kramer, John L. Cooper, William T. Bonham, Albert Watson and S. J. Gee, to prepare and present to this court a memorial on the life of the late Carroll C. Boggs, formerly a member of this court. On behalf of the Illinois State Bar Association we beg leave to submit the following:

"In the preparation of a memorial on behalf of one who has been conspicuous in public life it is usual to refer to and stress

his better characteristics and to pass over lightly his faults and frailties, if not to entirely neglect to mention them. The public life of Carroll C. Boggs was so honorable and of such high character, and his private life so clean and pure, that the committee found nothing to conceal, and is, therefore, in the presentation of this memorial able to present his true character, both in public and in private life.

"Carroll Curtis Boggs, son of Dr. Richard L. Boggs and Sarah A. Boggs, was born in Fairfield, Illinois, October 19, 1843, and died at his home in that city on December 16, 1923. His mother having died in his infancy, he spent the early part of his life with his maternal grandparents, Mr. and Mrs. David Wright. He was educated in the public schools of Fairfield, in McKendree College, and later in the University of Michigan. In the latter institution he obtained his legal education. He was admitted to the bar by the Supreme Court of Illinois on the 25th day of February, 1866, and immediately thereafter entered into partnership with the late William H. Robinson in the practice of the law at Fairfield. Later, Col. George W. Johns, now residing at Fairfield, was added to the firm. On October 31, 1870, he was married to Sarah A. Shaef-fer, and to this union five children were born, three daughters and two sons, viz.: Mrs. Mary Elmore, of Louisville, Kentucky; Misses Wreath and Edna Boggs, of Fairfield, Illinois; Richard L. Boggs, who preceded him in death; and Joseph G. Boggs, of Granite City, Illinois. His wife died July 6, 1914.

"Judge Boggs was elected State's attorney of Wayne county in 1872 and served in that capacity until 1876. In 1877 he was elected county judge of Wayne county and served until 1882. In June, 1885, he was elected one of the circuit judges of the second judicial circuit and held that office until 1891, when he was re-elected. From 1891 to 1897, in addition to discharging the duties of circuit judge, he was a member of the Appellate Court for the Third District, at Springfield. In June, 1897, he was elected judge of the Supreme Court of the State of Illinois in the first district and held this office until 1906, when he retired from public life. He held no other public offices except some local minor positions. He discharged the duties of each of these public offices with distinguished ability and fidelity.

"Judge Boggs had a high sense of the duties of a public officer and his obligations to the people he served. Most of his public life was spent on the bench, and it is there that he distinguished himself most. He was peculiarly qualified for a judicial position. He had the poise, temperament and dignity necessary for the position, and his conduct upon the bench was such that he caused all persons in attendance upon the courts at which he presided to feel that they were at a place where justice was being administered. While upon the bench he was always kind and courteous to lawyers and litigants. He took a particular interest in young lawyers, and in the proper manner saw that their clients did not unduly suffer on account of the inexperience of their attorneys. It was his sole aim, in the trial of cases, to see that litigants had a fair trial. He was always careful to see that influences not legitimately a part of the case did not become a part of it. He did not permit sudden passion or popular clamor to defeat justice. While upon the trial bench it was always his practice to give reasons for his decisions, and it was often said of him that no judge in rendering decisions excelled him in ability to impress both parties to a suit with the majesty of the law, the righteousness of the courts and the correctness of his decisions. Litigants, their attorneys and the public alike had faith in his ability, integrity and impartiality, and in courts where he presided the court house was indeed a temple of justice. His record while a judge of the Appellate and Supreme Courts is well known to the bench and bar of this State. He was always held in high esteem by his associates. He was always ready to do his part of the work of the court, and his associates regarded him as one of their capable and faithful members. His opinions, written while a member of these courts, are noted for their clarity, both in the enunciation of law and statement of the facts. While a member of the Supreme Court he was regarded as one of its great judges, and he will always be remembered as one of the leading jurists of this State.

