

ARKANSAS REPORTS
VOL. 83

CASES DETERMINED

IN THE

Supreme Court of Arkansas

FROM

MAY to JULY, 1907

T. D. CRAWFORD
REPORTER

PUBLISHED
BY THE
STATE OF ARKANSAS
1907

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1907.**

**Reprint 1956
Authority Act No. 429 of 1955
C. G. Hall
Secretary of State**

JUDGES
OF THE
SUPREME COURT
DURING THE PERIOD OF THIS VOLUME

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TABLE OF CASES REPORTED

A		
Adams <i>v.</i> St. Louis, I. M. & S. Ry. Co.	300	Black (Meeks <i>v.</i>)..... 419
Allen (School District No. 68 <i>v.</i>)	491	Booth (Elmore <i>v.</i>)..... 47
Arden Lumber Co. <i>v.</i> Henderson Iron Works & Supply Co.	240	Bowman (Banks <i>v.</i>)..... 524
Arkadelphia Lumber Co. (Perry <i>v.</i>)	374	—— (Parker <i>v.</i>)..... 508
—— <i>v.</i> Thornton.....	403	Boyle (St. Louis, I. M. & S. Ry. Co. <i>v.</i>)..... 302
Arkansas National Bank <i>v.</i> Sparks	324	Brady (St. Louis, I. M. & S. Ry. Co. <i>v.</i>)..... 489
Arkansas Southern Rd. Co. <i>v.</i> Murphy	562	Broomfield (St. Louis, I. M. & S. Ry. Co. <i>v.</i>)..... 288
Auten <i>v.</i> School Board of Little Rock	431	Brown (State <i>v.</i>)..... 44
		Brumley <i>v.</i> State..... 236
		Bubliss (Mammoth Vein Coal Co. <i>v.</i>)
		567
		Burgin (St. Louis & S. F. Rd. Co. <i>v.</i>)
		502
		Burk (Stamps <i>v.</i>)..... 351
		Bush <i>v.</i> Prescott & N. W. Ry. Co.
		210
		Butler <i>v.</i> State..... 272
		C
B		Calhoun (Ultima Thule, Arkadelphia & M. Ry. Co. <i>v.</i>)..
Banks <i>v.</i> Bowman.....	524	318
Barber <i>v.</i> State.....	246	Carlile <i>v.</i> Corrigan..... 136
Barry-Wehmiller Machinery Co. <i>v.</i> Thompson.....	283	Central Coal & Coke Co. <i>v.</i> Wilson
Beal-Doyle Dry Goods Co. (Ladenberg <i>v.</i>)	440	428
Bedingfield (First National Bank <i>v.</i>)	109	Chappell <i>v.</i> Chappell..... 533
Beecher <i>v.</i> Beecher.....	424	—— (St. Louis, I. M. & S. Ry. Co. <i>v.</i>)..... 94
Bell (Hyatt <i>v.</i>)	360	Chicago, R. I. & Pac. Ry. Co. <i>v.</i> Fitzhugh..... 481
Bennight (Minton <i>v.</i>).....	101	
Bilby (Foods <i>v.</i>).....	234	
Bispham <i>v.</i> Turner.....	331	

