

## MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE OCTOBER TERM, 1923, ON THE LIFE, CHARACTER AND PUBLIC SERVICES OF HON. JOHN P. HAND, DECEASED.

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

Mr. CHIEF JUSTICE FARMER:

The hour set apart by this court for appropriate memorial services commemorative of the life and public services of former Justice John P. Hand, of this court, has arrived. The court is informed that the Illinois State Bar Association, represented by former Justice George A. Cooke, of this court, and the Henry County Bar Association, represented by Mr. Robert C. Morse, of Kewanee, and Mr. Harry E. Brown, of Geneseo, will present memorials. The court will hear the memorial of the State Bar Association.

Mr. GEORGE A. COOKE:

*May it please the court*—Mr. Roger Sherman, president of the State Bar Association, acting for and by direction of that body, appointed George A. Cooke, of Chicago, Charles C. Craig, of Galesburg, Harry E. Brown, of Geneseo, Ben M. Smith, of Chicago, and Logan Hay, of Springfield, a committee to prepare and present to this court a memorial commemorating the life and public service of John Pryor Hand, lately a member of this court. On behalf of the State Bar Association we ask leave to submit the following:

"Each individual is born under his own particular environment and possesses his own particular temperament and capabilities and is endowed with his own particular measure of ability. No matter how splendid the environment, how great the ability or how boundless the capabilities, no individual has yet been able to attain perfection. Human nature, unvarying in its qualities and possessed by all, prevents the attainment of perfection and proves our common origin.

"In chronicling the achievements of one who has been an outstanding figure in his time and forming a testimonial which may be preserved to commemorate his memory, we are accustomed to chronicle only those characteristics and achievements which are commendable, constructive and inspiring. It is seldom a perversion of the truth or of the facts to ignore the frailties of the individual and to pass over without mention or comment his faults and defects and such mistakes as he may have made. To submit a testimonial to the memory of one whose life and achievements have been such that there is but little, if any, necessity of sifting the faults from the virtues becomes a pleasant task. That is the situation in this instance. In the life of John P. Hand there is little to forget or to excuse. His experiences in his boyhood and early manhood were such as to give him a most sympathetic understanding of the problems of life. He knew from experience the value of sympathy, the kindly word and the helping hand. From that same experience he knew when that sympathy, that word and that help should be proffered. By that experience he was inspired to rectitude of conduct, clean living and fair dealing.

"Judge Hand was in every sense of the State of Illinois. His life was spent in this State. His achievements were all closely associated with the growth and history of this State. He was the son of Henry and Mary Hanna Hand, and was born November 10, 1850, on his father's farm in Hanna township, Henry county, Illinois. The township in which he was born was named for his grandfather, one of the pioneer settlers of the State. His boyhood was spent in that community. After completing the course in the local schools he entered Rock River Seminary, at Mt. Morris, Illinois, where he completed his literary education. He then entered upon the study of law at Iowa State University, from which institution he was graduated in 1875 with the degree of LL.B. He

was admitted to the bar of this court in that same year, and thereupon formed a partnership with A. R. Mock, with whom he practiced law at Cambridge, Illinois, under the firm name of Mock & Hand, until 1885, when Judge Hand was honored by being elected county judge of Henry county to fill a vacancy. He was thereafter re-elected for the full term of four years. In 1890 he resigned this office to accept the position of Assistant United States District Attorney for the Northern District of Illinois. The United States District Attorney for that district was Thomas E. Milchrist, a former resident of Henry county. During the period of his service as Assistant United States District Attorney, Judge Hand was a member of the firm of Hand, Milchrist & Smith, with offices at Chicago, Thomas E. Milchrist and former Judge Ben M. Smith being the other members of the firm. In 1895 Judge Hand resigned as Assistant United States District Attorney and returned to Cambridge, where in 1896 he formed a partnership with his son, Fred H. Hand, for the practice of law, under the firm name of Hand & Hand. In June, 1900, he was elected a member of the Supreme Court of Illinois from the Fifth District and was re-elected in 1909.