"Great as were the achievements of Judge Boggs while in public life, yet it was in his private and home life that he appeared at his best. Unlike many judges and lawyers, he was a good business man. He understood the method in which business is transacted and was prominent in the affairs of the community in which he

lived. There is no stain nor blemish upon any of his business transactions. In the transaction of them he pursued that same high and honorable course as in the discharge of his official duties.

"From the time of his birth to the day of his death Judge Boggs lived in Wayne county, and possibly was known to more persons in that county than any other person who lived within its borders during his time, and it is not straining the truth to say that all of the people in that county held him in high esteem and regarded him as a personal friend. His home life was ideal. His conduct there could not have been improved upon. The love and affection he bore his wife and the kind and tender consideration he gave to her while she was living were almost sublime. He was a kind, loving and indulgent father and took a great interest in his children. It was his delight to be in their presence, and in the later years of his life he found great pleasure in traveling with them. He lived an exemplary life and by his death Illinois lost one of its noble sons."

In presenting this memorial I desire to add that I knew Judge Boggs intimately and well and it was my good fortune to be numbered among his many friends. The friendship between us was warm and cordial and dates from the time I started in the practice of the law and continued until the time of his death. The starting period in the life of the average young lawyer is a critical one, and if a benefactor appears and offers help and encouragement, a debt of gratitude is incurred that it is difficult to repay. It was at this time of my life that Judge Boggs came to my rescue. He took a lively interest in my welfare, gave me good and wholesome advice and the kind of help that I needed to start in the practice. I shall always hold him in grateful remembrance for the unselfish consideration I received at his hands. My experience with him was that of other young lawyers. The struggling efforts of young lawyers to get started in the practice appealed to his sympathetic nature, and it afforded him great pleasure to assist them in overcoming their difficulties and to start them on the road to success.

Judge Boggs had a good education, was well read and had a great fund of general information. He made no pretensions at oratory but was a clear and interesting talker and as a conversa-

tionalist had but few equals. His great learning, coupled with his genial disposition, charming manners and ready wit, made him a delightful companion. He had a fund of stories, which he related upon appropriate occasions and which were of such character that they could with propriety be told in any kind of company. In the earlier part of my life it was my privilege to enjoy his companionship, and I with pleasure recall many happy times spent in his company. For the twelve years while he was on the circuit bench I practiced in his courts, and I can bear testimony to his high character as a judge and to the truthfulness of the memorial that we present in his behalf.

We are so engrossed with the busy cares of this world that we soon forget the virtues of our most intimate friends after they have passed from the stage of action, but when one like Judge Boggs has departed we can well afford to pause for a short time from our usual affairs and note his public service and manly qualities and take steps to perpetuate his memory. Therefore, in conformity with a long-standing custom, we present this memorial and ask that it be spread upon the records of this court.

HON. WILLIAM T. BONHAM :

May it please the court—My knowledge of Judge Boggs as a jurist dates from 1889. In that year I began the practice of law in Fairfield. Judge Boggs was then on the circuit bench, and I continued to practice before him in the circuit court until 1897, when he left the circuit court for the Supreme Court. Afterwards I had occasion, from time to time, to practice before him in this court. Responding on behalf of the Supreme Court to addresses from the bar of Illinois in memory of Mr. Justice Jesse J. Phillips, in the course of his able and eloquent tribute to the memory of his deceased colleague Judge Boggs said: "It would be empty, unmeaning and wholly ceremonial laudation to say he was great in all things and at all times and exempt from every weakness of human kind. The history of the generations of men since the world began bears the record of but one perfect man, if it be lawful to call Him of Nazareth a man. * * * To quarrel with the imperfections of human nature is to criticise the wisdom of the Maker, who is all-seeing where men are blind." So I like to

think of Judge Boggs not as perfect but as a jurist learned, industrious, conscientious and lucid. Of all the attributes which went to make up his character as a judge, his unflinching tact and kindly courtesy were most noticeable. To the young lawyer he was kindly and helpful; to the older members of the bar tactful and considerate. I shall never forget the remark of an Indiana lawyer who tried and lost a jury case in our court while Judge Boggs was presiding. After the trial he said to me: "On my client's account I was anxious to win my suit, but so far as my personal feelings are concerned I had rather lose a case before Judge Boggs than to win it before our judge at home." In every case half of us had to lose, but whether we won or whether we lost before Judge Boggs, nothing was said or intimated on his part to detract from the estimation in which we were held by our clients or the general public.

