

## MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE OCTOBER TERM, 1909, ON THE LIFE, CHARACTER AND PUBLIC SERVICES OF HON. GUY C. SCOTT, LATE A MEMBER OF THIS COURT.

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At the hour of three o'clock P. M. on October 21, which time had been set apart for the purpose, Mr. S. S. GREGORY, of the Chicago bar, addressed the court as follows:

*May it please the Court*—Hon. E. A. Bancroft, president of the State Bar Association, pursuant to a vote of its members at its last annual meeting, appointed S. S. Gregory, Isaac N. Bassett, J. S. Stevens, Charles L. Capen and George W. Thompson a committee to prepare and present to this court a suitable memorial upon the life, character and public service of GUY CHARLES SCOTT, lately a member of the court. We beg to submit the following:

"GUY CHARLES SCOTT, son of Samuel and Sarah Scott, was born in Henderson county, Illinois, on August 14, in the year 1863. While he was a mere child his father moved to a farm in the vicinity of Keithsburg, in Mercer county, and there he grew to manhood, pursuing his studies in the public schools and attending also a preparatory academy at Galesburg for one year. This completed such academic education as he enjoyed. For some years he taught school in Mercer county. He later joined a government surveying party engaged in work in Wyoming and thus spent two years. He then returned to Aledo, where he entered on the study of his chosen profession in the office of Mr. Isaac N. Bassett, of that city. He was admitted to the bar in 1886, and about the same time appointed deputy county clerk and afterwards county clerk. Shortly after his admission to the bar he went to

Trinidad, Colorado, with James M. Brock, Esq., but only remained there a few months, returning to Aledo, where he continued to reside up to the time of his death. At this time he formed a partnership with Hon. John C. Pepper, which continued till 1896, when Mr. Pepper's health failed and he removed to Florida. Judge SCOTT then became a partner of Hon. George A. Cooke, lately chosen to succeed him on this court. This partnership continued four years, when Judge SCOTT retired from it on account of failing health and for a time did but little professional work, afterwards forming a partnership with Mr. Brock, which terminated on the latter's death, in 1902. Thereafter and until his election to this court he practiced alone, having represented locally for some years the Chicago, Burlington and Quincy Railroad Company.

"In politics Judge SCOTT was a democrat and stood deservedly high in the councils of his party. He was a delegate to the democratic national convention of 1892, and after Mr. Cleveland's election was tendered, and declined, the position of Attorney General of Alaska. In 1901 and 1902 he was a member of the democratic State central committee. He was elected mayor of Aledo in 1895 and again in 1897. He then declined a re-election, but consented to become a candidate in 1901 and was elected, and re-elected in 1903. No finer tribute to his character and talents could be desired than the appreciation of them thus manifested by his fellow-citizens in the community with which he had been so long identified and where he was so thoroughly known and so universally respected. He was about to be called to higher station. In 1903 he was chosen as an associate justice of this court in a district in which his party seemed to be in a hopeless minority. In 1897 he had been a candidate for the circuit bench, and though defeated had carried his own county, strongly republican as it was, by a majority of 2300.

"In 1891 Judge SCOTT married Miss Jessie Irvin, daughter of Dr. George Irvin, of Aledo. Mrs. Scott and his daughter, Kathryn, survive him, as do his parents, his sister, Miss Carrie Scott, and three brothers, Edward L., John and Hugh.

"The bar knew him chiefly as a member of this court, and in the reports of its decisions are to be found the enduring testimonials to his character, temperament and professional attainments, upon which securely rests his just claim to the confidence

and respect, not merely of the profession, but of the people of this imperial State whom he served so well.

"Few appreciate, except those who have borne them, the heavy and exacting burdens laid upon a member of this court. The great number of causes annually submitted, the importance, complexity and difficulty of the questions involved, the immense volume of printed matter in the way of records and briefs to be considered, and the obvious necessity of making every reasonable effort to avoid letting the business of the court accumulate and fall into arrears, all combine to make the position of a member of this court one of the most laborious, difficult and responsible judicial offices that exists anywhere or in any court.

"Mr. Justice Scott had the very first requisite of judicial office. He was a just and fair-minded man. He sought to reach such result as law and justice required. He had another admirable judicial quality,—that of courtesy. He had diligence and industry, patience to seek the truth, and then firmness and courage to abide by his conclusions. Studious and careful as a lawyer, of clear perceptions and discriminating mind, his professional attainments were adequate to the exalted station which he filled. Indeed, it might be said of him that in all essentials he was a fine example of those qualities which most become the judicial office.