Chickasawba Rd. Co. <i>v.</i> Crigger	364	El Dorado Dry Goods Co. (Main <i>v.</i>)	15
Chisholm <i>v.</i> Crye.....	495	Elmore <i>v.</i> Booth.....	47
Citizens' Bank <i>v.</i> Murphy....	31	F	
Clements (Strickland <i>v.</i>)....	484	Farmers' Loan & Trust Co. <i>v.</i> Shumate.....	422
Clerget <i>v.</i> State.....	227	Faulkner <i>v.</i> Cook.....	205
Coates (National Surety Co. <i>v.</i>)	545	First National Bank <i>v.</i> Beddingfield.....	109
Coffman <i>v.</i> St. Francis Drainage District	54	Fitzhugh (Chicago, R. I. & P. Ry. Co. <i>v.</i>).....	481
Colvin (Hoye Coal Co. <i>v.</i>)....	528	Flowers <i>v.</i> State.....	208
Cook (Faulkner <i>v.</i>).....	205	Foohs <i>v.</i> Bilby.....	234
Corrigan (Carlile <i>v.</i>).....	136	French <i>v.</i> Vanatta.....	306
Cotnam <i>v.</i> Wisdom.....	601	Fritz <i>v.</i> Wells.....	124
Crigger (Chickasawba Rd. Co. <i>v.</i>)	364	G	
Crist (Drinkwater <i>v.</i>).....	293	Gannon <i>v.</i> Moore.....	196
Crye (Chisholm <i>v.</i>).....	495	Garibaldi (Goodwin <i>v.</i>).....	74
D		Goodwin <i>v.</i> Garibaldi.....	74
Daugherty (Van Etten <i>v.</i>)... 534		Gordon (Knights of Macca-bees of the World <i>v.</i>).....	17
Davis (Kansas City So. Ry. Co. <i>v.</i>)	217	Gore (Southern Orchard Planting Co. <i>v.</i>).....	78
—— (Smith <i>v.</i>).....	372	Graham (St. Louis S. W. Ry. Co. <i>v.</i>)	61
Dempsey <i>v.</i> State.....	81	Graves (Sudberry <i>v.</i>).....	344
Dennis (Downs <i>v.</i>).....	71	H	
Desha Levee Board (Ross <i>v.</i>)	176	Harden (St. Louis, I. M. & S. Ry. Co. <i>v.</i>).....	255
Dickson <i>v.</i> Sentell.....	385	Hargus <i>v.</i> Hayes.....	186
Dishough (Scott <i>v.</i>).....	369	Harris <i>v.</i> Remmel.....	1
Downs <i>v.</i> Dennis.....	71	Hawkins (McCurry <i>v.</i>).....	202
Drinkwater <i>v.</i> Crist.....	293	Hayes (Hargus <i>v.</i>).....	186
Duckworth <i>v.</i> State.....	192	—— <i>v.</i> Kirby.....	367
Dunham <i>v.</i> H. D. Williams Cooperage Co.....	395	Hays (Powell <i>v.</i>).....	448
E		H. D. Williams Cooperage Co. (Dunham <i>v.</i>)	395
Edwards (Woodall <i>v.</i>).....	334		

Henderson Iron Works & Supply Co. (Arden Lumber Co. <i>v.</i>)	240		
Hill <i>v.</i> Miles.....	486		
Hollingsworth (Western Union Tel. Co. <i>v.</i>).....	39		
Hook (St. Louis, I. M. & S. Ry. Co. <i>v.</i>).....	584		
Hornor (Martin <i>v.</i>).....	330		
Hoye Coal Co. <i>v.</i> Colvin.....	528		
Hudson <i>v.</i> Newton.....	223		
Hughes (Johnson <i>v.</i>).....	105		
Hyatt <i>v.</i> Bell.....	360		
I			
Industrial Mutual Indemnity Co. <i>v.</i> Thompson.....	574		
J			
Jenkins (Roblin <i>v.</i>).....	517		
Johnson <i>v.</i> Hughes.....	105		
Johnston (Wyse <i>v.</i>).....	520		
Jones <i>v.</i> Mitchell.....	77		
Jonesboro, L. C. & E. Rd. Co. (Luxora <i>v.</i>).....	275		
—— (Moody <i>v.</i>).....	371		
K			
Kansas City So. Ry. Co. <i>v.</i> Davis.....	217		
Kaufman <i>v.</i> Underwood.....	118		
Kilberry (St. Louis S. W. Ry. Co. <i>v.</i>).....	87		
Kirby (Hayes <i>v.</i>).....	367		
Kirtley (Lester <i>v.</i>).....	554		
Knights of Maccabees of the World <i>v.</i> Gordon.....	17		
		L	
		Lacotts <i>v.</i> Quertermous.....	174
		Ladenberg <i>v.</i> Beal-Doyle, Dry Goods Co.....	440
		Lambert <i>v.</i> Tucker.....	416
		Lanier (Little Rock Cooperage Co. <i>v.</i>).....	548
		Lester <i>v.</i> Kirtley.....	554
		Little Rock Cooperage Co. <i>v.</i> Lanier.....	548
		Logan (Sadler-Lusk Trading Co. <i>v.</i>).....	512
		Lundee <i>v.</i> Talbot.....	315
		Luxora <i>v.</i> Jonesboro, L. C. & E. Rd. Co.....	275
		M	
		McCorley (Sturdivant <i>v.</i>)....	278
		McCurry <i>v.</i> Hawkins.....	202
		McDonald <i>v.</i> State.....	26
		McFarland <i>v.</i> State.....	98
		Main <i>v.</i> El Dorado Dry Goods Co.....	15
		—— <i>v.</i> Jarrett.....	426
		Mammoth Vein Coal Co. <i>v.</i> Bubliss.....	567
		Marked Tree Lumber Co. (Updegraff <i>v.</i>).....	154
		Marlar (Webb <i>v.</i>).....	340
		Martin <i>v.</i> Hornor.....	330
		Meeks <i>v.</i> Black.....	419
		Miles (Hill <i>v.</i>).....	486
		Minton <i>v.</i> Bennight.....	101
		Mitchell (Jones <i>v.</i>).....	77
		Moody <i>v.</i> Jonesboro, L. C. & E. Rd. Co.....	371
		Moore (Gannon <i>v.</i>).....	196

