
PROCEEDINGS ON THE DEATH OF MR. JUSTICE LAMAR.

The Bar of the Supreme Court of the United States and the officers of the court met in the court room in the Capitol on May 26, 1916, at twelve o'clock.

On motion of MR. SOLICITOR GENERAL DAVIS, THE HONORABLE HOKE SMITH, United States Senator from Georgia, was elected chairman, and MR. JAMES D. MAHER, clerk of the court, was elected secretary.

On motion of MR. WILLIAM G. BRANTLEY, the Chair appointed a Committee on Resolutions as follows: HONORABLE WILLIAM G. BRANTLEY of Georgia; MR. THOMAS W. HARDWICK of Georgia; HONORABLE JOHN W. DAVIS of West Virginia, Solicitor General of the United States; MR. NATHANIEL WILSON of the District of Columbia; MR. FREDERICK W. LEHMANN of Missouri; MR. FREDERIC D. MCKENNEY of the District of Columbia; MR. HANNIS TAYLOR of the District of Columbia; MR. ALFRED P. THOM of the District of Columbia; MR. HENRY E. DAVIS of the District of Columbia and MR. STEPHEN S. GREGORY of Illinois.

After deliberation the committee through its chairman presented its report preceded by the following remarks: MR. CHAIRMAN: It was my privilege to know MR. JUSTICE LAMAR long and intimately. He possessed my respect, my admiration, and my affection. I first knew him when we served together as members of the Georgia Legislature, and it was there that I came to know the wonderful clearness of his perception, the power of his logic, the varied character of his information, and the thoroughness and conscientiousness with which he did his work; and also came to know the cleanliness of his life and the gentleness of his nature.

I had the opportunity to bear testimony to his worth

to President Taft prior to his appointment to this great court. On that occasion, President Taft said to me that in filling the vacancies then existing on the bench of the Supreme Court it was his desire to find men who were big enough, courageous enough, able enough, and patriotic enough, to preserve the Republic as it was founded, and it mattered not to him from what section of our common country they came, nor what their politics were. I was proud to give my assurance that MR. LAMAR measured up to these great qualifications, and I am happy now to believe that this assurance was more than indicated by the record of JUSTICE LAMAR in the discharge of his judicial duties.

Mr. Chairman, the purity of the life that JUSTICE LAMAR lived, and the deeds he wrought, known to us all, speak their own eloquent eulogy of the man and his life, and there are no words of mine that can add anything thereto. I can only bear testimony to the strength of my devotion to him and declare my high estimate of him as man, as lawyer, and as judge, and the great sorrow into which we were all plunged when he was taken from us.

I move the adoption of the Resolutions submitted:
The Resolutions were as follows:

RESOLUTIONS.

Resolved, That the members of the bar of the Supreme Court of the United States lament the untimely death of the late JOSEPH RUCKER LAMAR, Associate Justice of the Supreme Court of the United States, and record their appreciation of his learning, ability, and high character, the affectionate regard with which they now cherish his memory, and the great loss to the bench and the country occasioned by his death.

A native Georgian, he was born of an illustrious family, and by his life's work not only sustained the best traditions thereof but added lustre to the great name he bore.

He was the second of the Georgia Lamars to win a place on the bench of the Supreme Court of the United States, the first being the late L. Q. C. LAMAR, appointed from the State of Mississippi. Each of these two Lamars brought to the court superb mental equipment, lofty ideals, intense Americanism and consecration to duty, and by the product of his labors more than vindicated the wisdom of his appointment.

JOSEPH RUCKER LAMAR was born October 14, 1857, and after a collegiate education came to the bar at 21 years of age. His entire life thereafter was one of devotion to the law, for he never knew any other field of labor.

As a practitioner at the bar he won renown and success, and, at a comparatively early age, easily ranked among the leaders of the bar of his State. As an antagonist he was always formidable, for he was always prepared, but he was also always delightful. His courtesy was disarming. He was always fair, and neither sought nor would he have any mean advantage.

