

MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS ON THE DEATH
OF THE HON. SIMEON P. SHOPE

On Thursday, June 3, 1920, at two o'clock in the afternoon, which hour had been set apart for the purpose, the following proceedings were had:

Mr. CHIEF JUSTICE DUNN:

This hour has been designated for services in honor of the memory of the late Simeon P. Shope. Mr. John M. Zane, of Chicago, chairman of the committee appointed by the Illinois State Bar Association and the Chicago Bar Association for that purpose, will present a memorial.

Mr. JOHN M. ZANE:

May it please the court—The Illinois State Bar Association and the Chicago Bar Association, acting jointly, have adopted resolutions upon Judge Shope's death, and they have directed a committee, of which they have done me the honor to make me chairman, to present them to the court. I request your honors' permission to read them:

"The ultimate sanction of the law, the life-giving force by which it has lived from generation to generation, the basis of the hope it gives for the future, and its successful and orderly administration in the present, all are found in the ability, the worth and character of those who devote their lives to its practice and adjudica-

tion. Therefore the profession feels it as a solemn duty to record that those who during life have done their part to keep burning the sacred fire upon the altar of justice are worthy of remembrance and that their name in influence liveth forevermore. Lately there has passed from among us one whom we deem entitled to have, and who will have, this remembrance.

"Our deceased brother, Simeon Peter Shope, was one of the best examples of the typical American lawyer. The architect of his own fortunes, he owed all that he was to his innate ability and character. Born in Ohio in 1834, taken in his earliest years to Illinois, admitted to the bar in 1858 and dying but a short time ago, the long span of sixty-two years was passed either as judge or lawyer. Nature to him had shown her choicest favors. She gave him a keen, open and discriminating mind, a powerful intellect, a steadfastness of application and a genuine love of law and of justice. She had made him a large-hearted, generous and kindly man, with a ready sympathy for human suffering and misfortune. She had dowered him with a stately and magnificent stature, a noble and imposing presence, with a readiness of thought and of memory, an impressive and sound eloquence, a fluency and ease of speech. To these advantages were added a simple and delightful courtesy, a straightforward, democratic manner, and a social charm that endeared him to all who came within the influence of his personality. He was one selected for success among his fellow-men and he early became a marked figure in the profession.

"He served this State with zeal and uprightness in the legislature. For almost two terms he was a judge of the tenth circuit and for one term a member of our Supreme Court. As a judge his patience and courtesy, his quickness of apprehension, his readiness to hear argument and to court discussion, his willingness to submit his judgment to authority, his usefulness in conference with his associates, his genuine desire to advance the interests of truth and justice, entitle him to be called one of the greatest of those who have given honor and reputation to our bench. He gladly retired from the bench, after a total service of seventeen years, to become a practicing lawyer in Chicago, and he remained until his death in a position of esteem and honor among his brethren at the bar. As a practicing lawyer none of us has anything to recall of

him that mars our remembrance of a lawyer of pre-eminent ability, who relied solely upon the law and fair dealing. In all his service as a lawyer he never failed to recognize what was due to the courts and to his colleagues at the bar. He paid his debt to the profession by lecturing at one of the law schools in Chicago and by striving to inculcate the best traditions of our order. All of us can recall many public occasions when his eloquent words were heard, impressing upon his fellow-men the great truth that all orderly social existence and fair government depend upon the faithful administration of the law and an undeviating respect and support of the tribunals of justice.

"In admiring recognition of his faithful life, of his splendid abilities, of his service to his country as a judge, a lawyer and a citizen, the Illinois State Bar Association and the Chicago Bar Association do make this exposition of the life and this estimation of the worth of our lamented brother and do adopt the following resolutions:

"Resolved, that in the death of Simeon Peter Shope, lately a member of the Illinois State Bar Association and of the Chicago Bar Association, we deplore the death of a great judge, a great lawyer, a good man, and of one who lent dignity and honor to our profession; that we here record our sense of personal loss and bereavement of him whose kindly charm of manner and genius for social intercourse endeared him to all his associates; that we gratefully bear witness to the high example of one who during many years of service, both at the bar and upon the bench, has done much to illuminate and to advance the science of jurisprudence; that we here avow the confident belief that one who not only by his life and example has taught, but who on every possible occasion never failed to raise his powerful voice to teach, reverence for the law and respect for judicial tribunals, has done a great service to his native land and has deserved well of the Republic.