— (St. Louis, I. M. & S. Ry. Co. <i>v.</i>).....	377		
Morrow (Ver Steeg Shoe Co. <i>v.</i>)	191		
Murphy (Arkansas Southern Rd. Co. <i>v.</i>).....	562		
— (Citizens' Bank <i>v.</i>)...	31		
Mynott (St. Louis, I. M. & S. Ry. Co. <i>v.</i>).....	6		
N			
National Surety Co. <i>v.</i> Coates.	545		
Neal (St. Louis, I. M. & S. Ry. Co. <i>v.</i>).....	591		
Newton (Hudson <i>v.</i>).....	223		
Northcutt (Pickren <i>v.</i>).....	49		
O			
O'Neal <i>v.</i> Parker.....	133		
P			
Parker <i>v.</i> Bowman.....	508		
— (O'Neal <i>v.</i>).....	133		
Parse (Trulock <i>v.</i>).....	149		
Pasley <i>v.</i> St. Louis, I. M. & S. Ry. Co.....	22		
Perry <i>v.</i> Arkadelphia Lumber Co.....	374		
Peyton <i>v.</i> State.....	102		
Pickren <i>v.</i> Northcutt.....	49		
Plummer <i>v.</i> Reeves.....	10		
Powell <i>v.</i> Hays.....	448		
Prescott & N. W. Ry. Co. (Bush <i>v.</i>)	210		
Price (St. Louis, I. M. & S. Ry. Co. <i>v.</i>).....	437		
Q			
Quertermous (Lacotts <i>v.</i>)....	174		
		R	
		Reeves (Plummer <i>v.</i>).....	10
		Rommel (Harris <i>v.</i>).....	1
		Roblin <i>v.</i> Jenkins.....	517
		Ross <i>v.</i> Desha Levee Board..	176
		Rowe <i>v.</i> State.....	244
		S	
		Sadler-Lusk Trading Co. <i>v.</i> Logan	512
		St. Francis Drainage District (Coffman <i>v.</i>).....	54
		St. Louis & S. F. Rd. Co. <i>v.</i> Burgin	502
		— (State <i>v.</i>).....	249
		— (State <i>v.</i>).....	254
		St. Louis S. W. Ry. Co. <i>v.</i> Graham	61
		— <i>v.</i> Kilberry.....	87
		St. Louis, I. M. & S. Ry. Co. (Adams <i>v.</i>).....	300
		— <i>v.</i> Boyle.....	302
		— <i>v.</i> Brady.....	489
		— <i>v.</i> Broomfield.....	288
		— <i>v.</i> Chappell.....	94
		— <i>v.</i> Harden.....	255
		— <i>v.</i> Hook.....	584
		— <i>v.</i> Moore.....	377
		— <i>v.</i> Mynott.....	6
		— <i>v.</i> Neal.....	591
		— (Pasley <i>v.</i>).....	22
		— <i>v.</i> Price.....	437
		— (Wallace <i>v.</i>).....	356
		School Board of Little Rock (Auten <i>v.</i>).....	431
		School District No. 68 <i>v.</i> Al- len	491
		Scott <i>v.</i> Dishough.....	369