In 1892 he was chosen as one of three commissioners to codify the laws of his State and the work he there did, resulting in the code of 1895, will ever stand as a monument to his discriminating judgment, to his industry, and to the thoroughness and completeness with which he performed each task assigned to him.

Prior to this work of codification he served for two terms as a member of the lower house of the General Assembly of Georgia, and to the legislative field he carried the training and habits of the lawyer, giving to his State, upon all public questions, the careful preparation, the thoughtful consideration, the sound advice and unswerving loyalty of attorney to client. He was always earnest, always sincere and never knew but one way to discharge any duty, and that way was to discharge it to the very best of his ability.

On January 13, 1903, he took his seat as an associate justice of the Supreme Court of the State of Georgia,

and resigned therefrom in 1905 on account of his health and resumed the practice of law.

The fruits of this service were found in the affection and admiration for him of his associates on the bench, and of the bar of the State, and in strong virile opinions, classically expressed, which to-day, as then, enrich the permanent judicial literature of his State.

On December 12, 1910, he was appointed an associate justice of the Supreme Court of the United States. His appointment was shortly thereafter confirmed by the Senate, and on January 3, 1911, he took his seat on the bench. He died at his home in the city of Washington on January 2, 1916, not quite completing five years of service.

From the day upon which he entered this service he consecrated his life and all that was in him to the faithful performance of its duties. His application, his untiring research, his painstaking care and his patient labor were known to all who had dealings with the court.

Others have been and no doubt will be permitted to give more years of service to their country on this great bench than was he, but to him was given the high privilege, by excessive and never-ending toil, to give his life. No man could give more.

Measured by time, his service was not long, but measured by results, a great service was completed. He served long enough to demonstrate his aptitude and fitness for the work, and long enough to leave upon the archives of his country the enduring impress of a great and just judge.

His life was one of devotion to American ideals. He was ever a student of his country's history, and no man was more familiar than he with the origin of the Government under which he lived or with the foundation principles upon which it rests. The extent and the limitations of its power were clearly defined in his mind, and full well he knew how liberty came and how only it can be preserved.

To the office of Associate Justice of the Supreme Court of the United States he brought the ability, the strength, the courage, and the patriotism to preserve our Republic as the fathers founded it, and all these he dedicated to that great end.

In May, 1914, he was invited by the President to serve as a special commissioner of the President, in connection with commissioners from certain South American countries, in the matter of mediation in the troubled affairs of our neighboring Republic of Mexico. With his habitual response to every call of duty he accepted the invitation and assumed the responsibilities thereby imposed. The commissioners so selected met with commissioners from Mexico at Niagara Falls soon after their appointment, and concluded their delicate and important labors in the month of July following, to the satisfaction of the several governments participating.

He was by nature kind and gentle, but beneath his kindliness of manner there was a fixedness of purpose and a courage of steel that knew no yielding. He was cautious and careful, but once the path of duty became clear he followed it to the end. He never faltered in the pursuit of truth.

The sweetness and gentleness of his nature, the charm of his personality, the readiness of his sympathy, were such that to know him was to love him. The same listening ear that as judge he gave to advocate he always kept attuned to hear the voice of humanity. He loved his fellows, and to him the breath of friendship was as incense. It sweetened, inspired, and strengthened his life.

In the rich fullness of his sympathetic heart, when he came to prepare his last will and testament, in 1899, he incorporated therein the following beautiful statement:

"My friendships many and precious I leave to my family in the hope that they will be cherished and continued. I know of no enmities; but if such unhappily hereafter arise, let them be forgotten."

When the end came for him, it is precious to believe

that there was still an absence of all enmities and that he went out into the great beyond leaving behind him a world of friends only. What more priceless heritage could he have bequeathed?

Resolved, That the Attorney General be asked to present these resolutions to the court, with the request that they be entered upon the records and that the chairman of this meeting be directed to forward a copy of them to the family of the late JUSTICE LAMAR, accompanied by an expression of our profound sympathy for them in their overwhelming bereavement.

