

## MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS ON THE DEATH  
OF THE HON. ALFRED M. CRAIG.

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On Saturday, December 16, 1911, at two o'clock in the afternoon, which hour had been set apart for the purpose, the following proceedings were had:

Mr. CHIEF JUSTICE CARTER:

This afternoon has been set apart for services in memory of the late Alfred M. Craig, for many years a member of this court. I understand a committee of the State Bar Association is here to present a memorial. The chairman of the committee, Mr. E. P. Williams, of Galesburg, who perhaps knew Judge Craig as long and as intimately as anyone now living, will present the memorial.

Mr. WILLIAMS:

*May it please the Court*—Horace Kent Tenney, president of the Illinois State Bar Association, with the approbation of the executive committee, appointed Isaac N. Bassett, John S. Stevens, John P. Wilson, Albert D. Early and E. P. Williams a committee to prepare and present to this honorable court a suitable memorial upon the life, character and public services of Alfred M. Craig, late a member of this court. We beg to submit the following:

Alfred M. Craig was born January 15, 1831, in Paris, Edgar county, Illinois. He was of Scotch-Irish descent, his father being David Craig and his grandfather Thomas Craig, the latter coming from the north of Ireland. His mother's maiden name was Minta Ramsey, daughter of Sinot Ramsey, a Virginian, who came to Kentucky at an early day and was there associated with Daniel Boone, Kenton, and other noted fighters during the Indian

wars. David Craig, father of Judge Craig, was born in Philadelphia and emigrated to Lexington, Kentucky, at an early date and married there, but, like thousands of the middle class in the southern States who were not slave holders and did not depend on the institution of slavery, he moved away from Kentucky and came north to Illinois. After a short stay in Edgar county, where Judge Craig was born, his parents removed to the military tract and settled in Fulton county, Illinois. The family was a large one. The elder Craigs belonged essentially to the independent white people of the south who were not wedded to slavery, and, like others of their class having large families, were thoroughly industrious and came to the new country to help make it. The father settled on a farm five miles west of Canton. He was a millwright and built several mills along Spoon river. David Craig died at his home near Canton about 1860. Of the father's family, one sister, Mrs. Harriet Barnwell, of Los Angeles, California, survives.

Judge Craig grew to manhood on the farm. He received a good common school education, one of his first teachers being the late John M. Palmer. He later attended an academy in Canton and in the fall of 1848 entered Knox College, from which institution he was graduated in 1852. Immediately afterward he began the study of law in the office of the late William C. Goudy. Judge Craig was admitted to the bar in 1853, and the year following entered upon the practice of the law at Knoxville, as a member of the firm of Manning, Douglas & Craig. He rose rapidly in his profession, and in 1855, Mr. Goudy having resigned as State's attorney, Judge Craig was appointed his successor as State's attorney for the circuit, comprising the counties of Knox, Henry, Mercer, Warren, Henderson and Fulton.

As a practitioner Judge Craig made careful study of his cases with a view, first, to ascertain the facts; second, by whom provable. Not content to trust to hearsay for information at second hand, he insisted upon personally interviewing the witnesses before the trial, with a view accurately to ascertain just what facts were provable by each. At the trial of a cause at the circuit he did not talk down to, but to and with the jury, as man with man, neighbor with neighbor; never going behind the bush to mince matters; always self-reliant, self-assertive, self-poised, sagacious;

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an accurate judge of men; possessed of great fixedness of purpose, strong and impressive personality; always prompt, tactful, indefatigable; adequate to every emergency; withal of plain and unassuming manners. He was at once on good terms with all his neighbors,—not simply the wealthy and powerful, but the humblest individual as well. As a public prosecutor he made an enviable record, meanwhile proving himself a lawyer of very considerable ability. He put on no airs, but it was soon evident that he was a factor to be reckoned with. Thoroughly grounded in the principles of the common law, especially familiar with statutory provisions and with the decisions of our own Supreme Court as well, he soon attained to a position in the very front rank of the bar of the circuit.

In August, 1857, Judge Craig was united in marriage with Miss Elizabeth P. Harvey, the beautiful and accomplished daughter of Curtis K. Harvey, deceased,—a lawyer of distinction, ability and high character and a member of the constitutional convention of 1847. To them, as fruits of this marriage, were born four children, of whom two, Dr. Harvey Craig and attorney Charles C. Craig, both of Galesburg, Illinois, survive. A daughter, Mrs. Carrie E. Bradford, departed this life in 1890, and a son, George Craig, died in February, 1896. Mrs. Elizabeth P. Craig died in August, 1904.