Sentell (<i>Dickson v.</i>).....	385	Strickland <i>v.</i> Clements.....	484
Shenep (Western Union Tel. Co. <i>v.</i>).....	476	Sturdivant <i>v.</i> McCorley.....	278
Shumate (Farmers' Loan & Trust Co. <i>v.</i>).....	422	Sudberry <i>v.</i> Graves.....	344
Smith <i>v.</i> Davis.....	372	T	
Soudan Planting Co. <i>v.</i> Ste- venson	163	Talbot (<i>Lundee v.</i>).....	315
Southern Orchard Planting Co. <i>v.</i> Gore.....	78	Tapp <i>v.</i> Williams.....	182
Soward (<i>State v.</i>).....	264	Terry (<i>Westbay v.</i>).....	144
Sparks (Arkansas National Bank <i>v.</i>)	324	Thomason (<i>Yates v.</i>).....	126
Stamps <i>v.</i> Burk.....	351	Thompson (Barry-Wehmiller Machinery Co. <i>v.</i>).....	283
State (<i>Barber v.</i>).....	246	—— (Industrial Mutual In- demnity Co. <i>v.</i>).....	574
—— <i>v.</i> Brown.....	44	Thornton (Arkadelphia Lum- ber Co. <i>v.</i>).....	403
—— (<i>Brumley v.</i>).....	236	Treakle <i>v.</i> Vaughan.....	258
—— (<i>Butler v.</i>).....	272	Trulock <i>v.</i> Parse.....	149
—— (<i>Clerget v.</i>).....	227	Tucker (<i>Lambert v.</i>).....	416
—— (<i>Dempsey v.</i>).....	81	Turner (<i>Bispham v.</i>)	331
—— (<i>Duckworth v.</i>).....	192	—— (<i>Varner v.</i>).....	131
—— (<i>Flowers v.</i>).....	208	Tuttle <i>v.</i> State.....	379
—— (<i>McDonald v.</i>).....	26	U	
—— (<i>McFarland v.</i>).....	98	Ultima Thule, Arkadelphia & M. Ry. Co. <i>v.</i> Calhoun....	318
—— (<i>Peyton v.</i>).....	102	Underwood (<i>Kaufman v.</i>)... ..	118
—— (<i>Rowe v.</i>).....	244	Updegraff <i>v.</i> Marked Tree Lumber Co.	154
—— <i>v.</i> St. Louis & S. F. Rd. Co. (1).....	249	V	
—— <i>v.</i> St. Louis & S. F. Rd. Co. (2).....	254	Vanatta (<i>French v.</i>).....	306
—— <i>v.</i> Soward.....	264	Van Etten <i>v.</i> Daugherty.....	534
—— (<i>Tuttle v.</i>).....	379	Varner <i>v.</i> Turner.....	131
—— (<i>Washington v.</i>).....	268	Vaughan (<i>Treakle v.</i>).....	258
—— (<i>Weaver v.</i>).....	119	Ver Steeg Shoe Co. <i>v.</i> Mor- row	191
—— (<i>White v.</i>).....	36	W	
Stevenson (Soudan Planting Co. <i>v.</i>).....	163	Wallace <i>v.</i> St. Louis, I. M. & S. Ry. Co.	356
Stewart & Alexander Lumber Co. <i>v.</i> Weaver.....	445		

