

52

ARKANSAS REPORTS

Vol. 68

CASES DETERMINED

IN THE

SUPREME COURT OF ARKANSAS

FROM MARCH, 1900, TO FEBRUARY, 1901

T. D. CRAWFORD
REPORTER

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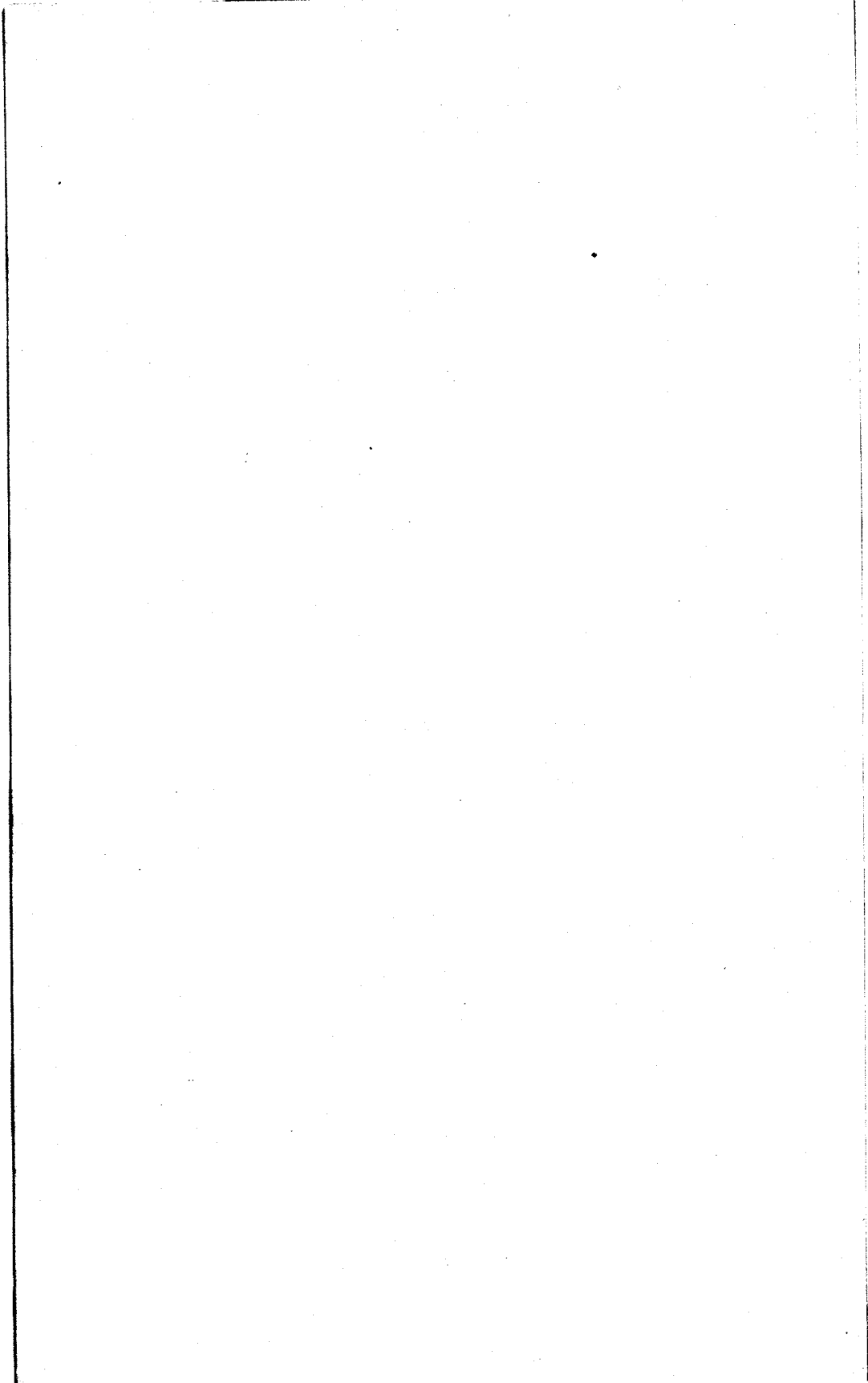
JUDGES
OF THE
SUPREME COURT

DURING THE PERIOD OF THIS VOLUME.

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BURRILL B. BATTLE,	-	-	}	ASSOCIATE JUSTICES.
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J. H. CAMPBELL,	-	-	-	DEPUTY CLERK.

1. Term expired January 18, 1901.

2. Term began January 18, 1901.



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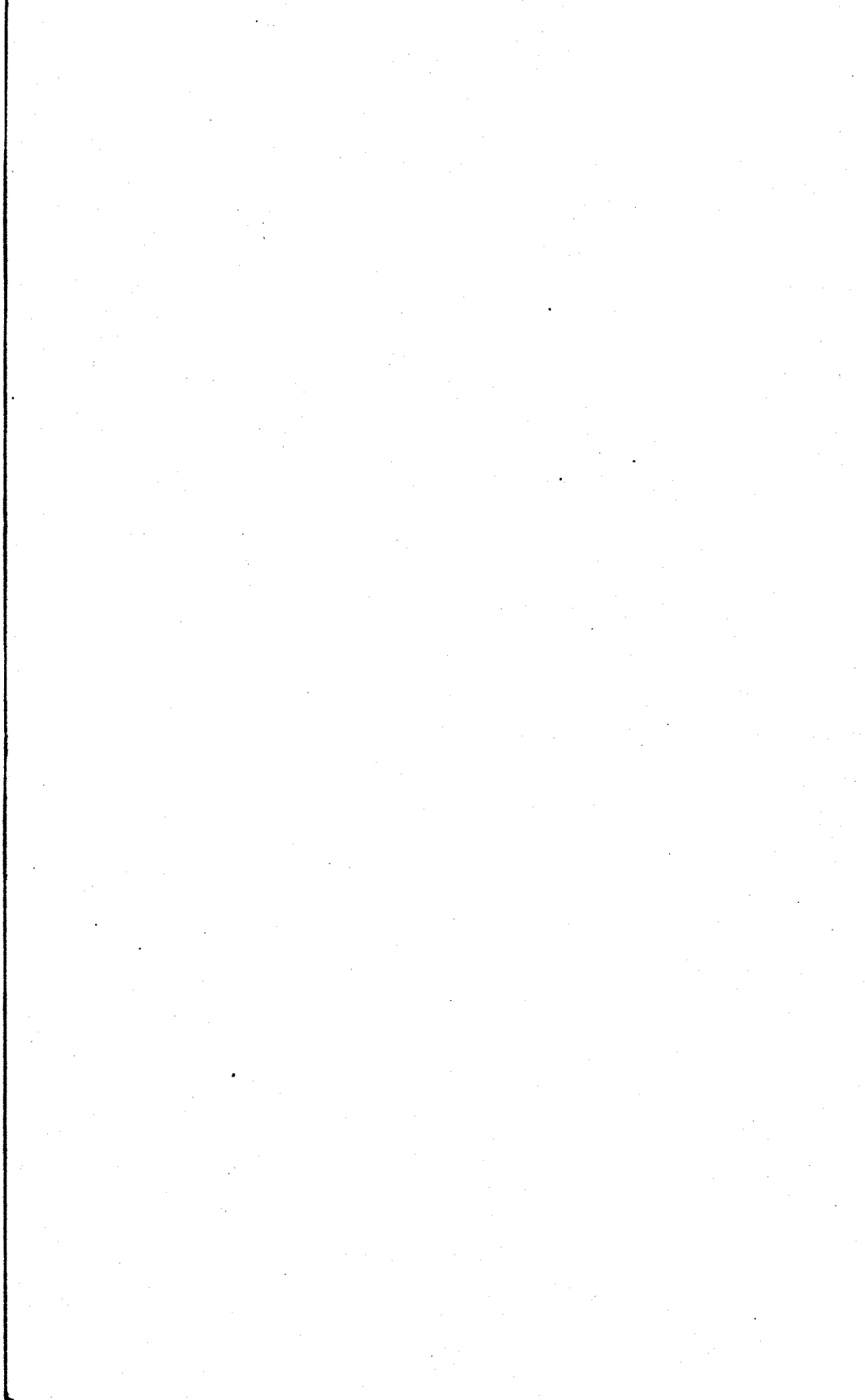