"During the December term, 1912, of this court Judge Hand suffered a stroke of paralysis in his chambers in the Supreme Court building at Springfield. For some months he entertained the hope, which was shared by his many friends, that he would be able ultimately to resume his work as a member of this court, but in July, 1913, having become convinced that he would probably never be able to again take up these burdens, he resigned. While there was some improvement in his condition after this time, he never took up again the activities of his profession. He continued, however, to take a keen interest in public affairs and was active in the management of his own farming operations and other business affairs until the time of his death. During the period following his resignation from this court he spent much time in the State of California for the benefit of his health and to escape the rigor of the winters of Illinois. While apparently in his usual health, he developed some heart complications as a result of a slight indisposition, and died at Long Beach, California, on May 22, 1923. He was buried in the family lot at Mt. Morris, Illinois, May 30, 1923.

"Judge Hand was married on October 26, 1871, to Miss Elizabeth Brayton, at Mt. Morris, Illinois. One child was born to this union, Fred H. Hand, who now resides at Galva, Illinois. In 1921 friends of Judge and Mrs. Hand joined with them in celebrating the golden anniversary of their wedding at Mt. Morris. Aside from the son and the widow, he left surviving him a brother, Henry F. Hand, of Geneseo, Illinois.

"Judge Hand was a man of strong convictions but possessed a fine judicial temperament. As a member of this court he was respectful and courteous to all who appeared before him and never failed to carefully weigh both sides of every question presented before arriving at his conclusions. A man of exceptional ability and extraordinary force of character, he was impartial, fair and just. He was most diligent and industrious in his efforts to solve each problem presented to the court, and as a result of that diligence and industry, together with a wonderful memory, which had been aided and cultivated by a system of his own devising, he became possessed of a remarkable knowledge of the reported decisions of this court. To those who knew him intimately it was well known that with little hesitation he could state whether a particular question had ever been passed upon by this court, and in many instances could give the volume and the page of the report where the decision of the question might be found. In a court of review which disposes of such a volume of business as comes annually before this court, the utmost vigilance is required to prevent statements and holdings being made which appear to be inconsistent with previous holdings. During the period of his service as a member of this court Judge Hand was constantly on the alert to prevent any such inconsistencies, either apparent or real, from creeping into the decisions of the court.

"In some respects Judge Hand possessed unusual characteristics. He was a positive man, yet while strong in his likes it cannot be truthfully said of him that he was equally strong in his dislikes. His kindly nature and charitable disposition always enabled him to discern some redeeming quality in an individual who to others might appear to be disagreeable, or some redeeming feature in an effort which had proven fruitless or unsuccessful. He possessed a most engaging, cheerful and attractive personality. It was his disposition to be buoyant and his natural inclination to

be optimistic. These characteristics he was able to maintain even under the most trying circumstances. While he possessed dignity and commanded the respect of all with whom he came in contact, to the extent that no one would undertake to trifle with him or affront him, he was by no means reserved and possessed none of the attributes of a recluse. He derived great pleasure from association with his friends and acquaintances. He understood the true value of friendship and never failed to give due consideration to the rights or the feelings of others. He was affable, genial and courteous at all times. Being possessed of these social qualities, together with his intellectual attainments and his keen sense of justice and right, Judge Hand was temperamentally ideal for the high office he graced. He never ceased to be a student or to fully realize the responsibilities and obligations of the great trust which had been reposed in him. His private and public life alike afforded an inspiration, as well as an example, that won him the love and affection of all who knew him. To this court he brought the virtues of an honest mind and a clean heart, and as a part of the history of his State he inscribed a record which will endure undimmed through the passing years as a monument to his fidelity and ability and as a rich heritage to his family and his friends."

I respectfully ask that this memorial be received and spread upon the records of this court.