"He was a member of the Masonic fraternity and held high place in that order. He was not connected with any religious denomination, yet none who knew him well could doubt that he possessed those fundamental virtues which are the basis of all true religion,—loyalty, integrity, consideration for others, courage, and a determination to play his part in the great drama of life with fidelity and efficiency.

"He died at the Galesburg Hospital, in that city, stricken suddenly with fatal disease, on Monday, May 24, 1909. He was, indeed, cut off in the prime of his manhood, for he was not yet forty-six. He had the reasonable prospect of long life and increased usefulness in the high vocation to which he had been called. He was universally mourned, for in the best sense of the word he was a democrat and a man of the people. We who practiced here before him feel a deep sense of personal loss in his death. How much more profound must be that sentiment among the members of this court with whom he labored, and how inadequate is any-

thing we can say to indicate the irreparable loss which those nearest and dearest to him have sustained.

“‘After I die shall I live again?’ This is the old question that is ever asked and never answered save by the testimony of faith. Finite man listens on the echoless shore but hears no other answer. Possibly, to believer and doubter alike, something of truth appears in the lines upon the tomb of Huxley, the great agnostic:

“‘And if there be no meeting past the grave,  
If all is darkness, silence, yet 'tis rest.  
Be not afraid, ye waiting hearts that weep,  
For still He giveth His beloved sleep,  
And if an endless sleep He wills, so best.’”

I move, if the court please, that this memorial be entered upon the records of this court.

Mr. ISAAC N. BASSETT, of Aledo, president of the Mercer County Bar Association, and also a member of the committee, then addressed the court as follows:

*May it please the Court*—As a member of the committee of the State Bar Association, and also as president of the Mercer County Bar Association, I second the motion to spread the memorial upon the records of this court, and also desire to say something in reference to the life and character of Justice Guy C. Scott.

I had but little personal acquaintance with Justice Scott before he entered my office as a law student, in 1882, although I had been acquainted with his parents and with his grandparents, both maternal and paternal, for a great number of years prior thereto and was a very close friend of both his grandfathers, and it was through his paternal grandfather that arrangements were made for him to enter my office as a student. I soon discovered that he had more than ordinary talents, and especially that he had the qualifications and characteristics which I thought would eventually make him a distinguished lawyer.

In his private conduct and character I did not find anything to criticise. He was always gentlemanly and agreeable and sociable, although a man of but few words. He was a close student, devoting his time carefully to the study of his chosen profession

and did not very often ask me any questions, but when he did desire any information it was always after he had carefully studied over the matter in his own mind, and the questions were always in reference to some important point that he had not been enabled to solve to his own satisfaction or desired additional information before determining the question himself. I discovered that he had a very logical, analytical mind,—that he reasoned closely. He had a keen perception and a comprehensive grasp of any subject that he investigated. This, with his love of justice, qualified him for the bench. I have been informed that in the council room, and other associations with the other members of this court, he was always courteous and respectful, never losing his temper or using sarcastic language but patiently listening to the other members of the court, and if he dissented, gave his reasons for differing with them in an earnest, respectful manner,—all of which is better known to the justices of this court who were associated with him. His opinions were usually short, without multiplicity of words, and he seldom, if ever, committed the error of saying something that was not necessary in deciding the case under consideration,—mere *dicta*, that had to be explained in some future decision. There was a precision and clearness of language in his decisions as a result of his analytical and logical mind. There is no reflection on the ability of the other members of this court to assert that no one who ever became a justice of this court from private life, as he did, without any experience as judge of some inferior court, made a better record in the period of six years than Justice SCOTT. Had he lived and retained his usual health, his re-election at the end of his term was not only conceded by all political parties, but desired; and I feel confident that he would have been elected a third and perhaps the fourth time had he lived and retained his usual health.

Reference has been made in the memorial to his political affiliation, and I found him a zealous advocate of the democratic party, but I never knew him to enter into any personal controversy of any length with anyone. I was affiliated with a different political party, but during all of the time he studied with me we never had any controversy in regard to politics, except in some jocular way, occasionally. He, however, had formed his opinions upon the principles of the democratic party, which seemed to be firmly fixed in

his mind, but he was not such a partisan as to blindly follow a leader of the party where he thought the principles contrary to those which he considered to be essential to a true democratic partisan. I never knew him to enter into any bitter denunciation of the opposite political party or its candidates; and that, undoubtedly, accounts for his popularity with all parties, for in his repeated elections as mayor of Aledo it was in a republican city, where the republican majority was two to one; and the same may be said of his support for circuit judge, of an unprecedented majority in a republican county, and, subsequently, his election as a member of the Supreme Court in a republican district. All political parties had a high appreciation of his ability, of his integrity, of his love of justice, and of his courteous deportment and treatment of his political opponents.