"And be it further resolved, that a copy of these our estimation and resolutions be presented to the Supreme Court of Illinois with the request that they be made a record of the court, and that a copy of these resolutions and of the proceedings of the court thereon be presented to each of the grandchildren of Judge Shope, that in after years they may know them."

In accordance with those resolutions I now on behalf of the committee move the court that those resolutions be spread upon your record, and in support of that motion I beg to say, with your indulgence, what I think is appropriate to this solemn occasion.

It is a mournful duty to record that a good man has passed away, but it is a duty not wholly of sadness to state why his life and character entitle him to this public record. Of Judge Shope's later years I can speak with special knowledge. Of his earlier years I have but one recollection. Forty and more years ago, when I was a stripling here in this city, I was accustomed to spend no little time at the law library of this court. I barely remember seeing the court when it was composed of but three members. Those names of Breese and Lawrence and Walker were, and are yet, a great public possession. Many of the fine old lawyers of that day I later heard before the court, and some of those voices were of such power that they haunt my memory still. There I first saw Judge Shope. He had for a few years been a circuit judge. He was then in the glory of his prime, and the effect of his imposing appearance and his magnificent head reminded me of the phrase that I was then reading in the Iliad,—an *anax andron*; one of the lords of human kind. But what particularly impressed me was his lovely kindness of manner. His presence and his manner have remained with me as an ineffaceable impression. I cannot think I am mistaken in saying that Judge Shope was a good representative of those older lawyers and a fitting successor of Breese and Lawrence.

Years passed before I saw him again in Chicago, and I was then almost the age that he had been when I first saw him. Time had silvered his hair, but he was even a more magnificent-looking man. His face was one of transcendent power, and the contrast of his snow-white hair and coal-black eyebrows, with his handsome features and large stature, gave him a peculiar distinction. But the years and distinction had not deprived him of his fine democ-

racy of manner, his ready charm for all he met. Though bearing the snow of years he was a living proof of the words, "Where the snow-flakes fall thickest there's nothing can freeze." I was then to enjoy many years of close contact with him in the practice and was to come to know him well.

Before I advert to my impressions of him I am instructed by the committee to recall briefly the main events of his life. He was born at Akron, Ohio, December 3, 1834, and he died early in this year. When he was but two years old he was brought by his parents to Illinois. They lived first at Marseilles, then at Ottawa, and later in Woodford county. He had his training in the public schools and his early life was passed upon the farm. For a short time he was a student at Eureka College, in Woodford county. After teaching school for four years he studied law under that well-known lawyer, Norman H. Purple, of Peoria. He was admitted to the bar in 1858 and was married in the same year. He practiced a short time at Metamora and then located at Lewistown, in Fulton county. In 1862 he was elected to the State legislature. In 1877 he became circuit judge of the tenth circuit and served at *nisi prius* until 1885. He was then elected a justice of this court and in due course became chief justice. He declined re-election in 1894, moved to Chicago and there continued the practice until his death. His life was prolonged for eighty-six years, and even then he gave promise of longer life until the unfortunate accident which caused his death. Four times he had seen the youth of the country go forth to war, and his recollection reached from those who returned from the Mexican war in 1848 to those who upheld our stainless banner in this last and greatest of wars.