It was my good fortune during a portion of Judge Hand's judicial career to know and understand him in a relationship of the most intimate character,—a relationship which relentlessly exposed one's faults and as clearly and definitely disclosed one's virtues at their true value. Previously to my association with Judge Hand as a member of this court I knew and appreciated him as a lawyer and a judge. My association with him during the final years of his judicial experience strengthened my already high regard for his ability and my appreciation of his fine character and sterling worth. I deem it a great privilege to be one of the number chosen to voice the sentiment of the bar of the State on this occasion.

MR. ROBERT C. MORSE:

*May it please the court*—The committee, appointed by the Henry County Bar Association, consisting of Carl A. Melin,

Harry E. Brown and Robert C. Morse, herewith present the following memorial of the Henry County Bar Association:

"The life of Judge John P. Hand constitutes an important part of the history not only of the Henry county bar and the village and county in which he lived, but it has left its lasting impression as well upon the judicial and political history of the State of Illinois. He was Henry county's most illustrious son and won the highest honors and position of any of its citizens. Judge Hand was a strong character, strong in his convictions of right and wrong, and had a high sense of justice. He was strong mentally, morally and physically. He had a judicial temperament and was exceptionally learned in the law. He was courageous and fair,—a man of outstanding personality, who at all times inspired confidence and commanded respect. As a practitioner of the Henry county bar he is remembered as one of the ablest lawyers, and was recognized in his days of practice as one of the best trial lawyers not only of his county but of the State. He took part in many of the most important cases that have been tried in Henry county. He filled the office of county judge with ability and honor and was highly respected and loved by all who came into contact with him in that position. He was kind and patient to all and considerate of the rights of those who appeared before him, and particularly so of the widows, orphans and unfortunates. As a justice of this court he rendered a great and lasting service to the State. His opinions as a justice of this court showed him to be one of the able judges of the court. His opinions as found in the Reports of this court will remain as a lasting monument to his judicial ability and accomplishments.

"There are few men who have accomplished more than Judge Hand to uphold the law, to promote confidence in the courts and to strengthen the administration of justice, and few men who leave behind a record as honorable and notable as his. Therefore,

*"Be it resolved by the Bar Association of Henry county, that they give this as their public expression of their high regard for John P. Hand, the man and the judge, and their appreciation of the able and honorable service rendered by him and the great loss sustained in his death."*

MR. HARRY E. BROWN:

*Your Honors*—We are gathered here this afternoon for the purpose of honoring the memory of the late Justice John P. Hand,—to make an enduring record of his virtues and to perpetuate the outline of his useful and patriotic life for the admiration and emulation of those who survive him, and the glory of the State, which honored and was honored by him.

John P. Hand began the practice of law at Cambridge, the county seat of Henry county, Illinois, and with the exception of a few years spent in the practice of law in Chicago he followed his chosen profession in Henry county until he was elected a member of this court. I remember well the first time I appeared in the Henry county circuit court as an attorney. There was present most of the bar of Henry county of that time. As I recall each individual I am reminded of the uncertainties of life and the inevitableness of death, for of all those present,—the judge, the members of the bar, the sheriff, his deputies, and the clerk,—I alone remain. I was attracted to one gentleman very distinguished-looking,—physically the most prepossessing man there. He got up, upon seeing me, and I overheard him inquire who I was, and upon being informed he came over to me and introduced himself. It was John P. Hand. Long after the wounds of legal battles have healed, long after the scars have become obliterated and hasty words spoken in anger have passed into sweet forgetfulness, there will remain the pleasant recollection of the warm handshake that bespoke the sincerity of his friendly smile, his expression of good wishes for my success and kind offer of assistance. It may be that he was prompted by pity for the tall, lean, awkward youth who was just embarking on a voyage over unknown seas, fraught with unsuspected hardships and terrors, but it gave me an insight into his character that was confirmed in all the years that followed: that he possessed an attribute of the truly great, a generous consideration for the lowly and an unselfish desire to assist them. From that time until he was elected as a member of this court, in 1900, I tried cases in the Henry county circuit court with him and against him. No member of the present Henry county bar knew Judge Hand so well or so long as I, or is better enabled, by in-

timate personal and political acquaintance, to bear testimony to his moral and intellectual worth. I esteem it a melancholy privilege to be here permitted to express a slight tribute to the character and memory of the most conspicuous and illustrious member that said bar ever had.