The religion of Justice Scott was that of life,—humanitarian,—the love of doing right for the sake of right. We are sure that he still lives in the hearts of the people with whom he was associated and that his private and public acts are enduring and immortal. The great Shakespeare thought that "the evil that men do lives after them; the good is oft interred with their bones." Modern science is against Shakespeare in its teaching of "the survival of the fittest." Alice Cary's thought antagonizes Shakespeare's idea and is in keeping with modern science, and she says:

"The good we do lives after us,  
The evil 'tis that dies!  
Evil is earthy, of the earth,—  
A thing of pain and crime,  
That scarcely sends a shadow forth  
Beyond the bounds of time.  
But good, in substance, dwells above  
This discontented sphere,  
Extending only, through God's love,  
Uncertain shadows here."

As a neighbor and preceptor of Guy C. Scott; as a member of the Masonic fraternity; as a member of the Mercer County Bar Association and president of the same; as a member of the committee which presented the memorial to this court, and as an attorney of this court, and with you, who were associated with him, I mourn the early death of Justice Guy C. Scott and join in this tribute to his memory.

Judge HENRY E. BURGESS, of the Mercer county bar, next addressed the court as follows:

*May it please the Court*—The members of the Mercer county bar certainly appreciate the opportunity which permits them to share in the expressions of sorrow caused by the death of their associate and to join in the encomiums upon the life and character of a lamented friend.

There is but one recouplement made possible by the termination of a useful life: the greater the occasion for regret the more forceful the lesson to be drawn from such a life. That GUY C. SCOTT became a member of the Supreme Court of this State was to his friends a matter of extreme pleasure; that he so ably filled the position was and is to them a matter of profound pride. Every person radiates about himself an atmosphere which we are wont to term his personality. With some men this personality is practically a negligible quantity; with others it is of so perceptible a nature that we cannot come into their presence without being impressed with a distinct sense of it. Of such a personality was Judge SCOTT possessed.

It has been said of John G. Carlisle that he possessed a brain which worked automatically; that with a given hypothesis his mind reached a logical conclusion with the precision of mechanism. It is no abuse of this figure to apply it to Judge SCOTT. His mode of expression and his mannerisms were peculiarly his own, but they were not born of affectation. They were a part of his individuality. And so pervading in their influence were they, that his associates in practice were often observed to unconsciously adopt them.

We would not have it understood that Judge SCOTT's friends admired him solely because of his intellectual strength. Back of this was a foundation of rich humanity that led him not to live for himself alone but that he might be of service to his friends, and there live many persons to-day who carry with them the memory of some unsolicited attention from Judge SCOTT.

We are unable to know why it is that a life of character and influence and right purpose is not permitted to be rounded out fully. We are compelled yet to say of a man, as did Job centuries

ago: "He cometh forth as a flower and is cut off. He fleeth also as a shadow and continueth not."

While to us life is but a shadow mystery, we have faith to believe that there is One to whom the purpose of every life is a plain tale, and in His hands are the balances to weigh the life of Judge Scott.

I have here for presentation the following memorial adopted by the local bar association of Mercer county, and I desire to move that it be spread upon the records of this court.

Said memorial was prepared by a committee consisting of H. E. BURGESS, ALEX. MCARTHUR and W. T. CHURCH, and is as follows:

"We, the members of the Mercer County Bar Association, desire to pay this tribute to one of our number who has been called before the supreme bar of the universe, and, further, to reflect through these resolutions, so far as it may be within our power of analysis and expression, the high regard in which he was held by his neighbors and friends.

"Fortunate, indeed, is the bar association that can select from its membership one possessing the mental stature of Justice Guy C. Scott. At the time of his elevation to the most honored position in the State he was the leader of the local bar,—a position neither sought for vainglory nor self-claimed, but a position recognized and appreciated, with no trace of envy or jealousy, by the other members of the bar. It is only an exceptional man that can lead in anything or at any time and stir to envy the feelings of no person.