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APPENDIX.

I

IN MEMORIAM

STERLING ROBERTSON COCKRILL.

At a meeting of the court held on Saturday, March 2, 1901, Hon. U. M. Rose, a member of the bar, addressed the court as follows:

MAY IT PLEASE THE COURT:

Your honors are but too well aware that we have recently sustained a great loss in the death of Sterling R. Cockrill, of this city, who for some years presided in this court as its chief justice. We have lately seen his earthly form borne with tears and sorrow to that last resting place to which we all tend with unerring footsteps, leaving at last all of our faults, all of our deeds, whether for good or for evil, to the charitable judgment of the children of men who may chance for a few days to live on when we shall be no more.

Speaking for the bar, as well as from the impulses of my own heart, I feel that no apology is necessary when I come to crave a respite from the labors of the court while we pause for a moment to contemplate the magnitude of a loss that, so far as this life is concerned, will never admit of any compensation; a loss that comes home to us with peculiar force in the presence of this court, assembled in a spot so intimately associated in our thoughts and memories with the life and public services of the deceased.

Having the honor on the present occasion to speak for the bar collectively, I shall not exceed my mandate if I add a few words to what they have well said, and which I am now to present to your honors, when I confine myself to sentiments which they have expressed, and which I know them to feel; for the language that I shall use will only serve to corroborate and to confirm in some slight degree their testimony as to the worth of the deceased, and as to the affliction caused by his death.

The father of Judge Cockrill, born in Nashville, Tennessee, in 1804, was educated at Transylvania University, at Lexington, Kentucky; and from the time of his early manhood he was a successful planter, though in

his youth he had studied law so far as to qualify himself to enter upon the practice of the legal profession. He married Henrietta McDonald, the daughter of General James McDonald, of the United States Army, a lady distinguished for many accomplishments and for many virtues. From this union several children were born, of whom only one, a daughter, is now living. On his birth in Nashville, Tennessee, on the 26th day of September, 1847, Judge Cockrill received the name of his father, Sterling Robertson Cockrill, who, while engaged in agricultural pursuits both in Alabama and in this state, continued for some years to reside in Nashville; but soon after the close of the civil war he removed with his family to a plantation near Pine Bluff, in this State, which he owned, and where he lived until his death, which occurred on Mt. Nebo, Ark., on the 18th of July, 1891.

When the war broke out, Judge Cockrill was attending a primary school, which he soon after left in order to enter a military institute located at Marietta, in the state of Georgia. Two years later, when the war was most flagrant, he enlisted in the Confederate army, where he remained until the return of peace, which found him, at seventeen years of age, a sergeant of artillery in the army of Gen. Joseph E. Johnson, with more experience of men and of life than most youths of his age acquire, but much in arrear in the studies that are more requisite for the pursuits of peaceful times. His deficiencies in this respect were, however, soon supplied. Entering Washington and Lee University as a student, possessed of an active and vigorous mind, and inspired by an honorable ambition, he rapidly made up by a diligent course of study for the time he had lost during a not uneventful military career. Graduating at that institution, then under the presidency of Gen. Robert E. Lee, to whom he was nearly related through his mother, he next attended a law course in Cumberland University, at Lebanon, Tennessee, and was admitted to the degree of Bachelor of Laws.

In 1870, Judge Cockrill, having been admitted to the bar, began the practice of his profession in this city; and soon afterwards he formed a partnership with the late A. H. Garland, which continued until the latter became governor of this state in 1874.

In 1884, when a vacancy was created in the office of chief justice of this state by the death of Judge English, who had long occupied that position in a manner highly honorable to himself and useful to the public, the friends of Judge Cockrill brought him forward as a candidate for the succession. As he was then only 37 years old, the principal opposition that he encountered grew out of his youth, made the more striking by contrast with the late incumbent, who had departed this life in the maturity of his powers, and in the declining years of life. But those who knew Judge Cockrill best had a well founded and a thorough conviction of his entire fitness for the place, which was afterwards amply justified by his career on the bench. Elected to fill an unexpired term, he became a candidate for re-election in 1888, by which time his qualifications for the position were so fully and conclusively established that he met with no opposition. He was accordingly re-elected for a term of eight years; and he continued in the discharge of the delicate, important and far-reaching duties imposed on him by his office with a degree of diligence, a singleness of purpose, and a devotion to duty that were among his most striking characteristics, when a circumstance occurred that at the time was painfully felt.

Judge Cockrill had accepted the place of chief justice with a full knowledge of the fact that the salary fixed by law was so low as to be out of all proportion to the labor to be performed, to the learning and intellectual training required, and to the weighty responsibility to be assumed; and that this salary could not be increased during the term for which he had been elected; and, as he had been awarded the position in a manner practically unanimous, he felt under a strong obligation to go on as he had begun, when he was confronted with a difficulty that could not be obviated, and which grew more serious, not to say desperate, as time advanced. With a family of growing children to provide for and to educate, it became impossible, even with the exercise of the wisest economy, to defray inevitable expenses with the salary that he received. He explained to a few of his friends that with the best efforts that he could put forth he was compelled continually to fall more and more into debt—a condition extremely repellant to the notions that he entertained of that independence essential in private life and indispensable to one occupying his official position, where freedom from bias or restraint growing out of individual obligations assumes a primary importance. The ultimate result was that in 1893 he reluctantly resigned his place on the bench, and resumed the practice of his profession in this city, where he was at once surrounded with an extensive clientage.