Remarks were made seconding the Resolutions by the following members of the Bar: MR. E. MARVIN UNDERWOOD; MR. HANNIS TAYLOR; MR. FRANK WARREN HACKETT; MR. ALFRED P. THOM, all of which appear at length in the Memorial Volume published by the Clerk of the Court and secretary of the meeting, and which also contains the Report of the Committee appointed by the Supreme Court of Georgia to prepare a Memorial Commemoration of the life and character of MR. JUSTICE LAMAR.

The Resolutions were adopted as submitted and on motion of MR. SOLICITOR GENERAL DAVIS the meeting adjourned.

SUPREME COURT OF THE UNITED STATES.

MONDAY, JUNE 12, 1916.

Present: THE CHIEF JUSTICE, MR. JUSTICE McKENNA, MR. JUSTICE HOLMES, MR. JUSTICE VAN DEVANTER, MR. JUSTICE PITNEY, MR. JUSTICE McREYNOLDS and MR. JUSTICE BRANDEIS.

MR. ATTORNEY GENERAL GREGORY addressed the court as follows:

May it please your Honors: For the second time within a year it has become my duty and sad privilege to present

to you resolutions passed by the bar on the death of a member of this court.

Upon the former occasion I paid an inadequate tribute to one who had been a friend from my youth. It was not my privilege to come in intimate contact with the late JUSTICE LAMAR until a very few years before his death, and yet the feeling which moves me most is one of keen personal loss, a feeling that a great light has gone out, not merely one that illumined the legal shadows but one that warmed the hearts of men and made them kinder, nobler, and more charitable.

In recalling the personality of a really great man who has left us we do not see him as a combination of various intellectual and moral qualities. On the contrary, we remember him as the possessor of some one striking characteristic, which, like Saul, son of Kish, towered above its brethren and challenged the attention of all observers.

While JUSTICE LAMAR was a powerful advocate, a wise counselor, an able and just judge, a cultured gentleman, and a great citizen, his dominating characteristic was a peculiarly winning courtesy, a kindly consideration for all with whom he came in contact. He was born and bred among a people who have always cherished this quality, and yet in his case it was not the result of association and training. By a perfectly natural process he garnered the sunshine of life and dispensed it with a prodigal hand.

In contemplating a life like this you think of Hawthorne's tribute to the fragrant white water lily of the Concord River, of how he marveled at its capacity for absorbing only loveliness and perfume; and we reflect, as did the author, on how some persons assimilate only what is ugly and evil from the same moral circumstances which supply good and beautiful results—the fragrance of celestial flowers—to the daily lives of others.

The power to see, to appreciate, to absorb, and to express what is good comes from the heart, and this man, like Abou Ben Adhem, would have said to the angel with

the golden book, "Write me as one that loves his fellow men."

I doubt not that it was because of this marked characteristic that JUSTICE LAMAR was selected by the President in the summer of 1914 from all the able men of the Nation, to represent the United States at the conference called by Argentina, Brazil, and Chile, to consider the delicate Mexican problem. Surely no more critical situation could have arisen to test to the utmost the best qualities of heart and mind. He approached its consideration carrying in his right hand "gentle peace to silence envious tongues," and no such mission was ever more successfully carried out.

Being a man of this type, and of strong intellect and wide learning, he naturally brought to the study of questions of abstract law a sympathetic interest and enthusiasm which made even the dry bones live again. He was never satisfied with his work while any possibility of further effort remained. Where others would have rested content, his ardent zeal for perfect accomplishment spurred him to continued labor. Accuracy, simplicity, and clearness of expression were his constant aim and his marked achievement.

In appraising the work of his professional brethren he was most generous. He took intense pleasure in the accomplishments of others, and often pronounced their work "well done" with genuine enthusiasm where he would have criticized it if his own.