In 1859 Judge Craig was elected county judge, holding the office one term and discharging the duties of the office with promptness, fidelity and dispatch. In 1869 he was elected a member of the constitutional convention which framed the present constitution of Illinois. His colleague and room-mate while attending the sessions of the convention was the late John Scholfield, long an honored member of this court. They were especially efficient co-workers in shaping the constitution on wise, liberal and judicious lines. Judge Craig's familiarity with county affairs rendered him especially qualified to deal with township and county matters. He was on the committee of electoral and representative reform, along with Joseph Medill, O. H. Browning, Milton Hay and others; likewise a member of the committee on railroad corporations and on the committee on legislative apportionment. It goes without saying that his course in the convention was especially satisfactory

to his constituency and established his reputation as a wise statesman of broad and liberal views.

In 1873 Judge Craig was confessedly in the very front rank of the bar of our circuit as a successful trial lawyer. At the judicial election in June, 1873, he was elected to the Supreme bench of this State. He took the oath of office and entered upon the discharge of his judicial duties at the June term, 1873. The first opinion filed by him is found in the 67th Illinois and the last in the 186th Illinois. During his twenty-seven years of active work on the Supreme bench he never missed a single term of court nor failed to do his full share of the work of the court. During all that time he was recognized by his colleagues as an able coadjutor. He took with him upon the bench his thorough, careful business methods and did much to apply such methods to the business of the court, bringing order out of what had been to some extent chaos, and reducing the methods in vogue in the court and the clerk's office to a thoroughly business basis.

At the June election, 1900, Judge Craig was a candidate to succeed himself but was defeated by John P. Hand, who was chosen his successor. He acquiesced in the people's choice, and quietly and unobtrusively devoted his attention thenceforward to his private business affairs, as a plain citizen of the commonwealth. During all of his years of service upon the Supreme bench, without neglecting in the least his duties as a judge, he looked after his own affairs wisely and efficiently, and so managed his private business as not only to accumulate an independent fortune, but to establish himself, in the meantime, deservedly, in the hearts of the common people of Knox and the adjoining counties. He was a pattern of prudence, reliable as a business man, and had and deserved the confidence of the people. His judgment was sound and the people had learned to trust him, hence, later, when he suggested the establishment of a State bank in Galesburg and several private banks in the neighboring communities, the people, relying upon his judgment, joined with him, and the enterprises, through his sound judgment and management, were eminently successful. He was for many years an honorable and efficient member of the executive committee of the board of trustees of his beloved *alma mater*. During that time he never missed an appointment and

never refused to accept his full share of responsibility for any and all action taken with reference to the college.

In July, 1908, Judge Craig was again married, his wife being Mary Davis, of Galesburg, a lady of estimable character, and the union proved to be a happy one. She still survives him.

It would be invidious to attempt any review of the important cases coming before the Supreme Court during the time of Judge Craig's incumbency in which he took an important part. However, the period was one of marvelous business development, in which the methods of business were changing, the interests increased in magnitude and the old time methods in business no longer applied. It became necessary to consider all these things in the application of judicial principles and the decision of cases before the court. They were times calling for the largest application of common sense and an attempted adaptation of the law to the new and changing conditions when it could be done without attempted judicial legislation. It may not be amiss to mention one or two cases in which Judge Craig took a prominent part and prepared the opinions.

In 1874 a question had arisen in this State over the right of school directors, in the management of the schools, to discriminate between white and colored children by providing separate schools for each class. The question was a new one, and it called for a broad, comprehensive view; looking to the law, to the rights of the people and the greatest good to the greatest number. The Supreme Court held that a board of school directors had large and discretionary powers in the management and control of schools, but that they had no power or right to make any class distinction between white and black, rich and poor, the children of one nationality or another, and that they had no right to discriminate between boys and girls on account of their color or any social position. There was one dissenting opinion,—Judge Walker of the Supreme Court,—but the majority opinion was in accord with the better public sentiment and with the broad principles of humanity and righteousness.

Another case might be mentioned of great importance to the people of the State, as subsequent events have since shown. It was a case involving the question of the rights of the Illinois Cen-

tral Railroad Company under the act incorporating such company, granting a strip of land two hundred feet wide for right of way, and providing that the company might take possession of any lands, streams and materials for depots, etc., and further providing that all land, water privileges and materials belonging to the State were granted to said corporation for railroad purposes. Under this claim the Illinois Central Railroad Company undertook to take possession of the partially submerged lands along the lake front, in Chicago, lying outside of its right of way. The court unanimously in that case (Judge Craig writing the opinion) held that the words of the statute were clear and unambiguous; that neither the letter nor the spirit of the act included lands covered by water; that the State held the lands lying within its boundaries covered by Lake Michigan in trust for the people, for the purposes of navigation and fisheries; that the State had no right or power to barter or sell the lands, but the title was held in trust for the benefit of the people, in their sovereign capacity, of the entire State of Illinois. It was a question of vast importance as subsequent events have shown, and it was settled on right principles, owing to the broad, comprehensive, as well as conservative, views of the court. That decision was upheld by the Supreme Court of the United States. It was in cases of that class that Judge Craig's ability was best shown. He was possessed of large common sense and took a broad view of all such questions whenever presented. He always looked for the good of the greatest number, and whenever not circumscribed by legal precedents, which it was hardly possible to depart from, he applied this large common sense in the interest of the whole people.