This resignation of his official position was a step taken by Judge Cockrill with regret, because he had a high appreciation of the public confidence so generously bestowed, and because his temperament was such that he preferred the nice and scientific adjustment of sound legal principles to various and complex combinations of fact, as involved in the judicial function, to the uncertain and doubtful contests of the forum, where, owing to that haste unavoidably attending trials in courts of first instance, new elements of uncertainty necessarily come into play. This preference had in it, however, none of that timidity and love of seclusion that sometimes tend to make lawyers shun the courts of assize; for in contests of that sort Judge Cockrill was as active and fearless, as full of resources, as he was learned, laborious, accurate and painstaking in his researches while on the bench.

Judge Cockrill would certainly have preferred to remain on the bench; his continuance in office would have been most grateful to the bar and to the public at large; and he felt a natural reluctance to quit a position which had been recently bestowed in a manner expressive of unbounded confidence. On this point he was perhaps unduly sensitive, since the privilege of resignation at will is implied as a condition of acceptance of official position.

From the time that he resigned his place on the bench until his death Judge Cockrill was engaged in an extensive practice, in which he displayed great ability, combined with the utmost diligence and activity. The time that he had spent as a judge had not been thrown away; his knowledge of the law had been expanded and enriched, and his experience in the formulation of legal principles gave to his investigations and to his utterances an exactness, clearness and precision which are not always acquired at the bar. It is sometimes said that labors on the bench tend to disqualify for practice, because judicial impartiality is much at variance with the zeal and combativeness that are among the most vital of the qualities demanded of the advocate. Without denying the truth of this general statement, it will

suffice to say that it found no illustration in the case of the deceased. His experience on the bench added largely to the qualities that go to the formation of the successful advocate.

Judge Cockrill was stricken with his last illness while engaged in the trial of an important cause. If, on the first appearance of disease, he had been content to withdraw from the court-room, and to apply the proper remedies, he might have recovered; but a constraining sense of duty to his clients forbade that he should take a course that prudence dictated until it was too late to derive any ultimate benefit from medical treatment; so that, after a few days of painful and distressing illness, he died surrounded by his family at his residence in this city at 6 o'clock on the morning of the 12th of January last.

Judge Cockrill was married in May, 1872, to Miss Mary Ashley Freeman, daughter of Rev. Andrew Freeman, and granddaughter of Chester Ashley, for a long time the leader of the bar of this state, and who at the time of his death was a representative from this state in the United States Senate. Judge Cockrill left surviving him his widow and six children.

The report of the death of Judge Cockrill came with a sudden and painful shock; for, though it was known that he had been ill for a few days, yet such was his physical vigor that but few had any grave apprehension of the impending calamity. He had reached the meridian of life; but he looked much younger than he was; and his habits were such as to encourage the confident hope that he was destined in the future to a long, a useful and a distinguished career, that the work that he had done so well was only an earnest of what he would afterwards accomplish; but, as the brightest day is sometimes suddenly overcast, so in this instance our fondest anticipations were destined to a sudden eclipse.

Judge Cockrill at any time or place would have been a marked personality. His character was unusually well rounded and harmonious, free from the harsh discrepancies, contrasts and contradictions which mar by their discords, though they are not always incompatible with genuine virtues and splendid endowments. Few men have ever had more of that self-control that is derived from principles deliberately formed, and from a long and persistent course of mental training, than Judge Cockrill. Having an eager desire and an unwavering resolution to perform every duty in the most thorough manner that his abilities and opportunities would permit, he had a sovereign aversion for everything that was slovenly and perfunctory; and while he was on the bench he expected the members of the bar to do their part of the labor that devolved on them in the administration of justice with fidelity and discrimination. And in this respect he set them an example well worthy of their emulation. Quick to perceive the application of legal principles, he was untiring in research, and never gave over investigation until thoroughly convinced that his conclusions were well supported by reason and by authority. Superficial views, however plausible, he discarded, as being of little importance, preferring to rest his opinions on a deeper scrutiny that rejected improbable and far-fetched theories, such as have often proved to be the bane of the law. Only those who practiced before him can fully appreciate the labor that enabled him to penetrate to the heart of the most complex and difficult controversies that he was called on to decide. It is not to be understood from his laborious methods that he

was only a plodder in the law; for his mind was deeply imbued with the principles of jurisprudence, and he had a rare insight into the practical reasons in which they had their birth, and which should control in their application. No one perceived more intuitively or more distinctly the real questions involved in any litigation presented. Whether on the bench or at the bar, in his written opinions or oral arguments, precision and accuracy of statement were eminently conspicuous. His written opinions are models of terseness, condensation and clearness; equally free from redundancy, irrelevancy and needless repetition. His mind was essentially logical; so that his conclusions seemed to flow naturally and inevitably from the premises assumed. With an enlightened and liberal conception of jurisprudence, he strove to make of the law the willing and active agent for the attainment of even-handed justice, rejecting mere technicalities more remarkable for perverted ingenuity than for real merit. No judge could in the discharge of official duty be freer from all taint of bias, favoritism or prejudice. His impartiality was in perfect harmony with the impersonality of the law itself. Zealous in his friendships, and not without aversion for men of low morals and unworthy conduct, when he ascended the bench he disclothed himself of all prepossessions and prejudices which could in the faintest degree influence the solemn discharge of his consecrated duties. We shall all remember as long as we live the rare distinction with which he presided over this court, as well as the sincerity and complete self-surrender with which he devoted himself to the arduous duties inseparable from the position that he occupied.

I need not dwell on the qualities displayed by Judge Cockrill as an advocate. He brought to the performance of his duties as such the same conscientious diligence that marked his career on the bench. No emergency found him unprepared; no honorable resource was neglected. His zeal for the interests of his clients was intense, his management of a cause was skilful, his arguments clear, logical and weighty; and his success at the bar justified the labor bestowed and the intellectual superiority manifested in every act of professional duty.