The resolutions which I have read set forth with precision Judge Shope's qualities as a lawyer and a judge. I can say nothing of his earlier years except the one glimpse I had of him; but he was a very popular man and endeared to all classes. The uniform testimony is that he was a most satisfactory judge at *nisi prius*. He

came to the Supreme Court before Judges Mulkey and Sheldon had passed off, and when he retired he left behind him Judges Bailey, Baker, Craig, Magruder, Phillips and Wilkin. His associates in the court were some of them of exceeding ability, and he spoke often with admiration of Judges Scholfield and Bailey and Mulkey, but I think he kept a particularly soft spot in his heart for that sometimes erring man, Judge Jesse J. Phillips. Judge Shope's opinions are found in the volumes from 114 to 154 of the Illinois Reports, and your honors and the profession know their value. I am not about to say anything in detail regarding his written opinions. They speak for themselves. They are sound and conscientious. He was a master of an impressive, discreet judicial style, and, when the occasion called for it, the sober sense of his opinions is lighted up by strains of genuine eloquence.

Two matters I may mention that are not on the record, since they illustrate the man. All will recall the decision in a case against a Wabash receiver where the court first laid down the principle which excited so much wrath among railroad lawyers, that a traverse of the defendant's operation of a railway was not made by the general issue but must be made by a special plea. The opinion is *per curiam*, but Judge Shope assumed the responsibility. He said that he had written it for Judge Baker, who was indisposed. After the Judge came to Chicago and was lecturing at the law school, George Burnett, the Wabash solicitor and a warm friend, came to see him in Chicago and the Judge took Burnett to his lecture room and asked him to address the class. Judge Shope, I need not say, was a marvelous raconteur. He told me, with his inimitable mimicry and with all his enjoyment of a witty remark, even at his own expense, that Burnett during the course of his speech told the students that his learned friend had lately retired from the bench, and that he was glad to see that he had again taken up the reading of the law and was devoting himself to some much-needed study of the science of pleading, and no doubt by this

time he had found that the plea of the general issue in an action on the case did not admit every material allegation in the declaration.

The case of greatest public interest during Judge Shope's service in this court was doubtless the *Anarchists case*, in the year 1887, and until late years it was but a memory of an old, unhappy time. It was then a new thing in this country to preach the destruction of all social order, and that our constitutional form of government, which men had died by the thousands to preserve and which every patriot had been taught to revere, was a system of legalized robbery. The advocacy of a "bloody revolution," the denunciation of "the infernal nightmare of property and wages," the exhortation to workingmen to arm themselves with weapons, dynamite, explosives and hand grenades and to kill the police and the soldiers in order that the "Eden of Anarchy" might be reached on earth, to "lay hands on the law and throttle it until it makes its last kick," were all so outrageous to Judge Shope that he felt it was not enough that the convictions should be affirmed, but that it was of prime importance that the court should present a steady, united front. I am disclosing nothing improper. The actors are now all dead and he mentioned no names, and a great carefulness in a case of death is to no judge's discredit. He said that the case had been powerfully argued for the anarchists and for the State, and, as usual, many stupid but no doubt well-meaning people were attempting to save the criminals, and there was some wavering in the court. He felt not the slightest doubt himself. I was told by another that Judge Shope was a tower of strength in consultation. He more than anyone else obtained unanimity by his persuasiveness, and he breathed a sigh of relief when the convictions were affirmed by an undivided court.

I know much of his great strength in conferences of counsel and his lucidity in dealing with decisions, for I have seen him in many conferences upon important cases. I noticed first of all his large and easy tolerance of the ideas of others. He had none of

that insistence upon details or of that pride of opinion which might have been expected, but on vital matters he was like a rock. He was of the type of lawyer who is well grounded in fundamental principles. To this source he went first. What was consonant with the general principles of the law he sought to begin with. I should say that in conference his peculiar power was in analyzing a complicated legal situation into its essential elements and in reconciling conflicting views. He had "the calm eye that seeks 'midst all the huddling silver little worth, the one thin piece that comes pure gold." He had, too, a remarkable acquaintance with case law, but he never allowed it to obscure his sight and blur his vision. He had pre-eminently that legal mind which approaches a question by means of the settled principles of law and justice, and I have many times heard him deplore the present tendency of law instruction to rely solely upon cases as a method of inculcating general principles.