Judge Hand was a tireless worker and unselfish in his devotion to duty, both as a lawyer and a member of this court. His devotion to his duty as a member of the Supreme Court was carried to the extent of sacrificing his physical self, and in December, 1912, at the time when he gave promise of many years of useful life, when he had grown steadily in public esteem, his power for usefulness was greater than ever before. But in the midst of usefulness, in the full maturity of his powers and in apparently perfect health, with no hint of weakness or decay, when the sun of his existence was shining with its greatest brilliancy, there came with the suddenness of a lightning flash a cloud that obscured from us the light of his magnificent mind. We waited and hoped through the long hours that this cloud might pass, and while we waited night came with total darkness, and he passed on to the morning of another day of everlasting sunshine and a cloudless sky. He died a martyr to his moral convictions of official obligations. He sacrificed his life upon the altar of public duty.

I need not speak of the work of Judge Hand as a member of this court. He has made a record here that no one can add to or subtract from, and long after we have joined him in the Great Beyond,—long after many of us have ceased to be even a memory,—yea, as long as men believe in justice and courts shall exist,—that record shall be a monument that neither time nor the elements may efface or even dim, and upon which future generations, not only of Henry county but of the great State of Illinois, will look with just pride and say he was a son of Henry county and Illinois.

In February, 1908, upon the occasion of the dedication of the building in which these exercises are now being held, Judge Hand, in speaking of the Supreme Court, expressed himself, in part, as follows: "The life, liberty and property of the citizen hang upon its decisions, and no court should assume to sit in judgment and dispose of those rights unless the judges who compose it are pure,



upright men and possess learning and wisdom and are prepared to follow the law regardless of all consequences to themselves, for in no other way can the law be vindicated. It has been well said of the character of him who would occupy a position upon the bench: He has no place in the judiciary who is not prepared to follow the law and to administer it without fear or favor, regardless of consequences to himself, for in this way, only, may he vindicate the oath of office which he takes and fulfill the most sacred of public trusts, for it reaches every avenue and every relation of life, is all-powerful to prevent evils, powerless to promote them, for it is itself the creature of law and cannot go outside its sphere." He also quoted with approval from Webster, as follows: "Justice, sir, is the great interest of men on earth. It is a ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, general happiness and the improvement and progress of our race, and whoever labors on this edifice with usefulness and distinction, whoever clears its foundations, strengthens its pillars, adorns its entablatures or contributes to raise its august dome still higher in the skies, connects himself in name and fame and character with that which is and must be as durable as the frame of human society."

Judge Hand earnestly strived to attain those ideals, and in striving sincerely and energetically he succeeded. He lived those ideals. He cleared the foundation of justice, strengthened its pillars and contributed to raise its august dome still higher in the skies, and in so doing he connected himself in name and fame and character with that which is and must be as durable as the frame of human society.

Our sympathy goes out to the wife and son of Judge Hand. Would that I might say something that would comfort them, but hesitate because of the utter inability of human words to relieve. When the silver cord suddenly snaps and breaks we are so stunned and numbed that full realization of our loss comes to us gradually, but when we are compelled to watch the silver cord slowly unravel until it finally falls to pieces it would seem to tax the limit of human endurance. So our greatest sympathy goes out particularly to his widow, whose unflinching patience and devotion dur-

ing those long years of his affliction won her the admiration of all who knew her.