Having known Judge Cockrill intimately ever since his admission to the bar, I can speak of him in his private relations only in terms of highest commendation. The judge may retire from the bench, the lawyer may forsake his profession; such acts may awaken regret in the public mind, and may be productive of individual disappointment; but when a friend is removed by death it is the man himself that we miss; and we are not easily consoled by reflecting on the honors that he may have won, or the distinction that he may have attained. Were it otherwise, children who die in infancy or youth would be but little lamented. The strongest ties that bind us to each other are the most difficult to define; and there are many things in human life that can neither be measured, or weighed, or analyzed with scientific accuracy.

That Judge Cockrill had many personal friends and admirers is well attested by the facts that I have mentioned, as well as by the additional fact that only a few months before his death he was unanimously elected president of the State Bar Association; a position that he held when he died, and one for which he possessed the highest qualifications. In his personal relations Judge Cockrill revealed many traits that endeared him

to a very large circle of men. His inflexible honesty, his high and uncompromising sense of honor, his strict observance of all the proprieties of life, his well defined opinions on contemporary problems of great moment, based on extensive reading and reflection, the fidelity with which he adhered to them, and the ability with which he defended them, the willingness with which he was ready to aid in any public enterprise, the faithfulness with which he adhered to attachments once formed, were so many elements that exerted an influence that had nothing about it that was casual or transient. In his hours of relaxation, when business cares were laid aside, no one was more companionable. Those who have been with him on such occasions will never forget how his suggestive and entertaining conversation relieved the tedium of the passing hours. I traveled with him at different times; and I recall with extreme pleasure, mingled now with feelings of sadness and regret, an extended journey that I made with him last summer, enlivened by his keen powers of observation, his just appreciation of the varied phases of life, and a sense of quiet humor peculiar to himself, and which never transcended appropriate bounds. His learning sat very lightly upon him; he was absolutely destitute of pedantry and affectation; and while he had the moral and mental powers that command respect and challenge the highest regard, he possessed in no less degree the indefinable qualities that conciliate friendship by adding a charm to social intercourse.

On the whole, it may be said that the death of Judge Cockrill has produced a very wide and a very painful impression. It is but a few months since he addressed your honors on the occasion of the death of Mr. Garland. As he seemed at that time to be in the most robust health, no one could foresee that he would so soon follow him of whom he spoke on that last sad journey that is appointed for all men. This unexpected event is well suited to impress upon us the uncertainty of all of our pursuits, the instability of our possessions, and the ephemeral character of our present life.

In the present instance death came into our midst with stealthy step, and struck the sudden and fatal blow that is beyond recall. It removed from our midst, in the very noonday of life, one endeared to us by ties strengthened by the association of many years. The dimensions of the loss that we have sustained cannot be measured by any known standard; and it is, alas, irreparable. His voice, so often heard in this chamber, is silent forever; and, while we hasten to the same goal that he has reached, we consecrate this fleeting hour most affectionately to his memory.

It only remains for me to call the attention of your honors respectfully to the resolutions unanimously adopted by the bar at its meeting held in this room on the 19th day of January last. They were reported by a committee composed of B. B. Battle, W. S. McCain, Morris M. Cohn, R. J. Wilson and myself. They read as follows:

"1. In Judge Cockrill the state possessed a jurist of extensive learning and remarkable ability. He presided with dignity and efficiency for some years over our court of last resort. A strong and ever-present sense of justice marked all of his decisions; and his thorough acquaintance with the principles of jurisprudence was no less conspicuous. With a mind of great quickness and acuteness, that grasped questions both of law and fact with accuracy and promptitude, he never decided any question involving

doubt or difficulty without the most thorough and painstaking investigation. Fair-minded, impartial and unbiased, he allowed nothing to disturb in the slightest degree the even balance of the scales of justice. His opinions, which are models of terse, vigorous, logical and lucid expression, must always form a valuable part of our jurisprudence. He was no less eminent at the bar than on the bench. His habits of close attention and indefatigable labor, joined to his talents and legal acquirements, gave him a position in his profession that is rarely attained. As a citizen, he was earnestly devoted to every cause that promised to promote the public welfare. Whether engaged in professional duties or in the walks of private life, he was uniformly courteous and respectful toward men of all classes and conditions. His character was unsullied, his integrity unquestioned, his sense of honor unalloyed. Called away in the meridian of life, and in the midst of an active and useful career, we express but the common sentiment of all who knew him in saying that his death was a serious and an irreparable loss to the courts, to the bar, to the city in which he lived, and to the state.

"2. We tender to the family of the deceased our heartfelt sympathy, and the secretary is requested to transmit to them an engrossed copy of these proceedings."

Sooner or later oblivion spreads her pall over all things; but not so long as we live shall we be unmindful of that spirit that was with us so long, but that shall walk with us no more. It was in the month of December last that I spent an evening with Judge Cockrill at the home of a mutual friend. He seemed then to be in perfect health; and his conversation as usual was animated and full of interest. Returning home at a late hour, we parted where our paths diverged. The noise of daily life had ceased; the brilliant but silent stars,—those far off "street lamps in the city of God,"—were shining in all the splendor of a winter night; and in the whole wide world there was no hint that our earthly journeyings together were ended, and that our last farewell had been said. Alas, how unutterably sad would have been that moment if the near future had not been veiled from our sight with that pitying kindness that makes us blind to coming events.

The opinions of Judge Cockrill, as embodied in our reports of decided cases, will convey to generations that shall come after us no inadequate conception of his learning and talents. Jurisprudence, being a progressive science, which adapts itself continually to new conditions, must undergo many changes with the lapse of years, which however chiefly affect matters of detail, incidental rather than organic. Fundamental principles on which the law is based, so far from being merely conventional, are found to pervade the codes of all civilized communities, being derived from a remote past, showing that they have their origin in that sense of justice that is the eternal heritage of man. In our laws we trace some of them to the Anglo-Saxon dominion in England, and to laws that existed before Rome became the mistress of the world. In their nature they are immortal and indestructible.

So far as the decisions rendered by Judge Cockrill served to illustrate these fundamental principles, they must survive many vicissitudes, and will be remembered when things now regarded as permanent shall have passed away. But as we desire that he shall also be remembered for the many

virtues that he exhibited in private life, known to us as they cannot be known to those who come hereafter, I move the court, in obedience to the request from the bar, that the resolutions that I have just read may be spread on the records of the court as a perpetual memorial of one who for some years presided over its deliberations and participated in its labors.

The chief justice responded as follows:

In responding to the resolutions and the remarks of the gentlemen of the committee in presenting them, we desire to express our full concurrence in all that has been so appropriately and so well said.

