

CHARLES  
H.  
THOMPSON  
*First District*  
(Now Fifth)



JESSE  
L.  
SIMPSON  
*Second District*  
(Now Fifth)

## MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT  
THE MAY TERM, 1973, ON THE LIVES AND  
PUBLIC SERVICES OF THE LATE JUSTICES  
CHARLES H. THOMPSON AND JESSE L. SIMPSON

At the hour of two o'clock P.M., May 29, 1973, other business being suspended, the following proceedings were had:

MR. CHIEF JUSTICE UNDERWOOD:

The court is now convened for the purpose of receiving memorials to the lives and public service of two distinguished former members of this court, Justices Charles H. Thompson and Jesse L. Simpson, both of whom served this court and the people of this State with honor and distinction. Present with us this afternoon are relatives, former employees, and friends of both, together with representatives of the bench, bar, and Attorney General's office.

The court is pleased at this time to recognize George B. Lee, of Harrisburg. Mr. Lee, a practicing attorney in Harrisburg, and a member of the State Board of Law Examiners, is a former law clerk and long-time friend of Mr. Justice Thompson. He speaks today in those capacities and also on behalf of the Saline County Bar Association.

MR. GEORGE B. LEE:

*May it please the court*—I am honored to be asked to say a word on this occasion of the memorial service for the late Justice Charles H. Thompson, as representative of the Illinois State Bar Association, and the Saline County Bar Association. My remarks will be brief, and properly so because I was so closely associated with Judge Thompson for so many years, I personally know that he would want it that way.

Justice Thompson died November 26, 1972, after a short illness. He was 89 years old and had been very active and continued to practice until shortly before his death. His wife preceded him in death and his only relatives at the time of his death were his cousins and three nieces by marriage.

Judge Thompson served as State's Attorney of Saline County; he served two terms in the Illinois Senate and was elected to this court in 1942 and here served two terms as Chief Justice.

The length and breadth of a man can best be measured by a review of the impact that that man has made upon his contemporaries and the legacy of his character attributes that he leaves behind.

It is only upon the passing of a man that we take the real appraisal and sum up his contributions to his profession and to society generally.

Justice Thompson, first, was a modest individual. Those persons who personally knew him know that this is a gross understatement. At first blush, this might seem to be an unusual characteristic considering his political activity. As a lawyer, he was respected and acknowledged to be a man of ability and of the highest integrity. As a member of the Illinois Senate, he earned an editorial comment in the Illinois State Journal calling Justice Thompson "a keen analyst and able in debate." As a member of this court he was considerate, compassionate and industrious. His printed opinions reflect a portion of his character not easily identified to a casual acquaintance.

A small incident that I remember illustrates one facet of his personality. Soon after Justice Thompson was elected, an old attorney friend of his called upon him to explain that the deadline had arrived for the time to file a brief in a pending case. The attorney said, "Charley, I don't know about all those Supreme Court rules, and I know that you do, so I'll just leave it up to the little Judge." Needless to say the time to file was extended.

Justice Thompson was kind, he was charitable, he was fair, he was understanding and he was tolerant.

He was proud of his profession, he worked to improve his profession and worked to increase the public respect for the bar and



the judiciary. His contributions to the bar, the bench and to society will long be remembered. His influence was indelibly marked upon those who touched him.

MR. CHIEF JUSTICE UNDERWOOD:

The court will be pleased to hear from its Reporter of Decisions, Edwin H. Cooke, who served the court during Mr. Justice Thompson's tenure and was closely acquainted with him.

MR. EDWIN H. COOKE:

*May it please the court*—As Reporter of Decisions, I worked with Judge Thompson from the time he first came to this court 31 years ago until his retirement at the expiration of a full term about 20 years ago. I appreciate the opportunity to say a few words on this occasion.

When Mark Anthony spoke at Caesar's funeral, Shakespeare has him say that he did not come to praise Caesar. This remark was necessary because there were enemies of Caesar present in the audience. Just the opposite is true here. Judge Thompson had no enemies, and everything that has been said here, and everything that will be said, will be words of praise, for when you talk about a man like Judge Thompson no other words can be used.