JOSEPH RUCKER LAMAR was the son of Rev. James S. Lamar and Mary Rucker Lamar. His family was of Huguenot descent, the founder, Thomas Lamar, having settled in Maryland in 1663. His ancestors moved to Georgia in 1775 and have taken a prominent part in the public life of the State.

After attending preparatory schools in Georgia he matriculated at the State University in 1874, but before graduating entered Bethany College, W. Va., of which Dr. William King Pendleton, afterwards his father-in-law,

was president. He graduated from this institution in 1877, and after studying law at Washington and Lee University was, on April 16, 1878, admitted to the bar in Augusta, Ga., where he opened an office and established his home. On January 30, 1879, he married Miss Clarinda Huntington Pendleton, who, with two sons, survives him.

The society of Augusta has always been cultured, and young LAMAR was from early manhood one of the most charming of that delightful circle, and rapidly became one of the leading spirits in the social and civic life of the community.

From 1886 through 1889 MR. LAMAR represented Richmond County, in which Augusta is situated, in the Georgia Legislature. He was the author of some of the most important legislation of his State, notably the act regulating the exercise of the right of eminent domain and the laws governing voluntary assignments.

Shortly after ending his legislative services he was appointed one of the codifiers who revised and edited the Code of Georgia of 1895. His labors on this commission were most able and of great service to the State.

Meanwhile his practice had become wide and varied, and extended throughout Georgia and neighboring States. There were few cases of great magnitude in that section in which he was not employed.

On January 13, 1903, the governor appointed MR. LAMAR a justice of the Supreme Court of the State to fill a vacancy on that bench, and he was elected to the position in 1904. He resigned in the spring of 1905 and returned to the practice of law at Augusta.

He was the author of a number of historic and literary contributions, many of which are to be found in the printed volumes of the reports of the Georgia Bar Association, of which he was an active member.

Except while on the State bench, he served as a member of the board of law examiners for admission to the bar of Georgia from the organization of that institution until his appointment as a member of this court. He

was chairman of this board from the spring of 1905 until his removal to Washington.

On December 12, 1910, he was nominated by President Taft to be an Associate Justice of the Supreme Court of the United States, was confirmed by the Senate on December 15, and took his seat on January 3, 1911.

His services on the bench of this court are well known. During the five years of their duration, he participated in the decisions of 1,179 cases, wrote the opinion of the court in 114 and the dissenting opinion in 8. His opinions are found in volumes 220 to 238, inclusive, of the United States Reports. His sound judgment, wide learning, and great clearness and facility of expression won for him the confidence and admiration of the bar and the public.

Perhaps the most important opinions rendered by JUSTICE LAMAR were in the cases of *United States v. Grimaud*, 220 U. S. 506; *Gompers v. Bucks Stove & Range Company*, 221 U. S. 418; *United States v. Midwest Oil Company*, 236 U. S. 459; *United States v. Delaware, Lackawanna & Western Railroad Company and Delaware, Lackawanna & Western Coal Company*, 238 U. S. 516.

In *United States v. Grimaud*, the Secretary of Agriculture had passed an order forbidding grazing on public lands without permits. The defendants were charged with violating this order and contended that the act of Congress making it an offense to disobey the regulation of the Secretary was unconstitutional in that it attempted to delegate legislative authority. The decision overrules this contention.

In the case of *Gompers v. Bucks Stove & Range Company*, plaintiffs in error were charged with contempt in violating an injunction of the Supreme Court of the District of Columbia by publication of an "unfair" list. It was held that the publication was a contempt, but that the proceedings were not properly brought.

The case of *United States v. Midwest Oil Company*, was brought to test the Government's right to oil lands valued at many millions of dollars, and involved the

authority of the President to withdraw such lands from public entry. It was decided that the President had this authority.