Judge Cockrill although the youngest of all who have occupied his place on this bench, brought to the discharge of his duties a well trained and mature mind, and great industry, fixedness of purpose, and acquirements inferior to none. His opinions (and there are many on varied subjects and subjects of the first importance) are models of judicial expression, terseness and vigor, so that they are cited and relied upon with certainty, confidence and satisfaction universally in the legal profession,—a profession in this respect the most critical and discriminating of all professions.

He died, while yet in the prime of his manhood, having some years ago voluntarily retired from the bench to again engage in the active practice of his profession, for which he ever had a liking, and to which he was devoted for the profession's sake. In this sphere also he was eminently successful, and as a lawyer and practitioner he stood among the very first in our midst.

As far as men are able to judge of such things, on account of the courage of conviction and forensic ability of this most excellent citizen, men were beginning to look towards him and speak of him as one pre-eminently qualified to act on the more active field of public life, and it cannot be doubted that still additional honors awaited him, had not the reaper come but too soon, and reaped the harvest already matured.

The resolutions just presented will be spread upon the records of this court, and the clerk will furnish copies to the immediate family when requested, and the presentation speeches will be filed among the official papers of the court for the use of the reporter and the court.

II

OPINIONS NOT REPORTED.

Memphis Land & Timber Co. v. Stotts; appeal from Craighead chancery court; Edward D. Robertson, chancellor; reversed and remanded May 5, 1900; *per* Bunn, C. J.

Aslin v. State; appeal from Nevada circuit court; Joel D. Conway, judge; reversed and remanded May 12, 1900; *per* Riddick, J.

Godfrey v. Buck; appeal from Desha circuit court; John M. Elliott, judge; reversed and judgment for appellant June 9, 1900; *per* Hughes, J.

Bower *v.* State; appeal from Arkansas circuit court; George M. Chapline, judge; affirmed June 9, 1900; *per Riddick, J.*

Jacobs *v.* Sellmyer Mercantile Co.; appeal from Greene circuit court; Felix G. Taylor, judge; reversed and remanded June 16, 1900; *per curiam.*

Foster *v.* Haglin; appeal from Crawford circuit court; Jephtha H. Evans, judge; reversed and remanded June 16, 1900; *per Wood, J.*

McClendon *v.* Moore; appeal from Garland circuit court; Alexander M. Duffie, judge; reversed and remanded July 21, 1900; *per Battle, J.*

Hembree *v.* State; appeal from Polk circuit court; William P. Feazel, judge; reversed and remanded July 21, 1900; *per curiam.*

Locke *v.* Haynes & Pylant; appeal from Clark circuit court; Joel D. Conway, judge; judgment affirmed November 3, 1900; *per Battle, J.*

Burford *v.* Earl; appeal from Conway circuit court; Jesse C. Hart, special judge; reversed and remanded December 22, 1900; *per Riddick, J.*

St. Louis, I. M. & S. Ry. Co. *v.* Linam; appeal from Hot Spring circuit court; Alexander M. Duffie, judge; reversed and remanded February 2, 1901; *per Bunn, C. J.*

Palmer *v.* Ruddell & Padgett; appeal from Independence circuit court; Richard H. Powell, judge; affirmed November 3, 1900; *per Bunn, C. J.*

III

CASES DISPOSED OF ORALLY.

Stone *v.* Alexander; appeal from Clay circuit court; Felix G. Taylor, judge; affirmed on motion, March 19, 1900; *per curiam.*

Kansas City, P. & G. Ry. Co. *v.* Blair; appeal from Benton circuit court; Edward S. McDaniel, judge; affirmed March 24, 1900; *per Bunn, C. J.*

Streett *v.* Dundee Mortgage Co.; appeal from Chicot chancery court; James F. Robinson, chancellor; appeal dismissed March 26, 1900; *per curiam.*

St. Louis & S. F. Ry. Co. *v.* Steward; appeal from Crawford circuit court; Jephtha H. Evans, judge; affirmed March 31, 1900; *per Bunn, C. J.*

Anderson *v.* Queener; appeal from Polk circuit court; Will P. Feazel, judge; affirmed March 31, 1900; *per Battle, J.*

Spellman *v.* Clemmons; appeal from Jefferson circuit court; John M. Elliott, judge; decree by consent, March 31, 1900; *per curiam.*

Adams *v.* Sanders; appeal from Chicot circuit court; Marcus L. Hawkins, judge; affirmed on motion for non-compliance with rule nine, April 2, 1900; *per curiam.*

Carpenter *v.* Price; appeal from Arkansas chancery court; James F. Robinson, chancellor; appeal dismissed for non-compliance with rule nine, April 2, 1900; *per curiam.*

Eclipse Manufacturing Co. *v.* Blass; appeal from Pulaski circuit court; Joseph W. Martin, judge; dismissed for non-compliance with rule nine, April 2, 1900; *per curiam.*

Carradine & Burton v. Allen-West Com. Co.; appeal from White chancery court; Thomas B. Martin, judge; affirmed April 7, 1900; *per Wood, J.*

Elzier v. Roth; appeal from Lincoln chancery court; James F. Robinson, chancellor; appeal dismissed for non-compliance with rule nine, April 9, 1900; *per curiam.*

Texas Produce Co. v. Wells; appeal from Miller circuit court in chancery; Joel D. Conway, Judge; affirmed April 14, 1900; *per Bunn, C. J.*

Potts v. State; appeal from Perry circuit court; William L. Moose, judge; reversed on confession of error by the attorney general, April 14, 1900; *per curiam.*

Holmes v. State; appeal from Benton circuit court; James M. Pittman, judge; affirmed April 14, 1900; *per Riddick, J.*

Texarkana & Fort Smith Ry. Co. v. Strayhan; appeal from Miller circuit court; Joel D. Conway, judge; appeal dismissed by consent, April 14, 1900; *per curiam.*

Bell v. Fields; appeal from Montgomery circuit court; Will P. Feazel, judge; dismissed for non-compliance with rule nine, April 16, 1900; *per curiam.*

Hardin v. Myar; appeal from Jefferson circuit court; John M. Elliott, judge; affirmed April 21, 1900; *per curiam.*

Burrough v. Henderson; appeal from Garland circuit court; Alexander M. Duffie, judge; reversed and remanded by consent, April 23, 1900; *per curiam.*

Thompson v. State; appeal from Little River circuit court; Will P. Feazel, judge; affirmed April 28, 1900; *per Bunn, C. J.*

St. Louis, I. M. & So. Ry. Co. v. Cole; appeal from Crawford circuit court; Jephtha H. Evans, judge; affirmed April 28, 1900; *per Battle, J.*

Meekin v. State; appeal from Prairie circuit court, Northern district; James E. Gatewood, special judge; affirmed April 28, 1900; *per Wood, J.*