Judge Thompson and Judge Fulton came to this court at the same term. In those days we were filing the original manuscripts of the opinions instead of the printed copies, and changes made in conference were copied into the original opinions in longhand. I shall never forget the day both Judge Thompson and Judge Fulton walked into my room and asked to see the original manuscripts of the other Judges' opinions. They wanted to be sure that when their first opinions were mailed in, they would be in the customary form.

Judge Thompson always had a deep sense of the duties and obligations of a Supreme Judge. Although he had two law clerks to help him in his research work, he would sometimes come to court a week before each term and work in the library if some important case bothered him.

His honesty, integrity, and sense of fairness are shown in his appointment in June, 1956, after his retirement as Judge, to act as Special Commissioner to inquire into the question of the practice of

the Brotherhood of Railroad Trainmen and similar organizations in employing lawyers to render services to their members in personal injury cases, and the practices of individual lawyers in connection with these cases. The Special Commissioner was given "power to inquire into and take proof of all relevant factual matters and to report the testimony, together with the applicable principles of law to the Chief Justice." Twenty-seven railroad companies participated in the hearings, and briefs were filed by the Chicago and Illinois Bar Associations and by the American Bar Association. The Special Commissioner filed his report in due time and a *per curiam* opinion was filed in the case at the March Term, 1958. It is reported in 13 Ill.2d 391.

Judge Thompson would very often work in the library at night. Then, realizing the need of exercise, he would walk from this building to the Sangamon Dairy on the other side of town for a glass of buttermilk. I would often accompany him on these jaunts, stopping at the post office to mail modified opinions to the printing office. He was also a great lover of natural beauty. He always admired the two red-haw trees that used to be out here on the lawn, one on each side of the walk. Their branches spread over the walk, forming an archway entrance to the building. It was quite a shock to him when he came to a subsequent term of court and found they had been removed.

At the conclusion of his 9-year term many people were surprised at Judge Thompson's announcement that he would not seek re-election. Political statistics proved him to be about the best vote-getter in Illinois, and he could have been re-elected without much effort and with very little expense. It is my candid opinion that he was so deeply sensitive of the duties and obligations of a Supreme Judge that he really worked too hard. He did not feel like starting into another full term when he was not at his best physically.

I shall never forget his last day on the bench. The Chief Justice used to call upon each judge to announce rulings on motions. When Judge Thompson read his last one he said, with definite meaning, "And *that is all!*" The emphasis was very recognizable, especially by me, because I knew it was his last pronouncement from the bench.

Judge Thompson was always co-operative with me in my work as Reporter. It is an honor to have been numbered among his friends and to have been invited to speak at his memorial.

MR CHIEF JUSTICE UNDERWOOD:

Also present with us this afternoon is Judge James O. Monroe, Jr., of the 3rd Judicial Circuit, representing the Madison County Bar Association, Mr. Justice Simpson's home county. The court is pleased to recognize Judge Monroe.

HON. JAMES O. MONROE:

*May it please the court*—Mrs. Simpson, David, Virginia, and friends: It is a privilege to be here, and to speak for the lawyers of Justice Simpson's home county. We are here to pay tribute to a leader among the bench and bar, and to remember him as best we can, each in his own private way.

Precisely or imprecisely, what do we remember, when one so long with us is gone? Mrs. Simpson remembers: once, she might say, when there was world enough, and time:

“We would sit down, and think which way

To walk, and pass our long love's day.”<sup>1</sup>

And, together with her, David and Virginia the children remember—breakfast, dinner, Sunday afternoons, school and church and outings and vacations, and the calm solid father in the home. George and Gordon Burroughs the partners, and David the younger partner, remember—the early morning chat, the firm conference, the library talk, the clients, the cases, the confidence and working together. At the bank they remember—the president, the careful appraisal, the eye on the annual report, the willing ear and the studied decision. The townsmen remember—passing on sidewalks, a quiet nod, greetings in the drug store or at the meeting or in church. The lawyers remember—courtesy and patience, willingness to listen and decide. Those of this court from his time would remember—arguments and tentative views, case assignments, circulated opinions, motions and leaves to appeal, and friendship . . . Still, how does one remember a lifetime?

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<sup>1</sup>Andrew Marvell, “To His Coy Mistress.”