During the nine years in which Judge Boggs was a member of this court, this court wrote opinions filling fifty-four volumes of Reports,—as many volumes as were used by the same court in the first fifty-two years of our Statehood. Stated differently, as much business was before the Supreme Court during his term as from 1818 to 1870.

I have referred to the tact and courtesy of Judge Boggs, and I cannot refrain from mentioning another pre-eminent characteristic: his love of justice. Notwithstanding the difference in our ages, Judge Boggs used frequently to discuss with me legal questions pending before him in cases where I knew none of the parties. He was always anxious to follow the law, but he was also anxious so to apply the law to the facts in the case at bar as not only to make a proper precedent but also a just decision between the litigants. The lawyer who sought by means of his technical ability to secure for his client something not in justice belonging to him, needed, before Judge Boggs, to be very sure that every "i" was dotted and every "t" crossed in his pleadings, and even when that was done Judge Boggs was very prone to find somewhere in the record a reason for doing justice.

The opinion of Judge Boggs of the value of the services of a great jurist was expressed by him while acting as chief justice of the Supreme Court during the celebration of the centennial anniversary of the installation of John Marshall as chief justice of the

Supreme Court of the United States, reported in volume 191 of the Illinois Reports, at page 34. On that occasion on behalf of the court Judge Boggs said: "It was a favorite expression of Mr. Carlyle that 'the history of a nation is the biography of its great men.' The soldier who has carried the flag of his country to victory in the field of war, the sailor who has triumphed in battle on the sea, and the orator who correctly interprets and gives eloquent expression to the cherished ideas and beliefs of the people have always aroused public enthusiasm, received ovations while living, and the anniversaries of the great events of their lives have been commemorated by their grateful countrymen. The labors which ennoble the life and character of a great judge relate to and deal with the liberty, safety and security of life and person of the individual and the preservation of the rights of property of every person, natural or artificial; and in a court of review those labors, exacting and arduous, are performed in the seclusion of the conference room or the quiet of the chamber or library, and though in their nature wanting in that which so readily attracts the attention or wins the plaudits of the busy citizen, equally demand, if the judge has proven worthy, upright, truly great, just and impartial in his position, that his biography, with that of the soldier, the sailor and the orator, should be deemed a part of the history of his race and his country."

We are met here this afternoon to pay tribute to the memory of Judge Boggs, and it is altogether fitting and proper that we should do so. So long as the records of this court remain or the libraries of the world contain the reports of its decisions, the contributions of Justice Boggs to the jurisprudence of Illinois and the world will be remembered. Let us here re-dedicate ourselves to the high ideals set forth in the conduct and opinions of our deceased brother-lawyer, fellow-citizen, eminent jurist and friend.

Hon. JOHN L. COOPER:

May it please the court—It is a very great pleasure to me to urge that this memorial be spread upon the records of this court. It is a pleasure because of the truths that are stated therein. I know these to be facts.

From my earliest recollection of men I knew Judge Boggs. When he began the practice of law he had a little frame office on

the southwest corner of the public square in Fairfield. My parents lived just across the street, and as a child it was my pleasure to know him and to play around his office, and he was always kind to me as a child. I learned to love him then. When I began the study of law I was frequently aided by him. Being unable to attend a law school I studied in the office at home, and often when I became confused and unable to understand some legal proposition I was studying, Judge Boggs would, in his kind, clear-cut way, make clear to me that which had been before almost impossible for me to understand. When I came to the practice Judge Boggs was on the bench, and there, too, he was kind, and often when I was making an argument before him and assuming that the court was fully informed about that particular question, he would by a query show to me that I was not making myself clear and thereby would enable me to present my case more carefully.