Ford v. Venable; appeal from White circuit court; Jesse N. Cypert, special judge; dismissed for non-compliance with rule nine, April 30, 1900; *per curiam.*

Johnson v. Citizens B. & L. Ass'n; appeal from Garland chancery court; Leland Leatherman, chancellor; dismissed for non-compliance with rule nine, April 30, 1900; *per curiam.*

Raulston v. McLendon; appeal from Garland circuit court; Alexander M. Duffie, judge; affirmed May 5, 1900; *per Battle, J.*

Wilson v. National Farmers Bank; appeal from Monroe circuit court in chancery; James S. Thomas, judge; affirmed May 5, 1900; *per Hughes, J.*

St. Louis S. W. Ry. Co. v. Barrow; appeal from Greene circuit court; Felix G. Taylor, judge; affirmed May 5, 1900; *per Wood, J.*

Bonner v. Douglass; appeal from Lafayette circuit court; Charles W. Smith, judge; affirmed on motion of appellee, May 7, 1900; *per curiam.*

Chicot County v. Whithorn; appeal from Chicot circuit court; Marcus L. Hawkins, judge; affirmed on motion of appellee, May 7, 1900; *per curiam.*

Kansas City, P. & G. Ry. Co. v. Coogan; appeal from Polk circuit court; Will P. Feazel, judge; affirmed May 12, 1900; *per Riddick, J.*

Aslin v. State; appeal from Nevada circuit court; Joel D. Conway, judge; reversed on confession of error by attorney general, May 12, 1900; *per curiam.*

Schott *v.* Burgess; appeal from Jackson circuit court; Frederick D. Fulkerson, judge; affirmed for non-compliance with rule nine, May 14, 1900; *per curiam*.

Butler *v.* Redding; appeal from Pope circuit court; William S. Moose, judge; affirmed under rule 7, May 19, 1900; *per curiam*.

Goldman *v.* Burgess; appeal from Jackson circuit court; Frederick D. Fulkerson, judge; affirmed on motion of appellee, May 21, 1900; *per curiam*.

Hill *v.* Bowen; appeal from Jackson circuit court; Frederick D. Fulkerson, judge; dismissed for non-compliance with rule nine, May 21, 1900; *per curiam*.

Portis *v.* Sidway; appeal from Jefferson chancery court; John M. Elliott, chancellor; dismissed by consent, May 26, 1900; *per curiam*.

Portis *v.* Sidway; appeal from Jefferson chancery court; John M. Elliott, chancellor; dismissed by consent, May 26, 1900; *per curiam*.

Upton *v.* State; appeal from Washington circuit court; James M. Pittman, judge; affirmed for non-compliance with rule nine, May 28, 1900; *per curiam*.

Skaggs *v.* Skaggs; appeal from Randolph circuit court in chancery; John B. McCaleb, judge; dismissed for non-compliance with rule nine, June 4, 1900; *per curiam*.

Isbell *v.* Smith; appeal from White circuit court; Hance N. Hutton, judge; affirmed June 9, 1900; *per Battle, J.*

St. Louis, I. M. & S. Ry. Co. *v.* Rannels; appeal from Cross circuit court; Felix G. Taylor, judge; affirmed June 9, 1900; *per Wood, J.*

Stone *v.* Ponder; appeal from Howard circuit court in chancery; Will P. Feazel, judge; affirmed June 9, 1900; *per Wood, J.*

Dun *v.* Cole; appeal from Polk circuit court; Will P. Feazel, judge; affirmed for non-compliance with rule nine, June 9, 1900; *per curiam*.

Scudder-Gale Groc. Co. *v.* Brown; appeal from Clay circuit court; Felix G. Taylor, judge; affirmed June 16, 1900; *per Bunn, C. J.*

Moore *v.* McCloy; appeal from Cleveland circuit court; W. T. Wooldridge, special judge; affirmed June 16, 1900; *per Battle, J.*

St. Louis, S. W. Ry. Co. *v.* Snider; appeal from Columbia circuit court; Charles W. Smith, judge; affirmed June 16, 1900; *per Battle, J.*

Little Bay Lumber Co. *v.* Jones; appeal from Calhoun circuit court; Charles W. Smith, judge; affirmed June 16, 1900; *per Hughes, J.*

Sutton *v.* State; appeal from White circuit court; Hance N. Hutton, judge; affirmed June 16, 1900; *per Hughes, J.*

Williams *v.* Hill; appeal from Lincoln circuit court, Varner district; A. B. Grace, judge; affirmed under rule seven, June 23, 1900; *per curiam*.

Lankford *v.* Kelley; appeal from Sebastian circuit court in chancery, Fort Smith district; Edgar E. Bryant, judge; affirmed June 23, 1900; *per Bunn, C. J.*

Moore *v.* Stephens; appeal from Faulkner chancery court; Thomas B. Martin, judge; affirmed June 23, 1900; *per Wood, J.*

Houston, Hargis & Co. *v.* Lesser Cotton Co; appeal from Pulaski circuit court; Joseph W. Martin, judge; affirmed under rule seven, June 30, 1900; *per curiam*.

St. Louis, I. M. & S. Ry. Co. *v.* Chastain; appeal from Jackson circuit

court; Frederick D. Fulkerson, judge; appeal dismissed by consent, June 30, 1900; *per curiam*.

Carlisle *v.* McLaughlin; appeal from Searey circuit court; E. G. Mitchell, judge; affirmed as a delay case, July 16, 1900; *per curiam*.

Kent *v.* State; appeal from Sebastian circuit court; Styles T. Rowe, judge; appeal dismissed and forfeiture on bond, July 16, 1900; *per curiam*.

Worthen *v.* Little Rock; appeal from Pulaski circuit court; Joseph W. Martin, judge; affirmed by consent, July 16, 1900; *per curiam*.

James *v.* State; appeal from Sharp circuit court; John B. McCaleb, judge; affirmed July 21, 1900; *per curiam*.

Grimes *v.* Prest & McHugh; appeal from Jackson circuit court in chancery; Richard H. Powell, judge; affirmed October 13, 1900; *per Hughes, J.*

Rousa *v.* Tankersley *et al.*; appeal from Jefferson chancery court; James F. Robinson, chancellor; affirmed October 20, 1900; *per Battle, J.*

Jonesboro, Lake City & Eastern Ry. Co. *v.* Newton, *et al.*; appeal from Clay circuit court; Felix G. Taylor, judge; affirmed October 20, 1900; *per Hughes, J.*

Walters *v.* State; appeal from Clark circuit court; Joel D. Conway, judge; reversed on confession of error by attorney general, October 27, 1900; *per curiam*.