"My mind lets go a thousand things,  
The dates of wars and deaths of kings."<sup>2</sup>

But we do remember those we know.

I

The old Second Supreme Court District had been represented on the court by men of outstanding ability. To call the roll—William M. Farmer, Norman L. Jones, June C. Smith—was to name a few of the great jurists in the history of the Illinois Supreme Court. Judge Jesse L. Simpson was to be a worthy successor.

Judge Simpson was born in Troy, Madison County, Illinois, January 13, 1884, the son of poor hardworking parents. As a boy and a young man, he too worked hard, as a farmer, a railroad section hand and a telegrapher on the old Vandalia Railroad. He worked his way through school and was graduated with honors from the old law school of Illinois Wesleyan University. He was a practicing lawyer in Madison County for more than 50 years, a quiet working professional man of the sort to whom Mr. Justice Felix Frankfurter once paid tribute, when he spoke to this effect: despite the call of public service and public office, there is a place, a great place, for the lawyer who is just a good lawyer.<sup>3</sup> Mr. Simpson practiced law in Edwardsville from 1909 to 1947 and later from 1953 till his gradual retirement in the late 1960's, and was a senior partner in the firm of Burroughs, Simpson, and Wilson.

But public service and public office do call, and they called Jesse Simpson. He was City Attorney of Edwardsville,<sup>4</sup> Assistant State's Attorney of Madison County,<sup>5</sup> and Master in Chancery.<sup>6</sup> He was President of the Edwardsville Board of Education for eight terms,<sup>7</sup> President of the Edwardsville National Bank and Trust Company,<sup>8</sup> and President of the First Federal Savings and Loan

<sup>2</sup>Thomas Bailey Aldrich, "Memory."

<sup>3</sup>Remarks to the Saint Louis Bar, circa 1948.

<sup>4</sup>1914 to 1918.

<sup>5</sup>Circa 1919 to 1921.

<sup>6</sup>1917 to 1919, 1921 to 1923.

<sup>7</sup>Circa 1921 to 1937 (two-year terms?).

<sup>8</sup>1946.

Association of Edwardsville.<sup>9</sup> He was Vice President of the Alton Memorial Hospital,<sup>10</sup> head of the Cahokia Mounds Council of the Boy Scouts of America,<sup>11</sup> County President of the American Red Cross,<sup>12</sup> and Chairman of the Board of the Emanuel Methodist Church.<sup>13</sup> He was a member of the Masonic orders, the Knights of Pythias and the Modern Woodmen of America. He was elected County Judge in November, 1946, and served until August, 1947, when he was elected a Supreme Court Justice to fill the vacancy left by the death of the Honorable June C. Smith. Justice Simpson served on this court until August, 1951, and was Chief Justice his last year.

In his many positions of private and civic leadership, he was marked as a man of modesty and fairness, stability and concern, worthy of trust and confidence. In his several public offices, he was known as a man of diligence and integrity.

On the county bench, he sat in a sequence including distinguished and colorful judges—such as Henry Eaton and Wilbur Traes before him, and Anthony Daly (who interchanged briefly in the vacancy) and then Michael Kinney, elected. The vagrant course of public affairs in Madison County, and the relation of bench and bar and political matters to those affairs, were themselves also colorful, to say the least. But Judge Simpson, with character and perspective, was simply unmoved by all that.

## II

So it was to be on the high court bench—the same quiet calm, and a continuing integrity sharpened by the responsibility of new and greater challenge.

When he took his seat in 1947, he joined Justices Walter T. Gunn, Charles H. Thompson, Clyde E. Stone, Francis S. Wilson, Loren E. Murphy and William J. Fulton.

When he left the court, Justices Murphy and Stone had gone before him, and Justices Joseph E. Daily and Albert M. Crampton

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<sup>9</sup>1921 to 1947.

<sup>10</sup>Circa 1945 to 1947.

<sup>11</sup>Circa 1931 to 1934.

<sup>12</sup>Circa 1925 to 1935.

<sup>13</sup>Circa 1927 to 1947.



had come on. Justice Wilson died late in Justice Simpson's last year. Of the court sitting here today, only Justice Walter V. Schaefer served with Justice Simpson, from March to the summer of 1951.