Washington <i>v.</i> State.....	268	White <i>v.</i> State.....	36
Weaver <i>v.</i> State.....	119	Williams (<i>Tapp v.</i>).....	182
—— (Stewart & Alexander		Wills (<i>Yell County v.</i>).....	229
Lumber Co. <i>v.</i>).....	445	Wisdom (<i>Cotnam v.</i>).....	601
Webb <i>v.</i> Marlar.....	340	Woodall <i>v.</i> Edwards.....	334
Wells (<i>Fritz v.</i>).....	124	Wyse <i>v.</i> Johnston.....	520
Westbay <i>v.</i> Terry.....	144		
Western Union Tel. Co. <i>v.</i>		Y	
Hollingsworth	39	Yates <i>v.</i> Thomason.....	126
—— <i>v.</i> Shenep.....	476	Yell County <i>v.</i> Wills.....	229

TABLE OF CASES CITED BY THE COURT

A

<p>Abel <i>v.</i> Clark, 84 Cal. 226..... 436</p> <p>Anderson <i>v.</i> State, 77 Ark. 37.... 382</p> <p>Anthony <i>v.</i> Peay, 18 Ark. 24.... 499</p> <p>Apperson <i>v.</i> Burgett, 33 Ark. 328. 213</p> <p>Arkadelphia Lbr. Co. <i>v.</i> Arkadelphia, 56 Ark. 370..... 354, 355</p> <p>Arkansas Mut. F. Ins. Co. <i>v.</i> Woolverton, 82 Ark. 475..... 130</p> <p>Ark.-Mo. Zinc Co. <i>v.</i> Patterson, 79 Ark. 506..... 140</p> <p>Ash <i>v.</i> People, 11 Mich. 347..... 355</p> <p>Atkinson <i>v.</i> Rochester Printing Co., 114 N. Y. 169..... 489</p>	<p>Bissell <i>v.</i> Spring Valley Twp., 124 U. S. 225..... 547</p> <p>Blair <i>v.</i> State, 69 Ark. 558..... 124</p> <p>Blakemore <i>v.</i> Eagle, 73 Ark. 477.. 318</p> <p>Blankenship <i>v.</i> State, 55 Ark. 244. 194</p> <p>Bloom <i>v.</i> Lehman, 27 Ark. 489.... 286</p> <p>—— <i>v.</i> McGehee, 38 Ark. 329.. 485</p> <p>Blue <i>v.</i> Beach, 155 Ind. 121..... 436</p> <p>Bone <i>v.</i> State, 18 Ark. 109..... 29</p> <p>Book <i>v.</i> Polk, 81 Ark. 244..... 277</p> <p>Boozer <i>v.</i> Anderson, 42 Ark. 167.. 244</p> <p>Bowers <i>v.</i> Western Union Tel. Co., 47 S. E. 597..... 480</p> <p>Boyd <i>v.</i> Bryant, 35 Ark. 69..... 598</p> <p>Boykin <i>v.</i> State, 34 Ark. 443..... 194</p> <p>Boynton <i>v.</i> Ashabranner, 75 Ark. 414 539</p> <p>—— <i>v.</i> Ashabranner, 75 Ark. 427. 158</p> <p>Brinkley Car Works <i>v.</i> Cooper, 75 Ark. 325..... 70</p> <p>Bromley <i>v.</i> Aday, 70 Ark. 351.... 416</p> <p>Brooks <i>v.</i> Hornberger, 78 Ark. 595. 374</p> <p>Brown <i>v.</i> Fassett, 37 Ark. 507.... 116</p> <p>Buckalew <i>v.</i> Tenn. Coal, Iron & R. Co., 112 Ala. 146..... 305</p> <p>Buckingham <i>v.</i> Hallett, 24 Ark. 519. 157</p> <p>Buckner <i>v.</i> Sugg, 79 Ark. 442.. 338, 339</p> <p>Burlington <i>v.</i> Daulswardt, 73 Iowa, 170 354</p> <p>Burns <i>v.</i> St. Louis S. W. Ry. Co., 76 Ark. 10..... 302</p> <p>Burriss <i>v.</i> State, 38 Ark. 221..... 121</p> <p>Bush <i>v.</i> Prescott & N. W. Ry. Co., 76 Ark. 497..... 212</p>
<h3 style="margin: 0;">B</h3>	
<p>Bagnell Tie & Timber Co. <i>v.</i> Goodrich, 82 Ark. 547..... 5</p> <p>Bailey <i>v.</i> Fritz, 75 Ark. 464..... 124</p> <p>Ballard <i>v.</i> Hunter, 74 Ark. 174.. 540, 541, 543. 544</p> <p>Baltimore Boot & Shoe Mfg. Co. <i>v.</i> Jamar, 93 Md. 404..... 306</p> <p>Banks <i>v.</i> St. Francis Levee Dist., 66 Ark. 490 544</p> <p>Barbour <i>v.</i> Priest, 103 U. S. 293.. 328, 329</p> <p>Barringer <i>v.</i> St. Louis, I. M. & S. Ry. Co., 73 Ark. 548..... 221, 359</p> <p>Barry <i>v.</i> Kansas City, F. S. & M. Ry. Co., 77 Ark. 401..... 302</p> <p>Beattie <i>v.</i> State, 77 Ark. 247..... 229</p> <p>Beecher <i>v.</i> State, 80 Ark. 600.... 425</p> <p>Benton County <i>v.</i> Rutherford, 30 Ark. 665 372</p> <p>Bevington <i>v.</i> Bevington, 64 C. L. J. 286 394</p>	<p style="text-align: center; padding: 10px 0;"> <h3 style="margin: 0;">C</h3> </p> <p>Campbell <i>v.</i> Clark, 63 Ark. 450... 226</p>