United States v. Delaware, Lackawanna & Western Railroad Company and Delaware, Lackawanna & Western Coal Company arose under the commodity clause of the Act to Regulate Commerce and under the Antitrust Act. The railroad company at the time of the passage of the commodity clause was engaged in mining, buying, transporting, and selling anthracite coal. To divest itself of title before transportation began, it caused the coal company to be organized with stockholders and officers in common with itself. The railroad company then caused the output of its mines to be transferred to the coal company under a contract which placed the latter company largely, if not completely, within the power of the former.

The district court dismissed the petition. The Supreme Court reversed this decision, holding that by reason of having stockholders and officers in common and by reason further of the above-mentioned contract, the two companies were so united in ownership and management as to give the railroad company an interest in the coal of the coal company, and that, therefore, the transportation of such coal by the railroad company constituted a violation of the commodity clause. The court also held that the contract in question violated the Antitrust Act.

In 1911 Yale University, in recognition of his learning and ability, conferred on JUSTICE LAMAR the degree of Doctor of Laws.

He was active in many spheres of public work in the communities in which he lived, and in the Christian Church, of which he was a devoted member.

He died in this city on January 2, 1916, having just entered upon his fifty-ninth year. He was in the zenith of his powers and usefulness when seized with the fatal illness which terminated his life.

Such, in brief outline, is the skeleton of this man's

character and life. It conveys no idea of his vivid personality. It faintly portrays his kindly nature and the loving service to country, family, and friends bereft.

Beyond their admiration for his talents and accomplishments will stand foremost with all privileged to know him their recollection of his warm, magnetic nature.

Strong, ardent, a man among men, a warrior in every battle for truth and right, always ready for every conflict which would advance the cause he espoused, he was one of whom it could with perfect truth be said:

His life was gentle, and the elements
So mix'd in him, that Nature might stand up
And say to all the world, "This was a man!"

THE ATTORNEY GENERAL then read the Resolutions adopted as they appear on pages vi-x, *ante*.

THE CHIEF JUSTICE responded:

Mr. Attorney General, there is nothing to be added to the beautiful tribute which the resolutions of the bar, so appreciatively by you presented, pay to the memory of MR. JUSTICE LAMAR. As I grasp their ultimate significance they are intended principally to express the appreciation by his brethren of the bar of his fealty to the noble ideals of the profession and of the honor which his life and work have reflected on that profession. In fact, while expressing the profound regret which the death of MR. JUSTICE LAMAR has occasioned, as I understand the resolutions, they seek not simply to express that regret but rather, as it were, to lay the foundations in the permanent records of this court of a monument to his memory which shall continue to speak of his great moral and mental qualities, of his courageous and conscientious discharge of judicial duty, long after we ourselves shall have gone.

Admirable as are these aims of the resolutions, I find it difficult to completely adjust myself to them. Ah, how can it be otherwise, since at the very mention of the death of our Brother LAMAR all sense of exultation or pride at the high ideals to which his life conformed fades

out of my thoughts and there remains only the sense of personal sorrow at the loss occasioned by the severance of those ties which were so cherished and by which his brethren were bound to him—a sorrow whose depths cannot be fully fathomed without the knowledge begotten by association in judicial work of the attributes of his nature, so gentle, so true, so faithful, so brave, so generous, so devoted! But controlling personal feelings, let me endeavor to bring myself into harmonious relations with the purposes of the resolutions by making some few suggestions as to impressions made upon me by his work on this bench and pointing out the dominant intellectual influences which, in my opinion, formed and controlled his abstract conceptions as to some important questions, and which consequently tended to shape the conclusions which he reached in the discharge of his duties concerning such questions.