The opinions of Justice Simpson are found in Supreme Court volumes 397 through 409. A check on the number of his opinions and a sampling of their nature provide a record and ready-reference guide to the kind of judge he was.

First, he was a worker. The court's volume was substantial and growing. Justice Simpson at once assumed his share of the load. He took his seat in August, and his first opinion had been assigned, worked out, prepared, circulated, accepted, and filed by September 18: it was an original *mandamus* case, with a nice question about depositions, the old Evidence Act, and the power of courts.<sup>14</sup> From volume 397 on, as the work began steadily to grow, he turned out opinions with regularity. In short, he was steady and devoted to his job.

The nature of the court's functions, and the nature of its cases, made it a workaday lawyer's court. The volume and substantive law explosions of the Sixties were yet to come; right to counsel and post-conviction remedies were just beginning; ecology law, poverty law, race law, and funded legal aid were not yet with us; nor were products liability, million-dollar claims, modern third-party practice and paper-mill discovery. The lower courts were still scattered and independent. There were no sizeable administrative chores involving personnel, arrangements, assignments, seminars or budgets, state-wide supervision or judicial ethics. Political cases, sensational cases, landmark cases were few. Instead, the docket was crowded with mine-run felonies and freeholds, *coram nobis*, and many direct appeals. Wills, trusts, village ordinances, bills and notes, licenses, dramshop and workmen's compensation and ordinary negligence injuries, Commerce Commission orders, zoning and annexation and taxing bodies—these were the staples, topical samplings from five years, 13 volumes, of Justice Simpson's work. And he was at home

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<sup>14</sup>*People ex rel. Prince v. Graber*, 397 Ill. 522 (1947). (Justice Simpson might have chuckled, and would surely not mind a note, that the case just preceding his first opinion and the 11th case farther on were also "Simpson" cases, *People v. Simpson*, 397 Ill. 518, murder, and *Knisely v. Simpson*, 397 Ill. 605, will construction.)

with them. They suited his style. His opinions were straight, concise, direct, lawyer-like. His last reported opinion<sup>15</sup> was to affirm a conviction for conspiracy to steal soybean meal. In that last year, as we would expect of him, he did not take part in deciding a hard-fought political case from his own home area.<sup>16</sup>

Then, after 1951, he was back in Madison County—in the law firm, at the bank, in the courthouse, among the people, back again as before with his family.

That was not for long. In 1953, he was appointed to the Illinois Commerce Commission, and he served on that important body for ten years. When he retired from public office in 1963, he was 79 years of age.

### III

Still he was well and vigorous. He and George Burroughs, then 91, both retained their desks. As you can still see Mr. Burroughs striding toward the post office to get the mail by eight o'clock—so too, until it seems like only yesterday, you could see Justice Simpson, nodding from his big desk if you went by to borrow a book from their excellent library, or quietly strolling home and back at noontime. For lawyers, that could be a kind of serene and stabilizing image: Jesse Simpson walking home, down Saint Louis Street, through the snow or under the green elms—Justice Simpson walking home.

And now he is gone.

“The bustle in the house  
The morning after death  
Is solemnest of industries  
Enacted upon earth—  
  
The sweeping up the heart,  
And putting love away  
We shall not want to use again  
Until eternity.”<sup>17</sup>

<sup>15</sup>*People v. Bryant*, 409 Ill. 467 (1951). *Weisberg v. Taylor*, 409 Ill. 364 (1951), his last opinion filed, was filed June 18. The *Bryant* opinion, filed May 24, was confirmed on rehearing Sept. 17, and, at p. 467, is the last reported.

<sup>16</sup>*Nameoki v. Granite City*, 409 Ill. 33 (1951).

<sup>17</sup>Emily Dickinson.

We are mournful, and we reflect on it only because we must.

“Down, down, down into the darkness of the grave  
Gently they go, the beautiful, the tender, the kind.  
Quietly they go, the intelligent, the witty, the brave.

I know. But I do not approve. And I am not resigned.”<sup>18</sup>

Still, there is solace, and faith.

“I never saw a moor,  
I never saw the sea;  
Yet know I how the heather looks  
And what a wave must be.