Death has been regarded as a solemn mystery. It is no more mysterious than life. Who knows the origin of being? Who understands the relations between spirit and matter? Because we see the earthly life and think that we do,—although we do not,—understand the various phenomena of life, it seems no mystery to us. The larva, with no knowledge of future transformation, makes careful preparation and then lies down to sleep. To its fellows it is dead, and they cannot know any different. But from that body comes forth the beautiful butterfly. To the so-called mystery of death faith vouchsafes an answer, for in the innermost sanctuary of every soul faith gives us the assurance that death is but a portal to a new, larger, more beautiful and useful life, and there is inherent in all of us the desire to prepare for the life that shall come when we shall lie down for the last sleep. I know that within my body is a heart that forces the lifeblood through my arteries and veins although I have never seen it, and I do know that we have souls that are prepared, according to the life we have lived on this earth, for the life that is to follow. We do know there is a hereafter; that Judge Hand has gone on a little ahead to a broader field, a more beautiful and useful life, where he will receive the honored place to which his life here has entitled him and where he expects his loved ones to join him.

On behalf of the bar of Henry county, of which he was so long an honored member, and from which he was selected, because of his unusual ability and peculiar fitness, to the highest judicial honor that can be conferred by the people of this State, and in view of the unquestioned fitness and propriety of these resolutions in commemoration of the useful and exemplary citizen in private walks of life, the conscientious, upright and able lawyer, just, fearless and learned judge, who by his integrity and uprightness has brought honor to his county and State and to his chosen profession, I respectfully ask that these memorials be accepted by this court and spread at large upon its records.

The Hon. Logan Hay, of Springfield, a member of the committee of the State Bar Association, then addressed the court:

HON. LOGAN HAY:

*May it please the court*—I desire to join in the motion that the memorials which have been presented be spread upon the record of this court.

My acquaintance with Judge Hand did not begin until he had been elected a member of this court, and even then my acquaintance with him was not as close or intimate as that enjoyed by the members of the bar who have already spoken to the resolutions which have been presented to your honors. During the period of his service as a member of this court I did enjoy more than a casual acquaintance with Judge Hand, and I had occasion from time to time to appear before him sitting as a member of this court. As a member of the bar I have been brought in contact with his mental and moral characteristics as disclosed in his written opinions, and during the twelve or thirteen years he was a member of this court I had the privilege, innumerable times, of meeting him and passing the time of day with him as he passed to and from the building.

It may seem to some that I belittle Judge Hand and my acquaintance with him and that I demean this occasion by here speaking of these casual meetings on the streets of this city. And yet it is not so. Judge Hand, as I knew him, was a man of strikingly distinguished personal appearance, of considerably more than the ordinary height, with square shoulders and erect carriage, with silver hair, a clear and high complexion, keen yet kindly blue eyes, and clean-cut features. He was a well-rounded man intellectually, morally, and, more than all, in point of character, and nature and the habit of years had given in his physical appearance and bearing the visible hall-mark of sterling intellectual and moral worth. His very presence radiated an all-around wholesomeness, and therefore casually meeting him on the street was refreshing and to be remembered at the end of the day. From those who knew him more intimately I have always understood that in all his relations, whether in his family life, in his service as a member of this court, in his career as a member of the bar, and as a citizen, he radiated this same wholesomeness. Certain it is that his opinions as a member of this court have that characteristic in striking degree. He was the natural product of

sturdy pioneer ancestry, who had met and overcome hardships with courage, industry, thrift and perseverance, and of a personal experience which ran along the same lines. He ran true to type, and his very presence carried the impression of a strong and just man, with disciplined powers well in hand, calmly and serenely equal to the difficulties of any situation in which he might be placed. His inner characteristics did not belie his outward promise. The court and the bar honor themselves in preserving a fitting permanent memorial of his life and services.

Mr. CHIEF JUSTICE FARMER:

The court has listened with deep appreciation to the presentation of these memorials. Mr. Justice Dunn will respond for the court.