When Judge Boggs became a member of this honorable court he did me the honor to select me as his secretary, and during the nine years he served here I was with him during almost all his waking hours. I never missed a term of court during the nine years and but very few days during that time. We made the trips to and from home together. We took our walks together morning and evening, just after court had adjourned and before its convening, and occasionally during those times and during work in chambers he would break into a sort of reverie and talk in a most wonderful way, giving expression to his ideals and his hopes for the people of the country and for his nation, for his State and for his community,—whatever might come into his mind,—and by virtue of those talks and musings I got a better insight into his real person than probably any other living person.

So I say again that this memorial is really a true and faithful portrayal of the character of Judge Boggs. In every walk of life he played the part of a man. As a citizen he always stood for the right. As an American he always stood for his country, and during the great World War, in spite of the years that were upon him, he was one of the most active men in our community in doing those things which would help the boys "over there" or which would help our country in any particular way. As a father, husband and friend he was all that nature and nature's God intended a husband, father and friend to be.

If the court please, I wish at this time, and at their request, to express to the court the heartfelt thanks of the children of Judge Boggs for your taking the time to-day to pause, in the almost overwhelming work that is before you, to receive this memorial, and also to the members of the Illinois bar and the members of this committee for their tribute to the man these children honored above all men—their father.

HON. S. J. GEE:

May it please the court—This occasion is to me of more than passing importance, for to be permitted to take part in these exercises, devoted to the memory of a man whose whole life was spent in the service of the people of this great State, is a privilege that one cannot fail to appreciate.

Judge Boggs left an impress upon the recollections of those who knew him well, of his sublime character and of a performance of duty to his fellow-men rarely, if ever, surpassed in the ordinary walks of life. His was the lot to come from an environment which in his early years gave little promise of his ultimate high attainments. He succeeded, through his untiring efforts, to perform his duty to the best of his ability. Nature endowed him with the characteristics of a gentleman. He was an "affable and courteous gentleman." He devoted the powers given him to good uses, realizing, no doubt, that nature never makes excellent things for no use. His acquirements only added luster to the brilliancy of his natural endowments, and thereby made it possible for his hand to give fervor and force to those with whom he came in contact in his various activities in public life, extending over a quarter of a century, and to those who by association came into more intimate relationship with him.

My own personal acquaintance with Judge Boggs began at the August term of the circuit court of Lawrence county in the year 1888. He was unknown, for the most part, to its people, and in particular to the members of its then existing bar, under whose more direct observation he was soon to come. At that time I was a mere tyro in the profession, and before he arrived to hold our court I can well remember the expectancy with which we looked forward to the coming of the "new judge." He took the bench with no

acclaim, and we soon realized that a master hand had taken charge of the business of the court. Whatever misgivings we may have had soon disappeared and the trial of cases proceeded with decorum and despatch. We soon learned that there was to be no by-play or waste of time,—that it was all-important on our part to be ready for trial. We learned more thoroughly than ever before that a court of justice is organized to be a most important factor in the transaction of the public business; that the court, and the attorneys as well, were there to perform their respective duties to the best of their several abilities, restrained only by a due regard for the truth and to the proper administration of the law between the contending litigants. That term happened to have quite a number of appeal cases in which small amounts were involved,—cases which often rack the nerves of the court, of counsel, and to perhaps a greater extent of the parties. It was marked how patiently the judge then presiding secured the proper administration of the law and how impartial he was in the smallest instance. Reasons were given for a decision which seemed to satisfy the losing party that at all times the judge had acted in accordance with what he believed to be right.