I never spoke with God,  
Nor visited in Heaven;  
Yet certain am I of the spot  
As if the chart were given.”<sup>19</sup>

Walk home, Justice Simpson. Walk home.

MR. CHIEF JUSTICE UNDERWOOD:

The president of the Illinois State Bar Association, Lyle W. Allen, of Peoria is here this afternoon for the purpose of joining in the memorials of both Mr. Justice Thompson and Mr. Justice Simpson. The court will be pleased to hear from President Allen at this time.

MR. LYLE W. ALLEN:

*May it please the court*—It has been written that a civilization may well be measured by the manner in which it does honor to its dead. On this sad and yet grand occasion we gather to honor two departed leaders of this court. The tradition of a memorial service, honored over the court's history of more than a century and a half, is a hallmark of the civility of the judicial process in Illinois.

Each of the justices whose memory we honor today was ripe in years. Each had a long and honorable career at the bar. Each served this court with the dignity and distinction which are typical of its traditions.

The Illinois State Bar Association is proud to play a part in

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<sup>18</sup>Edna St. Vincent Millay, “Dirge without Music.”

<sup>19</sup>Emily Dickinson.



these ceremonies. Justices Simpson and Thompson were Senior Counsellors in our Association.

They had many other common and laudable attributes. Each practiced law in a small community, a background which brought to the bench an ability to appreciate the human side of the law and an appreciation of the principle that people make lawsuits and the necessity of producing judicial guidelines to measure their conduct.

We shall miss Justices Simpson and Thompson. They brought honor and distinction to this court, to our Association, and to our profession, and, perhaps more importantly, provided an inspiration for the generations of lawyers to come after them.

MR. CHIEF JUSTICE UNDERWOOD:

Responding for the court to the memorials honoring Mr. Justice Thompson will be Mr. Justice Goldenherhsh.

MR. JUSTICE GOLDENHERSH:

The court is sincerely grateful to Mr. Cooke and the members of the Bar who have participated in these proceedings to honor the memory of Mr. Justice Charles H. Thompson. In their remarks, Mr. Lee and Mr. Cooke have related many of the personal highlights of Mr. Justice Thompson's long and active life and I shall not repeat them. I shall, rather, direct my comments toward a brief review of Mr. Justice Thompson's accomplishments as a lawyer, legislator and judge. Mr. Justice Thompson came to the court endowed with the wisdom and experience gained in a long career as a lawyer, State's Attorney and State Senator. He served as State's Attorney of Saline County from 1920 to 1924 and served in the State Senate for many years prior to assuming office as a Judge of this court. He was an able State's Attorney, renowned and respected throughout Southern Illinois and in his years of service as a Senator made a reputation as a legislator of ability and integrity and acted as his party's floor leader through several legislative sessions.

Mr. Justice Thompson was elected to this court from what was formerly the First Supreme Court District in 1942. Upon completion of his term in 1951 he chose not to seek re-election and returned to the practice of law in Harrisburg. From September 1945 to September 1946 and again from September 1949 to September

1950 he served as Chief Justice. His first reported opinion in the case of *Klemne v. Drainage District No. 5* appears at 380 Ill. 221, and *Continental Illinois National Bank and Trust Company of Chicago v. Art Institute of Chicago*, the last opinion which he wrote, is reported at 409 Ill. 481. In his years of service on the court the opinions which he wrote covered as great a variety of subjects as the titles of these two cases might indicate, the first involving a matter of drainage law unique to the type of rural area in which Mr. Justice Thompson practiced law and the last a complex trust matter involving the Chicago Art Institute.

His opinions do not reflect a flowery or elegant style of writing but rather a simple direct analysis of the issues presented, and a forthright lucid exposition of the reasons for his decision.

As a young lawyer practicing in St. Clair County, I met Mr. Justice Thompson who was then practicing law in Harrisburg and serving as the Republican floor leader in the Senate. He was a friendly, kindly man and in our contacts with him we younger members of the Bar were treated with graciousness and courtesy.