Mr. JUSTICE DUNN:

Judge Hand had served the people of the State more than twelve years on this court and was in the plenitude of his powers when he was stricken down in this building while in the full tide of his judicial career. In his removal from participation in its work the court sustained a severe loss. Now that he has recently passed from us it is most appropriate that a tribute in honor of the memory and in commemoration of the service of this able, honest, courageous and incorruptible judge should be placed upon the records of the court.

There is no appeal to the imagination or the admiration of the multitude in the work of the judge, which is done not in the public view but in the quiet of the conference room and the library, but the results of that work in the enforcement of law, the protection of public and private rights, the establishment of justice, the restraint of oppression, the preservation of orderly government and individual liberty, add immeasurably to the happiness of mankind. This work finds its fruition not only, and not chiefly, in its effect upon the parties engaged in litigation in the courts, but in the establishment of principles of right and justice, constituting precedents which control the actions and determine the rights of other men and future generations. The judge of a court of last resort is engaged not only in the decision of unimportant cases arising from time to time and the establishment of temporary

rules, but also in the vindication of constitutional principles and the declaration of rules of law which shall constitute permanent safeguards for the securing of liberty and the protection of property. The judge who first declared the law in a cause and announced the principle involved, as well as the parties in the cause, may die and be forgotten, but the principle remains, the law lives and controls later rights which were not thought of by the judge.

Judge Hand held a high ideal of the functions of the courts and of their place in our form of government. He was conservative in his habits of thought, but not too conservative. While he believed that the wisdom and experience of the past should be consulted and deferred to, he was not a slavish follower of precedent. He did not reject the old merely because it was old or accept the new merely because it was new, but if he met with public wrong or private injustice, the fact that the wrong was old or the remedy new did not prevent his applying the latter to the former. He understood the value of precedents, was industrious to know them, and had an unusual memory for previous decisions of the court. He was a well-informed lawyer and had a well-trained mind, which readily understood a case and the principle governing it. He was diligent and painstaking in the examination of the record and in the study of the law, deliberate in forming his judgment and willing to listen to argument. His aim in any case was to do justice in that case and to secure and protect the substantial rights of the parties. He held strongly to the opinions which he had formed, and he had strong sympathies, but his constant aim was to execute justice. He did not permit his judgment to be controlled by any other purpose than the administration of justice in accordance with the rules of law. While he desired to accomplish natural justice in every case, he did not believe the law should be wrested or altered in any case for the purpose of enforcing his notion of natural justice in a particular case. He was strong in his convictions and vigorous in debate and in enforcing his conclusions. He was willing to hear and consider argument on either side, and not the least valuable of his services on the court were those rendered in discussion in the conference room. He was the chief justice when I became a member of this court. He gave me good advice, which was helpful in various ways, and the affection and esteem which, in common with all the other members of the court, I felt for

him were never broken. Every duty which came to him was faithfully and well discharged. He was an upright, painstaking, impartial judge, a diligent seeker after the truth and wholly devoted to the work of the court. At the same time, on the personal side he was an agreeable associate and companion, a warm, loyal friend, a good man, with a character beyond reproach. The loss of him has been a personal grief to us who were his associates.

MR. CHIEF JUSTICE FARMER:

The clerk of this court will spread at large upon the records the memorials here presented, and as a further mark of respect to the memory of our deceased associate, the court will now adjourn.

REPORTS  
OF  
CASES AT LAW AND IN CHANCERY

ARGUED AND DETERMINED IN THE

SUPREME COURT OF ILLINOIS.

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VOLUME 310.

CONTAINING CASES IN WHICH OPINIONS WERE FILED IN DECEMBER,  
1923, AND CASES WHEREIN REHEARINGS WERE DENIED AT  
THE DECEMBER, 1923, AND FEBRUARY, 1924, TERMS.

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SAMUEL PASHLEY IRWIN,  
REPORTER OF DECISIONS.

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BLOOMINGTON, ILL.

1924.