"Judge Scott's rise to eminence as a practitioner was in no sense meteoric. He must have possessed in the beginning a mind naturally capable and retentive, but its large development came with steady application and tireless work. With a memory almost infallible, being continually freighted with rich material, he became possessed of a ready judicial knowledge nothing short of wonderful. With him judicial thought became second nature. His work in the trial of a cause always evidenced careful preparation. This preparedness was known not only to his associates of the bar, but was a subject of common comment among all persons whose



business brought them in touch with court proceedings. His client always received his best effort, but the bitterness and feeling of the client never became his. His attitude was ever that of an attorney trying a case for a client.

"As every practicing attorney knows, there are many courtesies and concessions that may be extended by counsel, and which, while they do not make for or against the interests of a client, smooth the pathway for the opposing counsel,—courtesies that cannot be claimed as of right, but the granting or withholding of which marks the difference between the lawyer and the pettifogger. Readiness to accommodate in such matters Judge SCOTT considered among the ethics of the profession, and in them no one was more ready to oblige than he.

"Judge SCOTT was a keen judge of human nature. He learned to know the things that move the minds of men in forming conclusions. He was therefore able to gather from the common mass of evidence in a cause the prime factors that were apt to persuade and convince. This genius of selection and presentation made him victor in many a legal battle. If there was any one phase of practice in which Judge SCOTT excelled it was in the presentation and argument of legal propositions before the court. It was at these times of forensic argument that one felt the impelling force of his intellect and witnessed the trend of his relentless logic. It was at these times of mental combat that to intellectual strength was added intellectual brilliance. Candor and truthfulness marked his treatment of court and brother counsel. No advantage was great enough to tempt him from the line of honor and integrity. No court was ever deceived by him. No counsel was ever given cause to complain of unfulfilled pledges.

"The bar association is not alone in their appreciation of the character and worth of Judge SCOTT. Twice in the past have the citizens of Mercer county reversed the heavy political majority of the county and gave it, increased, to Judge SCOTT, who was of well known opposite political faith. Other causes contributed to these political phenomena, but the real underlying cause was that the people of his county believed in Judge SCOTT and were ready and willing to assist him in realizing his worthy ambitions. He held a high place in the regard of his neighbors and fellow-townsmen. His friendships were lasting and active. His judgment was

sought and accepted upon matters of local importance. The people of his community knew that the duties of the high office which he sought would necessarily curtail his activities at home, but, with a deep conviction of his eminent fitness as a jurist, they were willing to suffer a local loss that his worth might be recognized and availed of in a wider field of work and influence.

"To the sincere homage already paid him by the State at large, we, his home friends and professional associates, wish to add our tears with our tribute to the memory of a noble and kind-hearted man, a devoted husband and father, a worthy citizen and an able and conscientious judge."

Hon. WILLIAM McENIRY, of the Rock Island bar, then spoke as follows:

*May it please the Court*—Coming from Rock Island county as I do, and from the bar of Rock Island county, it is with some feeling that I speak at this time upon the life of our departed friend, and when I say "our friend" I mean to class Judge SCOTT as a friend of every lawyer in Rock Island county. We feel proud that a man of his attainments, a man of his character and a man of his standing in the community should have lived nearby and so close to the county of Rock Island. In testimony of our appreciation for him when he was a candidate for the exalted position to be a member of this bench, Rock Island county, regarded by our republican friends as one of the banner republican counties of the State, cast a very small majority against Mr. SCOTT. It was because the people, irrespective of political opinions, loved and admired him.

It was in Mercer county, at a democratic political meeting in 1886, where I first met him, when he made his first political speech and I made mine. I then discovered that he was possessed of a noble character and a splendid mind, and from that time until the time of his death I was intimately associated with him, and my appreciation of his worth grew as my acquaintance with him grew. He was not a graduate of the University of Yale or of the University of Harvard, but he was a graduate from the University of Universities,—from the common people of this commonwealth. He was an agriculturist as a boy and grew up on the farm, strong

in body, strong in mind and strong in character. Associated with him were farmers of the county of Mercer, from whom he took his first lessons of manhood. He carried with him, until the day of his death, a character of righteousness, a character of justice and a character of honor. Although taken when in the prime of life, we ask ourselves, "Has he left anything by which he is worthy of being remembered?" Monuments of stone, monuments of brass, are raised in memory of men, but time will wear them away. Judge GUY C. SCOTT builded for himself a monument that time will not wear away. Aside from the example he has left us by the splendid life he lived, the opinions which he has written while a member of this court and which are published in the volumes of the Supreme Court Reports of the State, are beacon lights for the bench and bar to follow. In them we find the elementary principles of jurisprudence upon which our institutions are based. Under our system of government we are more indebted to the judiciary for the maintenance of our liberties than we are to either of the other two branches, and the jurist who is courageous enough to expound the principles of law without fear or favor fills a high place in the heart of every patriotic citizen, and a man of this character bequeaths to posterity something more than a monument of stone or monument of brass, because he leaves the imprint of justice to posterity and an example of a noble life to follow and is the man whose life has been a success,—and such a man was Judge GUY C. SCOTT, of Aledo, Illinois.