Mr. Justice Thompson enjoyed vigorous good health, and, as Mr. Lee has told us from the time of his departure from the court until shortly before his death, maintained a law office in Harrisburg. Several years ago I was honored to serve on a panel of the Appellate Court in the Fifth District which heard and decided favorably to his client one of the last appellate matters in which Mr. Justice Thompson participated as a lawyer.

As Mr. Cooke has told us, long after he had left this court he was called upon to act as a Special Commissioner for the court to hear a matter of great significance, and as was typical of his entire career, he responded to the call and discharged his duties expeditiously, capably and honorably. It is indeed appropriate that we memorialize in this proceeding his great contribution to his State and his profession.

## MR. CHIEF JUSTICE UNDERWOOD:

Mr. Justice Ryan will respond for the court to the presentations honoring Mr. Justice Simpson.

## MR. JUSTICE RYAN:

There can be no higher tribute paid to an individual than the sincere evaluation of the character and ability of the late Mr. Justice Jesse L. Simpson which we have just heard from those with whom he has worked throughout his very active professional career.

It has been twenty-two years since Justice Simpson left this court. Few of the court's present members have had the good fortune to know him personally. Although I did not have the privilege of a personal acquaintanceship with him, an unusual coincidence has made it possible for me to learn of some of the traits which have been described today. The person who has been my secretary for nearly five years had previously been a secretary in his law office in Edwardsville for a similar period. I have thus vicariously come to know him as a pleasant and generous individual, considerate of others, especially his employees, and one whose nature it was to be helpful. It would appear that the accuracy of this appraisal is amply supported by the years of service which he has devoted to community affairs and by his many years of public service.

Our remarks today concerning Justice Simpson are doubtless unnecessary for those who knew him. He has enriched the lives of those with whom he came in contact by the warmth of his personality and by his professional ability. To those of us who did not have that pleasure he has left a different legacy.

Service on this court is memorialized not alone by the engraved name of each Justice with the dates of his service on the plaques in the stairwell of this building. A far more meaningful memorial is to be found in the published opinions of the Justice as they appear in the Illinois Reports. Justice Simpson served on this court from 1947 through 1951. He served as Chief Justice from September, 1950 through June of 1951. During the time that he served on this court he authored more than 130 opinions. It is through these written opinions that he will be known to the lawyers of this State forever. Through these writings he has made his contribution to the body of the law of this State and through his opinions he has contributed to the endless task of shaping the law to conform to current needs.



An example of this latter role is found in the first opinion Justice Simpson filed, which, incidentally, was filed a surprisingly short time after he became a member of this court. Those of us who practiced during the emerging years of discovery practice in this State well remember the procedural uncertainties surrounding the use of discovery engendered by the interplay of provisions of the Civil Practice Act, the rules of this court and the Evidence and Deposition Act. In his first opinion Justice Simpson addressed himself to this problem. In *People ex rel. Prince v. Graber*, 397 Ill. 518, I am sure to the gratitude of all practising attorneys of that day, he examined the provisions of the statutes and the rules relating to discovery and step by step led us through the procedural labyrinth.

His last opinion was filed on June 18, 1951, the day he retired from this court. The case of *Weisberg v. Taylor*, 409 Ill. 384, involved the constitutionality of a statute in which the question of the proper exercise of the police power of the State and the validity of classifications were raised, issues that quite frequently confront this court today.

Between these two opinions we find that the others dealt with the full range of legal issues which we are at the present time called upon to decide. These opinions of Justice Simpson constitute precedent, a foundation upon which our present decisions are constructed and from which the future law of this State will develop. The writings of Justice Simpson found in these volumes constitute a wonderful living memorial through which he is speaking to us today and through which he will continue to speak to the profession he loved and served so long and so diligently.

MR. CHIEF JUSTICE UNDERWOOD:

The presentations made here this afternoon will be spread upon the records of this court and copies thereof transmitted to the families of Mr. Justice Thompson and Mr. Justice Simpson, together with the tape recordings of these proceedings. As a further mark of respect, the court will stand adjourned until 9:30 A.M. tomorrow.

Mr. Marshal, the Supreme Court stands adjourned until 9:30 A.M. tomorrow.

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EDWIN HILL COOKE

REPORTER OF DECISIONS

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BLOOMINGTON, ILL.

1973