Another case of great importance, and which has been, during all the years since, in one form or another, almost constantly before the courts of all the States and of the Federal courts, was decided by the Supreme Court, Justice Craig delivering the opinion. It was a case involving the validity of certain sections of the Railroad act of 1874, designed to prevent unjust discrimination in the rates charged for transporting passengers and freight. The Supreme Court of this State held that the act was not to be limited to railroads organized under the laws of the State, but included all railroad companies operating any railroads within the

State, regardless of the place of their organization. That case went to the Supreme Court of the United States, and the decision of the Supreme Court of this State was reversed by the majority of the court. A vigorous dissenting opinion, however, was presented by Chief Justice Waite, and, strange to say, the decision of the case by our Supreme Court and the doctrine announced in the dissenting opinion have come to be very generally accepted as the correct doctrine to be applied in all cases of the kind.

Judge Craig's last public work was in connection with the State Tax Commission appointed by Governor Deneen. He accepted the appointment reluctantly, but in view of the high character of his associates on that commission and the importance of the work he decided to accept the appointment and serve as best he might. For such a position he was in every way eminently fitted. His acquaintance with business, with values, with the needs of the State, with the proper principles of taxation, made him a valuable member of such a commission, and it is to the credit of Governor Deneen that he selected such men for that duty.

As we have said, Judge Craig was a thorough-going business man. He never undertook any enterprise hastily or thoughtlessly, but carefully considered and clearly outlined in his mind the course to be pursued by him touching any business transactions or any legal or judicial work. When he had thought the matter out and made up his mind he followed the course with inflexible determination. He never indulged in speculation or gambling in any form. His investments in his earlier years were made in farm lands, with a view to the permanency of such investments. That he chose wisely for his investments has been fully demonstrated in these recent years, for he became the owner of large tracts of fertile lands in the corn belt of Illinois, which have made him a fortune by their increased value and productiveness.

Judge Craig, in his private life and in his donations and his charities, was never careless or thoughtless. He did not throw his money around to attract the attention of the public, but when appealed to in cases of necessity and want he rarely failed to respond generously and kindly. When his *alma mater* was sorely in need of funds and there was danger of suspension for the want thereof, Judge Craig generously and spontaneously contributed



\$10,000 to prevent any catastrophe to the institution, which had done so much for the community.

Judge Craig continued to manage his affairs with the same carefulness, clearness and sound judgment which had always characterized him, to within a few days of his death. He apparently lost little of his physical energy and retained to the end his mental vigor and vitality. About the first of September he contracted a slight cold but continued about his business as usual, deeming the attack of slight importance. It, however, increased in violence and developed pneumonia, from which he died in his home, in the presence of his wife and his sons and their families, on the sixth day of September, 1911. The funeral services, unlike many such, testified to the general esteem in which Judge Craig was held in the community where he lived. His neighbors and friends gathered together to pay their respects to his memory in the last sad rites. In the passing of such a man there is a loss to the community in which he lived and a loss to the people at large. He was deservedly held in high esteem by his neighbors and friends and by all with whom he came in contact in the discharge of the varied duties of his life.

I respectfully move the court that this memorial be spread upon the records of this court and published in the Illinois Reports.

Mr. CHIEF JUSTICE CARTER:

The death of Judge Craig brings forcibly to the minds of all the judges now on the bench, the fact that so few of the former members of this court are still with us. Only three survive. I knew Judge Craig but slightly. I met him a few times when I appeared before the Supreme Court to argue cases, though I knew him in a general way from the time I was admitted to the bar, he having signed my license, as he did those of most of the members of the present court. While I did not know him well, personally, no one can study his nearly 1500 opinions, found published in 120 volumes of the Illinois Reports, without becoming familiar with his intellectual qualifications. One who does this must realize and appreciate the sound legal judgment and the strong common sense that entered into his judicial work. He served longer than any other judge of the Supreme Court under the present

constitution, only three having served longer in the court's entire history. His opinions are found in a greater number of volumes of the Illinois Reports than those of any other judge who has served in this court. The senior justice is the only member of the present court who served with Judge Craig on the bench. It is therefore peculiarly appropriate that Mr. Justice Cartwright should respond for the court.