Riegler & Branch *v.* Mantler; appeal from Pulaski circuit court; Robert J. Lea, judge; affirmed on motion, October 27, 1900; *per curiam*.

Auten, Receiver, *v.* Boatmen's Bank; appeal from Pulaski circuit court; Joseph W. Martin, judge; appeal dismissed by consent, October 29, 1900; *per curiam*.

Auten, Receiver, *v.* State Bank of St. Louis; appeal from Pulaski circuit court; Joseph W. Martin, judge; appeal dismissed by consent, October 29, 1900; *per curiam*.

Auten, Receiver, *v.* Old National Bank; appeal from Pulaski chancery court; Joseph W. Martin, judge; appeal dismissed by consent, October 29, 1900; *per curiam*.

Brennan *v.* Helena Levee District; appeal from Phillips chancery court; H. N. Hutton, judge; dismissed for non-compliance with rule nine; *per curiam*.

Dalton *v.* Clark; appeal from Randolph circuit court; Edgar E. Bryant, judge; affirmed November 3, 1900; *per Bunn, C. J.*

Kizer *v.* Cluck; appeal from Madison chancery court; E. S. McDaniel, judge; affirmed November 3, 1900; *per Hughes, J.*

Whitley *v.* Halpern; appeal from Monroe chancery court; James S. Thomas, judge; affirmed November 3, 1900; *per Hughes, J.*

Texarkana & Fort Smith Ry. Co. *v.* Roland; appeal from Little River circuit court; Will P. Feazel, judge; appeal dismissed November 5, 1900; *per curiam*.

Border City Ice & Coal Co. *v.* Board Improvement Sewer District No. 1; appeal from Sebastian chancery court; H. C. Mechem, special judge; dismissed for non-compliance with rule nine, November 5, 1900; *per curiam*.

St. Louis S. W. Ry. Co. *v.* Ross; appeal from Greene circuit court; Felix G. Taylor, judge; affirmed November 17, 1900; *per Hughes, J.*

Lane *v.* Lane & Reeves; appeal from Lawrence circuit court; R. H. Powell, judge; affirmed November 17, 1900; *per Wood, J.*

Kenney v. Arkansas Bldg. & L. Ass'n; appeal from Pope chancery court; W. L. Moose, judge; affirmed on motion, November 24, 1900; *per curiam*.

Brower v. State; appeal from Polk circuit court; James D. Shaver, special judge; affirmed for non-compliance with rule nine; *per curiam*.

State v. Mhoon; appeal from Washington circuit court; James M. Pittman, judge; dismissed on motion of attorney general, November 26, 1900; *per curiam*.

State v. Cruduff; appeal from Washington circuit court; James M. Pittman, judge; dismissed on motion of attorney general, November 26, 1900; *per curiam*.

State v. Jackson; appeal from White circuit court; H. N. Hutton, judge; dismissed on motion of attorney general, November 26, 1900; *per curiam*.

Crowder v. State; appeal from White circuit court; H. N. Hutton, judge; affirmed for non-compliance with rule nine, November 26, 1900; *per curiam*.

Highsmith v. State; appeal from White circuit court; H. N. Hutton, judge; affirmed for non-compliance with rule nine, November 26, 1900; *per curiam*.

Sypert v. State; appeal from Howard circuit court; Will P. Feazel, judge; affirmed November 26, 1900; *per curiam*.

W. F. Taylor & Co. v. I. N. Grantham & Co.; appeal from Crittenden chancery court; E. D. Robertson, chancellor; affirmed December 1, 1900; *per Bunn, C. J.*

Hudson River Lumber Co. v. Head; appeal from Little River circuit court; W. P. Feazel, judge; dismissed by consent, December 3, 1900; *per curiam*.

Hudson River Lumber Co. v. Head; appeal from Little River circuit court; Will P. Feazel, judge; dismissed by consent December 3, 1900; *per curiam*.

Ozark Land Co. v. Lane Bodley Co.; appeal from Greene circuit court; S. R. Simpson, special judge; affirmed December 8, 1900; *per Hughes, J.*

Kilpatrick v. Vance; appeal from Hot Spring chancery court; L. Leatherman, chancellor; affirmed December 8, 1900; *per Wood, J.*

McNutt v. Robbins & Bro. appeal from Cleburne circuit court in chancery; P. R. Andrews, special judge; affirmed December 15, 1900; *per Battle, J.*

State v. Boyles; appeal from Sebastian circuit court; S. T. Rowe, judge; affirmed December 22, 1900; *per Bunn, C. J.*

Citizens' Bank v. Mickelberry & Blankenship; appeal from Clark circuit court in chancery; Joel D. Conway, judge; affirmed December 22, 1900; *per Hughes, J.*

Fitzpatrick v. State; appeal from Arkansas circuit court; J. N. Cypert, judge; affirmed December 22, 1900; *per Riddick, J.*

Clem v. State; appeal from Crawford circuit court; Jephtha H. Evans, judge; reversed December 22, 1900; *per Riddick, J.*

Blasdel v. Avery; appeal from Garland circuit court; A. M. Duffie, judge; dismissed by consent, December 22, 1900; *per curiam*.

Pulaski Turnpike Co. v. Mills; appeal from Pulaski circuit court; Joseph

W. Martin, judge; dismissed for non-compliance with rule nine, December 24, 1900; *per curiam*.

Weedman v. Robinson; appeal from Monroe circuit court; George M. Chapline, judge; dismissed for non-compliance with rule nine, December 24, 1900; *per curiam*.

Kansas City, P. & G. Ry. Co. v. Watt; appeal from Polk circuit court; Will P. Feazel, judge; affirmed January 3, 1901; *per Riddick, J.*

Crabtree v. Upham, Tribble & Cooper; appeal from Miller chancery court; J. D. Conway, judge; dismissed for non-compliance with rule nine, January 7, 1901; *per curiam*.

Sovereign Camp W. O. W. v. Wheeler; appeal from Conway circuit court; W. L. Moose, judge; dismissed by consent, January 7, 1901; *per curiam*.

Spikes v. Proctor; appeal from Randolph circuit court; J. B. McCaleb, judge; dismissed by consent, January 7, 1901; *per curiam*.

Cleveland County v. Roebuck; appeal from Cleveland circuit court; Z. T. Wood, judge; dismissed for non-compliance with rule nine, January 14, 1901; *per curiam*.

Haglin v. Hyler; appeal from Logan chancery court; Jephtha H. Evans, judge; dismissed by consent, January 14, 1901; *per curiam*.