In court Judge Shope was equally strong before court or jury. In his presentation of authorities he was close and powerful in discrimination and remarkably frank and straightforward. With juries I think it was as much his appearance and his manner as his matter that gave him influence, but he did not descend to any unworthy arts to obtain a verdict. Perhaps, after all, it was personality, for his largeness of nature, his kindness and charity for human weakness made him a very lovable character. No doubt he was often imposed upon and some of the pensioners upon his bounty were worthless, but their comparative unworthiness never troubled him. It may be said that he did not care enough for the mere monetary side of the practice. It may be so; but in this age it is a positive relief to think of those who laid less stress upon the profession as a mere business.

After all is said as to him as a lawyer we come back to what he was as a man. His most attractive feature was an unflinching cheerfulness and buoyancy of spirit; a bubbling sense of humor

that never deserted him. His serene and cheerful old age gave no sign that life was wearing upon him. If life tried him we saw nothing of it. It may be that he often felt weary and heavy laden and that the stones in his pathway bruised his feet, but he never seemed to lose, until the very last, his freshness of spirit, his spring of perpetual youthfulness. He seemed to me in his old age to be the living embodiment of the lovely saying of Ecclesiastes: "Truly the light is sweet, and a pleasant thing it is for the eyes to behold the sun; but if a man live many years let him rejoice in them all." Yet he was a man of many sorrows and he was acquainted with grief. The wife of his early manhood faded into the tomb. His elder son died under peculiarly distressing circumstances. His elder daughter died early. His younger son passed away soon after reaching manhood. The sole comfort of his domestic life and declining years was his younger daughter,—a sweet and lovely woman. She had grown up as a companion to his age and she was his sole interest in life. Wife and children had gone one by one and at last his youngest and dearest was stricken. I can almost hear him with the pathetic prayer of Niobe as she saw her children dead around her, with her youngest clasped in her arms, crying:

"Unam minimamque relinque;
Posco de multis minimam et unam."

But his prayer to spare him only one,—only his littlest one,—was not heard. The insatiate archer drew his pitiless bow and the old man was left sitting only with memories at his desolate fire-side. From this time we could all see a change in him, and when death came it was for him a welcome relief to pass beyond the stars, where there is peace.

The longest life is short. Judge Shope in 1896, speaking in this court of the death of Judge Caton, said in the choicest words: "How true it is that the longest life, filled with ceaseless activities, is but a span. Our association with our fellows is epitomized

in the simple words, 'Hail and farewell.' In the morning of life we greet them; they go a little way with us; but the evening comes, and, though it be illumined by the star of hope, we bid them a long farewell."

Of those inner faiths and beliefs that come from the communings with one's own soul I never heard Judge Shope speak but once, and then he had quoted that incomparable passage from the Book of Job: "For there is hope of a tree, if it be cut down, that it will sprout again and that the tender branch thereof shall not cease but through the scent of water it will bud and bring forth boughs like a plant. But if a man die shall he live again?" And he added: "I have never doubted, and I have had no reason to doubt, that in some way that question ought to be answered,—as we all have faith it will be answered,—by Omnipotence with a life beyond the tomb."

Even the greatest lawyer's reputation soon passes away. Who now knows the once renowned Parning, or Cavendish, or Danby, who were among the greatest exponents of the common law? Their decisions are to-day the law in vast regions of which they had never heard. They are, in the law,

"The dead but sceptred sovereigns who still rule
Our spirits from their urns."

Yet their graves are lost and their very names are forgotten. The Persian poet is speaking of lawyers when he says:

"Some little talk awhile of me and thee
There was—and then no more of thee and me."

Perhaps the Greek dramatists are right in saying that for him who lives it, life is not worth the living. But this mysterious incorporation of the human race, this great fabric and structure of humanity, lives on from age to age in the life of individuals, and, as an axiom of a social existence, every man must live not for himself but for others. The influence of a good life persists in

good long after the man is forgotten and his bones have mouldered into dust. Few can be so great as to leave an imperishable name, but all can live, like Judge Shope, a life whose influence shall reach out in many hidden ways and whose actions shall smell sweet and blossom in the dust. And we can all console ourselves with the reflection that the growing good of the world is mainly dependent upon unhistoric acts; and that things are better with you and with me than they might have been is in great measure due to those who bravely led unrecorded lives and dwell in unvisited tombs.