#### Mr. JUSTICE CARTWRIGHT:

The judgment of the people in adopting a plan, which became a part of the constitution of this State in 1848, by which they have selected from their number those to whom they have been willing to commit the determination of questions concerning their most sacred rights of life, liberty and property, has been approved and justified by an experience of more than sixty years. The choice of judges has seldom, if at all, been influenced by party service, political standing or recommendations by politicians of those who have aided their ambitions. If in some exceptional case a party label has helped into judicial position a person who did not represent the deliberate choice of the people for the discharge of judicial duties, it is to be charged to legislation which has introduced the political element and required a party designation. Even under such legislation, which is contrary to the spirit and intent of the constitution, it has been proved that the people choose their judges on different grounds than in the case of other officials, and, seeking information as to fitness, are ready and willing to follow it as their only guide. The scheme of the framers of the constitution was to separate judicial elections from all others; and, as far as possible, to eliminate political and party considerations. How perfect the plan was and how complete its success when put in execution by an intelligent people is shown in the case of the judge to whose memory this hour is devoted. Three times Alfred M. Craig was the choice of the people of a district in which no person of his political faith could have been elected to any but a judicial office. When he was first elected, in 1873, there was a revolt of the people against economic conditions which were unjust and oppressive. They thought that relief had been secured through a legislative act, but, as sometimes happens, the act was

in conflict with the fundamental law which the people themselves had made and to which the legislature and the courts are alike subject. This court had declared the undoubted right of the legislature to prevent the wrong complained of, but found it impossible to execute the act until it had been amended. The people, not understanding the legal questions involved as fully as lawyers would, but determined to select someone on whose judgment they could implicitly rely and in whose decision they would have perfect faith, chose Judge Craig. Undoubtedly an injustice was done to a learned, upright and impartial judge, but in the state of the public mind the same result would have been inevitable under any system of choosing judges. Public opinion would have been resistless whether made effective by the ballot or through an appointing power. Although there was a social upheaval at the time, there was also controlling good sense and sound judgment, and the choice of the people fell upon one who justified his selection during a service of twenty-seven years and retained the public confidence to the end. If there was either hope or fear that he would be a partisan or represent a class, neither hope nor fear was ever realized.

In thought and act Judge Craig was conservative. He did not believe that wisdom had been born on yesterday and was ready at once to take the reins of government and the management of public affairs. If there was wrong and injustice he was ready to correct it and apply the remedy, but he realized that no system is entirely free from minor defects; and he did not believe in changing the existing order of things, under which peace and prosperity had been secured and the blessings of liberty enjoyed, merely for the purpose of trying new schemes. No one could have been chosen who would have been less representative of social unrest or dissatisfaction or less disposed to experiment with untested inventions of immature statesmen and advisers of the public, which are as likely to introduce new evils as to remedy old ones.

As a judge he took less interest in intricate legal questions than in accomplishing justice in the case in hand. He was not a student of the literature and learning of the law, but he never lost sight of the substantial rights of litigants, and his constant aim was to secure and protect such rights. In the conference room

he was not disposed to join in discussions of mere rules of law disconnected from the facts of the case, and was generally content to let his opinion speak for itself. He was a successful business man, and always had in mind the practical consequences of rules of law as applied to business and the relations of men to each other in business and social life.

My personal acquaintance with Judge Craig began upon my election, sixteen years ago, and we were intimately associated until the end of his term of service. When I came into the court he gave me good counsel, which was very helpful to one who was entering upon a new service. I learned, as other members of the court had done, to rely upon his judgment and discretion in matters connected with the court,—and that judgment was never at fault. He had great administrative ability and made an admirable presiding chief justice. He would have been a great commander or chief executive of a State. As a man and a judge, the characteristics in which he excelled were common sense, sound judgment and a broad and comprehensive view of business, social conditions and public affairs. In those respects he was not equaled by anyone with whom I, personally, have been acquainted. The events of his life have already been detailed in the memorial presented to the court and need not be further adverted to. His life and public service are well worthy of commemoration.

Mr. CHIEF JUSTICE CARTER:

The memorial and response will be spread at large by the clerk upon the records of the court and the reporter will publish them in the bound volumes of our Reports. As a further mark of respect to the memory of Judge Craig the court will now stand adjourned.

REPORTS  
OF  
CASES AT LAW AND IN CHANCERY

ARGUED AND DETERMINED IN THE

SUPREME COURT OF ILLINOIS.

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VOLUME 253.

CONTAINING CASES IN WHICH OPINIONS WERE FILED IN FEBRUARY,  
1912, AND CASES WHEREIN REHEARINGS WERE DENIED AT  
THE FEBRUARY AND APRIL TERMS, 1912.

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SAMUEL PASHLEY IRWIN,  
REPORTER OF DECISIONS.

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BLOOMINGTON, ILL.  
1912.