HON. WILLIAM M. FARMER, the Chief Justice, on behalf of the court responded as follows:

While regretting deeply and most sincerely the unfortunate event which gives occasion for this expression, it affords me pleasure to thus publicly bear testimony on behalf of the court to the worth and character of Judge SCOTT as a man and to his abilities and usefulness as a judge. First of all, Judge SCOTT was a man in the full sense of the term. He was broad of mind and generous of heart. His ideals were high, his purposes and aspirations honest and clean. His sympathies were tender, yet he had such force and strength of mind and character that his judgment was not controlled alone by his sympathies. He was a most agree-

able and companionable man in a social way. Never obtrusive of either his presence or his opinions upon others, bearing uncomplainingly his own burdens, he had a wealth of human sympathy which warmed and kept young his heart and made him not only an agreeable companion but a desirable and helpful associate. Thoroughly devoted to his work, he nevertheless had time for the society and companionship of his family, who were ever the objects of his tenderest solicitude, and for social intercourse with friends.

Judge SCOTT was an able and useful member of the court. He was well versed in the law, possessed a keen, analytical mind, readily grasped the important questions involved in a case and the principles of law applicable to it. He was not hasty in arriving at conclusions but was deliberate and painstaking in investigation. He was always willing and patient in listening to the views of others. He was not dogmatic or stubborn in his convictions, yet when satisfied, after full hearing and investigation, of the correctness of his conclusions, he was firm. The law, as he understood it, was his guide in arriving at a decision. He believed it to be the duty of a judge in the determination of cases to which settled rules and principles of law were applicable, to be governed by these rules and principles. While he did not blindly follow precedent, when the law had been settled and declared as applicable to a given condition or state of facts he believed it the wiser policy to follow it. He believed there should be stability to the rules of law, and that although it may sometimes happen that one not guilty of any intentional wrong must be left to suffer unpleasant consequences, yet that it is better it should be so than that established rules of law should be disregarded in order that unpleasant consequences might be avoided in a particular case. Judge SCOTT was not unmindful of the consequences of a decision, but he did not allow such considerations to be the controlling factor in arriving at a determination. He was a well-poised man, and from every standpoint well nigh ideally equipped for judicial duty. The value of the services of such a man is inestimable.

When elected a member of this court he was without previous judicial experience, but he very soon demonstrated his capacity and fitness for the discharge of the duties of the position. During a portion of the six years he served as a member of this court

he was not in good health, but his fidelity to duty was such that he kept at his work when at all able to do so, and when death came he had written every case, except one, that had been assigned to him. No doubt his arduous labors reduced his vitality and rendered him an easier prey to disease, but he died with the consciousness of duty well done.

It is particularly lamentable that one so gifted and qualified for long and useful service should be stricken in the very zenith of his powers. The death of such a man is a grievous loss, not alone to his family and friends, but to the State he served so well and to the country. Although Judge Scott was taken from his field of service and usefulness while yet a young man, in all he had undertaken he had wrought well. He left the memory of a life well lived, of duty well performed. "After life's fitful fever he sleeps well."

The memorials presented and the remarks made in support thereof will be spread at large upon the records of the court by the clerk, and as a further mark of respect to the memory of Justice Scott the court will now adjourn until to-morrow morning at nine o'clock.

REPORTS  
OF  
CASES AT LAW AND IN CHANCERY

ARGUED AND DETERMINED IN THE  
SUPREME COURT OF ILLINOIS.

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VOLUME 242.  
CONTAINING CASES IN WHICH OPINIONS WERE FILED IN OCTOBER  
AND DECEMBER, 1909, AND CASES WHEREIN REHEARINGS  
WERE DENIED AT THE DECEMBER TERM, 1909.

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ISAAC NEWTON PHILLIPS,  
REPORTER OF DECISIONS.

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BLOOMINGTON, ILL.  
1910.