Johnson v. State; appeal from White circuit court; H. N. Hutton, judge; affirmed January 19, 1901; *per Bunn, C. J.*

Allen v. State; appeal from Clark circuit court; Joel D. Conway, judge; affirmed January 19, 1901; *per Battle, J.*

Burnett v. Cotton; appeal from Pope circuit court; W. L. Moose, judge; affirmed January 19, 1901; *per Battle, J.*

Green v. State; appeal from Hempstead circuit court; Joel D. Conway, judge; affirmed January 19, 1901; *per Riddick, J.*

Chevrie v. St. Louis, I. M. & S. Ry. Co.; appeal from Randolph circuit court; John B. McCaleb, judge; affirmed for non-compliance with rule nine, January 21, 1901; *per curiam*.

Street v. State; appeal from White circuit court; Hance N. Hutton, judge; affirmed January 26, 1901; *per Bunn, C. J.*

White v. Security Savings Bank; appeal from Jefferson chancery court; John M. Elliott, judge; affirmed for non-compliance with rule nine, January 28, 1901; *per curiam*.

Bledsoe v. Poe; appeal from Columbia circuit court; Charles W. Smith, judge; affirmed February 2, 1901; *per Hughes, J.*

Glenn v. State; appeal from Sevier circuit court; Will P. Feazel, judge; affirmed February 2, 1901; *per Wood, J.*

Kansas City, P. & G. Ry. Co. v. Mitchell; appeal from Benton circuit court; E. S. McDaniel, judge; affirmed February 2, 1901; *per Wood, J.*

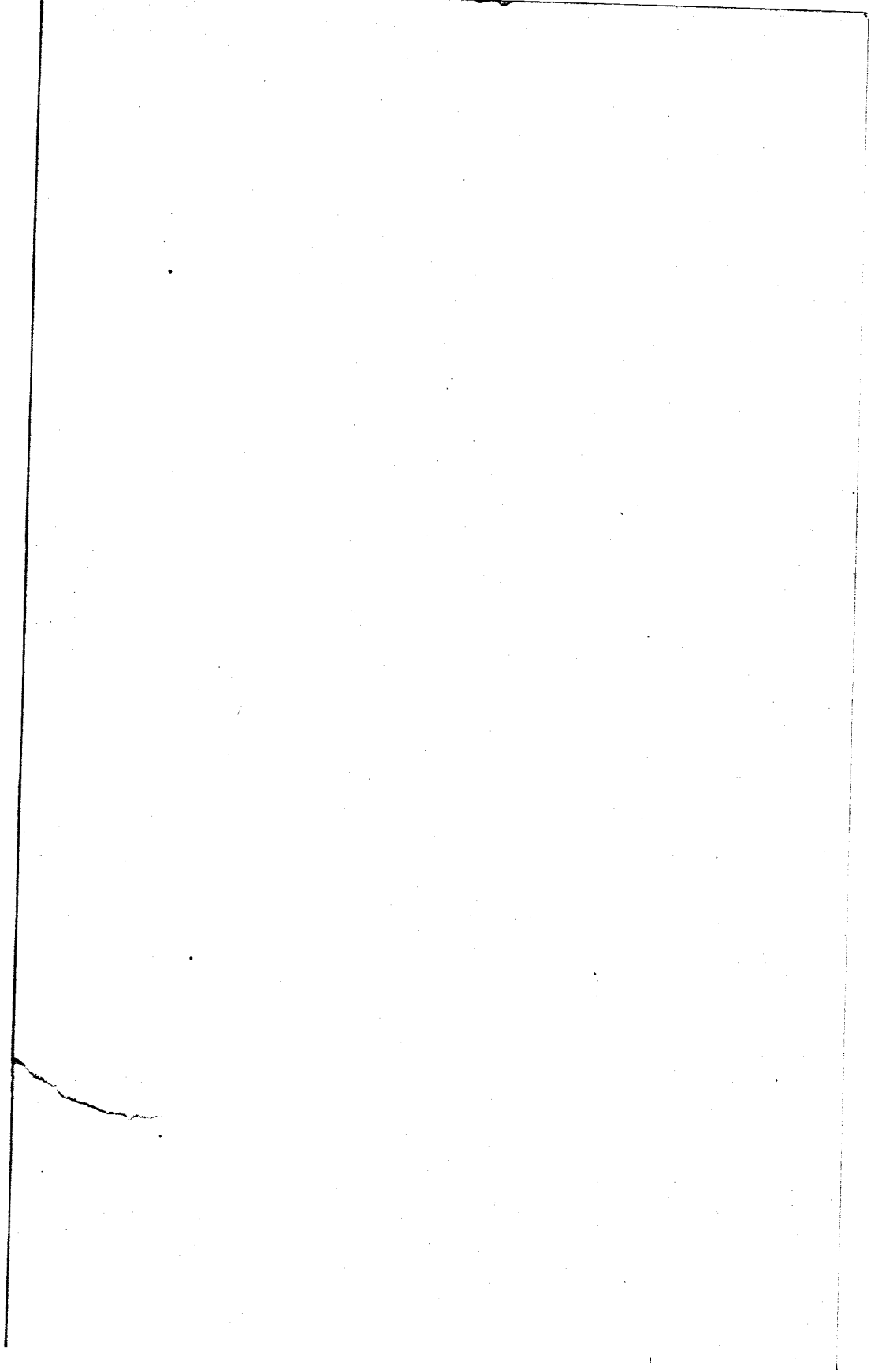
Owen v. Cowan; appeal from St. Francis chancery court; E. D. Robertson, chancellor; affirmed February 2, 1901; *per Wood, J.*

T. M. Richardson Lumber Co. v. Westbrook; appeal from Sevier circuit court; Will P. Feazel, judge; affirmed for non-compliance with rule nine, February 4, 1901; *per curiam*.

Brown v. King; appeal from St. Francis circuit court; E. D. Robertson, chancellor; affirmed February 9, 1901; *per Battle, J.*

Berger *v.* Lutterlok; appeal from Craighead circuit court; Felix G. Taylor, judge; affirmed February 9, 1901; *per* Riddick, J.

McIntosh & Bean *v.* Rogers; appeal from White circuit court; H. N. Hutton, judge; affirmed for non-compliance with rule nine, February 9, 1901; *per curiam*.



ERRATUM:

For the head note in *Woolfolk v. Buckner*, 67 Ark. 411, substitute the following:

STATUTE OF LIMITATIONS—TAX LANDS.—A purchaser of land under a void tax title will acquire title, under the two years' statute of limitation (Sand. & H. Dig., § 4819), only to so much of the land as he has held in his actual and adverse possession for the requisite period, where the holder of the legal title has also remained in actual possession of a portion of the land; the constructive possession of so much of the land as is unoccupied being in the holder of the legal title. (Page 412.)