Too young to have been a participant in the Civil War, he was yet old enough to have appreciated the anguish of that appalling conflict, the multitude of noble lives on both sides which were forever stilled, the homes made desolate, the fields wasted, and the blight of a destroyed society and of nearly all prosperity which came, at least, in one section, as a result of that struggle—impressions which in the very nature of things indelibly stamped upon his developing life the dread consequences which necessarily would follow in the wake of a disintegrated union and a destroyed national life. He was, moreover, old enough to have understood and appreciated the anguish, more appalling than the calamity of the war, of the period which followed in its wake, and thus to have also impressed upon his nature beyond the possibility of forgetfulness the destruction of individual right which would arise from reducing the States to mere dependent vassals deprived of local autonomy and to be governed from afar by a centralized government, whether of executive power or of bureaucratic authority. Thus indubitably, my belief is, it resulted that when by training his mind came

to explore the sources of our constitutional life, his opinions came to be composite; that is, in his mind there resulted, as it were, a fusion of state and National power, united but not destroyed, both coöperating to the perpetuation of the other. In other words, his opinions came by a natural process to embody the very concepts upon which our institutions must rest.

Reared virtually in the atmosphere of an agricultural community, when by the force of his ability he came in later life to consider a wider range—that is, the relation to each other of diverse and seemingly conflicting activities and the possibility of coördinating and preserving them all—it also seems to me clear that the process which had shaped his convictions as to our constitutional government came to mold his opinions on the subjects just stated. In other words, he came fully to appreciate that to assume a society resting solely upon the pursuit of agriculture and which would be confined to that relation was a negation of the existence of society itself, which in its very essence embodies the complex resultants of all the activities of human life, giving rise to the corresponding duty to harmonize and adjust them to each other so that they all might live and develop for the blessing and advancement of mankind.

In practice it may be said that these ultimate convictions were applied by MR. JUSTICE LAMAR in his discharge of judicial duty in a threefold aspect: First, the relation of the activities of individuals and their results to each other; second, the relation between the power of the States and that of the Nation; and, third, the obligation and effect of the limitations imposed upon all government as the consequence of those great guarantees in favor of individual right forming an inherent part of our constitutional system. As to the first, it is enough to say that the opinions expressed by MR. JUSTICE LAMAR in the performance of his duties here afford apt examples of the keenness of his appreciation of the duty to adjust between conflicting activities so as to preserve the rights

of all by protecting the rights of each. As to the second, intensely local as were his affections and his ties, nothing is more clearly portrayed by his work on this bench than the broad conception which he entertained of the duty to uphold and sustain the authority of the Union as to the subjects coming within the legitimate scope of its power as conferred by the Constitution. As to the third, no demonstration could be more complete than that afforded by his work of the fixed opinion on his part as to the duty to uphold and perpetuate the great guarantees of individual freedom as declared by the Constitution, to the end that the freedom of all might not pass away forever. Convinced as he was from his study of the sources of our constitutional institutions that their enjoyment was dependent upon the limitations in favor of individual right which the Constitution expressed, and that such limitations were essential to secure us from the anguish and turmoil and tyranny and the disappearance of freedom which had always resulted where such guarantees did not exist or were not adhered to, he had come to feel that for the purpose of their preservation he was but a trustee for the millions who were to come. His mind was too penetrating to listen for a moment to the suggestion that freedom would be secured by destroying principles which were essential to its preservation or that wrong would result unless truths which were eternal were violated. Thus controlled, his work on this bench leaves no room to doubt that no thought of mere expediency, no mere conviction concerning economic problems, no belief that the guarantees were becoming obsolete or that their enforcement would incur popular odium ever swayed his unalterable conviction and irrevocable purpose to uphold and protect the great guarantees with every faculty which he possessed. In considering such questions there shone ever in his heart the light of Georgia firesides and the great duty he owed to those firesides, indeed, to every individual, not only in Georgia but elsewhere, to see to it that by no act of his did the inherent

principles of individual freedom guaranteed by the Constitution fail to receive enforcement or their efficacy become impaired by misconception or misrepresentation.

O true American and devoted public servant, O cherished friend and faithful comrade, O sweet and noble soul, may it be vouchsafed that the results of your work may endure and fructify for the preservation of the rights of mankind, and may there be given to us who remain, wiping from our eyes the mists begotten by your loss, to see that through the mercy of the inscrutable providence of God you have been called to rest and to your exceeding reward!

Let the resolutions be recorded.