During the years thereafter Judge Boggs was frequently with us, and all looked forward with pleasure to the terms when he would preside, not because of invidious comparison with the other judges of our circuit, but because his uniform kindness of heart and integrity of purpose had inspired for him a warmth of affection difficult to picture in the words of the moment. Off the bench he was wont to mingle with our citizens. He was then the citizen, concerned with the everyday affairs of the citizens, interested in their successes, and trying, as best he could, to advise and encourage them when advice and encouragement seemed to be needed. His good fellowship was such that his coming was looked forward to as an event of no small interest. His rise to the Appellate and Supreme benches was not a surprise to our community; his failure to do so would have been. Those whose fortune or misfortune caused legal tribunals to settle controversies for them, realized that through him they would receive the law of the land. To all lawyers his expositions, found in the Reports, are conducive to a better understanding of the legal principles involved, for their conciseness and terse language show the hand of a master craftsman.

From the 42d to the 69th Appellate, from the 168th to the 221st Supreme, in our Reports will be found many of his opinions, covering much of the everyday transactions of men, which will to this day well repay the careful perusal of the lawyer, and in them will be seen how keen was the insight of the man who had the task of deciding the justice of the cause. These opinions are monuments to industry and guiding stars in our jurisprudence.

One of the particularly praiseworthy traits of this man was that while from the humble beginning of his boyhood he by care and attention reached a height to which but few attain,—that of becoming a justice of the Supreme Court of Illinois, the acme of any lawyer's ambition,—his pride was never inflated by his success, (a respect in which too many fail,) and he never lost the human side, which was the most lovable part of his nature. We came before him in this most august tribunal with the feeling of pride because he was one of us, and in meeting him outside of court were greeted in the same old manner which we knew and loved so well. Others were more fortunate than I in having closer and more intimate relations with him, but my acquaintance is more than sufficient to bear witness that he was the ideal model of an upright judge, and that his record will always be like a star in the firmament,—an exemplar for the future lawyers of this great State of Illinois.

HON. ALBERT WATSON:

May it please the court—I think the State Bar Association showed singularly good judgment in selecting as members of this memorial committee three men who, like Judge Boggs, have served Wayne county as county judge, and who enjoyed an intimate personal acquaintance with the deceased jurist, and in choosing from opposite corners of the largest judicial circuit in the State two lawyers who have practiced before Judge Boggs and knew him intimately from that standpoint. Judge Boggs was intensely local all his life. Wayne county he knew; a part of southern Illinois he was; and his horizon and his experiences of life, as far as I know, were limited to that locality. Those of us who speak here to-day are similarly local, most of us having been born, as he was, and lived our lives in that locality, in the second circuit of Illinois.

My acquaintance with Judge Boggs began early in 1885, when we spent a week in a political campaign in Lawrence county, opposite in interest but in intimate association. A friendship was there formed which lasted through his life, and our last meeting was not many months before his passing, when I was a guest for an hour or two in his home by his urgent invitation while in Fairfield on business. I believe I was the chairman of his campaign committee by his choice, both when he was elected and when he was defeated in his candidacy for the Supreme bench.

During the twenty-one years which covered the most active period of my trial practice as a lawyer Judge Boggs was on the bench,—twelve years in the circuit in which I live and nine years in the Supreme Court. In my memory he stands out as the most urbane of men. Indeed, I do not recall any occasion in which he failed to be courteous to the bar or to the public. He was a hard working judge, faithful in every detail, accepting as final no lawyer's dictum either as to facts or law, and because of his painstaking industry he became distinguished for his accurate knowledge of the facts in the cases with which he had to deal as well as the law applicable thereto.

During all of his life Judge Boggs was seriously handicapped by defective vision,—a shortsightedness which could not be wholly overcome by the thick lenses which he wore,—but so intense was his ambition for professional success and judicial eminence that in spite of the handicap he attained each goal he sought, so that so long as the history of Illinois and of its courts shall be of interest to men, the name of Carroll C. Boggs, successful lawyer, able prosecutor and eminent jurist, will be known to all.

Only eighteen short years have slipped by since the service of Judge Boggs in this honorable court terminated, yet it is true, nevertheless, that all the men who were judges with him, either in the second judicial circuit or here, preceded him in death, excepting Judge Cartwright, who died a few months later. They and he builded as wisely as they knew, but their places are not theirs now. They are inhabited by others, who also in their turn shall bow to the inevitable and pass on in the endless march of humanity from the cradle to the grave.