MR. CHIEF JUSTICE DUNN :

The court will hear from the Hon. William R. Curran, of Pekin, also a member of the committee.

MR. WILLIAM R. CURRAN :

May it please the court—It is right at forty years since I first met Judge Shope. He was passing from his service as a circuit judge and had just been selected as a member of this court. He had practiced many years in an adjoining county. I was in that county yesterday, over at the little old town where his activities commenced, which was the scene of one of the strong bars of this State. No one could know Judge Shope and not be impressed with his manly, kindly character. No one could know him and not be drawn to him with hooks of steel. On behalf of the State Bar Association I desire to second and to indorse, personally and on behalf of the bar association of this State, all that has been voiced by Mr. Zane and to concur in all the sentiments expressed by him.

MR. CHIEF JUSTICE DUNN :

Judge Shope was a member of this court from 1885 to 1894. He was elected from the Fourth Supreme District, and the present member of the court from that district, Justice Thompson, will respond on behalf of the court to the memoriam and the addresses made.

Mr. JUSTICE THOMPSON :

In view of the highly instructive and impressive remarks which have been submitted by the members of the bar in presenting these resolutions in memoriam, little remains to be said except that the court fully indorse the words of eulogy that have been so kindly, so happily, and withal so truthfully, spoken of our distinguished predecessor.

This is the first time since the organization of this court in its present style under the constitution of 1870 that memorial services have been held before this court when none of its members had served with the deceased. The response must therefore, of necessity, lack the personal touch that would come from an associate who had been in close contact with his brother in the work of the conference. None of us have that intimate knowledge of the deceased which comes from the close association naturally growing out of our method of work, and so we are not able to describe those traits of character peculiar to him, the knowledge of which springs from the intimate relations of those who labor together; but no one can listen to the words of commendation by his brothers of the bar without feeling that the ability, the integrity and the fidelity of Judge Shope were known to and adequately appreciated by the members of his profession. Next to the approval of his own conscience, the highest reward a judge can receive is the sincere approbation of an able, enlightened and honorable bar.

There is nothing in the character of the duties of a judge to excite the enthusiastic admiration of the populace. A life of patient toil among records and books is barren of those incidents which bring forth the applause of the multitude. Its results are protection, peace and happiness to mankind through the just enforcement of the laws. By reason of their industry, ability and professional learning, and their fairness and accuracy of conclusion, no one is better able to judge whether these duties have been properly performed than the members of the bar. Necessarily, the

fame of the judge of a court of last resort must in the main rest on his written opinions, seen and known only by the profession and in professional traditions.

The opinions of Judge Shope appear in forty-one volumes of the reports of this court, the first being reported in the 114th volume and the last in the 154th volume. In all, he wrote 361 opinions. No one can read them without being convinced that they are not only productions of an able and learned judge but also of an honest and conscientious man.

It is not necessary to speak further of Judge Shope. His work speaks for itself. His friends may erect a monument of stone or bronze to perpetuate his memory, but that monument in time will crumble and decay. On the other hand, the opinions of Judge Shope may be regarded as a monument erected by himself, which will endure so long as our present system of jurisprudence exists. Judge Shope possessed a powerful mind and an incorruptible character, and to these qualities all men can join in rendering tribute.

Those of my brethren who have remained silent join me in tendering to the family and relatives of the deceased their sincere sympathy in this visitation of Providence, and with sorrowing hearts we join you and them in mourning his loss.

Mr. CHIEF JUSTICE DUNN:

The resolutions, and the addresses made in connection therewith, will be spread at large on the records of the court, together with the remarks of Mr. Justice Thompson on behalf of the court, and as a mark of further respect to the memory of Justice Shope the court will now adjourn.

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SAMUEL PASHLEY IRWIN,
REPORTER OF DECISIONS.

BLOOMINGTON, ILL.
1921.