Our honored friend now can answer the question which was older than the ages when asked by Job: "If a man die, shall he

live again?" If Judge Boggs, being dead, is not to live again, then why was given to him the conquering energy and the intellectual brightness which distinguished him among his fellows and enabled him to be a real, a helpful blessing to his kind?

"Beyond the flight of time,
Beyond this vale of death,
There surely is some blessed clime
Where life is not a breath,
Nor life's affections transient fire
Whose sparks fly upward and expire."

MR. CHIEF JUSTICE DUNCAN:

The court has heard with very great satisfaction the memorials of the State Bar Association. On behalf of the court Mr. Justice Farmer will respond.

MR. JUSTICE FARMER:

It is fitting and appropriate that a memorial concerning the life and services of Judge Boggs be presented to and preserved in the records of this court, of which he was for nine years a distinguished and able member.

Judge Boggs' services to the State in a judicial capacity covered a period of approximately a quarter of a century. He served with ability and credit as a judge of the circuit court, and of the Appellate Court before his election, in 1897, to the office of judge of the Supreme Court. As a member of this court he displayed ability as a judge, combined with qualities of personal character and conduct necessary to give the court, as well as its individual members, the respect and confidence of the public. As to the quality of Judge Boggs' work as a member of this court I shall only refer to his printed opinions in fifty-four volumes of the Supreme Court Reports. They show the quality of his work was of a high standard, creditable alike to him and the court of which he was a member.

Judge Boggs was essentially of a judicial temperament and had high ideals of the judicial office. He combined with ability a full appreciation of the fact that ability is not the only qualification required for a successful discharge of the duties of the judicial office. He exemplified what have been said to be four cardinal

virtues of a judge: to hear courteously, to answer wisely, to consider soberly, and to decide impartially. He was never rash or inconsiderate in reaching his conclusions. He loved the law and its orderly administration in settling disputes concerning the rights of persons and property, and in the application of the law to the concrete cases presented for determination he was deliberative and conscientious in his judgments. Besides possessing a profound knowledge of the law he combined a love of justice and a large share of the milk of human kindness. He loved his fellow-man, and, while he had an aversion to causing suffering and distress by any official act, he was firm in his adherence to settled rules of law. In other words, his judgments were those of the law and not of the individual. He was modest in his demeanor as a judge and as a man. He never sought to exploit himself as a judicial officer, but constantly strove, as a judge of this court, to perform his duty in a manner not to attract public attention to himself, but in such a manner as to cause the court to deserve and to have the respect and confidence of the people. He believed "judges ought to be more earnest than witty, more reverent than plausible, and more advised than confident. Above all things, integrity is their portion."

Judge Boggs was a man of radiant good nature, a delightful companion socially, and had the happy faculty of making warm friends of all who came to know him. Strong in his convictions, he never assumed to be infallible and was always charitable and tolerant of those who entertained different views and opinions from his. In his nature he possessed the characteristics necessary to usefulness as a private citizen and a public officer. By his life as a private citizen he made a contribution to his fellow-men which will not soon be forgotten, and by his conduct as a public officer, and especially as a member of this court, he made a contribution to the government of his country which will live as long as our jurisprudence endures.

Mr. CHIEF JUSTICE DUNCAN:

The clerk is directed to spread these memorials at large upon the records of this court and the reporter will publish them in the Illinois Reports. As a further mark of respect to our deceased member the court will now adjourn.

REPORTS
OF
CASES AT LAW AND IN CHANCERY

ARGUED AND DETERMINED IN THE

SUPREME COURT OF ILLINOIS.

VOLUME 315.

CONTAINING CASES IN WHICH OPINIONS WERE FILED IN DECEMBER,
1924, AND FEBRUARY, 1925, AND CASES WHEREIN REHEAR-
INGS WERE DENIED AT THE FEBRUARY TERM, 1925.

SAMUEL PASHLEY IRWIN,
REPORTER OF DECISIONS.

BLOOMINGTON, ILL.

1925.