- Cape May *v.* Transportation Co., 64 N. J. L. 80..... 355
- Capers *v.* Western Union Tel. Co., 50 S. E. 537..... 479
- Carpenter *v.* Ellenbrook, 58 Ark. 13. 77
— *v.* Hammer, 75 Ark. 347... 359
- Carr *v.* State, 43 Ark. 99..... 271
- Case *v.* Hargadine, 43 Ark. 144... 116
- Cass Farm Co. *v.* Detroit, 181 U. S. 396..... 60
- Casteel *v.* State, 38 Ark. 477..425, 426
- Cavin *v.* Gleason, 105 N. Y. 259... 489
- Chambliss *v.* Reppy. 54 Ark. 339.. 22
- Chandler *v.* Lazarus, 55 Ark. 312.. 286
- Chaska *v.* Hedman, 53 Minn. 525. 277
- Chattahoochee Brick Co. *v.* Braswell, 92 Ga. 632..... 305
- Chicago & G. T. Ry. Co. *v.* Wellman, 143 U. S. 339..... 465
- Chicago, M. & St. P. Ry. Co. *v.* Carpenter, 56 Fed. 451..... 26
- Chicago & N. W. R. Co. *v.* Dey, 1 L. R. A. 744..... 598
- Chicago, R. I. & P. Ry. Co. *v.* Bunch, 82 Ark. 522..... 302
- Choctaw & M. Ry. Co. *v.* Vosburg, 71 Ark. 232..... 483
- Choctaw, O. & G. Ry. Co. *v.* Baskins, 78 Ark. 355..... 70
— *v.* Jones, 77 Ark. 367..... 574
- Christner *v.* Coal Co., 146 Pa. St. 67 574
- Citizens' Sav. Bank *v.* Vaughan, 115 Mich. 156..... 281
- Coal Co. *v.* Estievenard, 53 Ohio St. 43 573, 574
- Coates *v.* State, 50 Ark. 330..... 381
- Cocks *v.* Simmons, 55 Ark. 104... 175
- Cofer *v.* Brooks, 20 Ark. 542..... 539
- Coffman *v.* St. Francis Drainage District, 83 Ark. 54..... 349
- Cold Blast Transp. Co. *v.* Kansas City, B. & N. Co., 114 Fed. 77.. 171
- Collins *v.* Warner, 32 Ark. 91..... 499
- Commonwealth *v.* Gibson, 85 Ky. 666 394
— *v.* Pear, 66 N. E. 719..... 436
- Connelly *v.* Western Union Tel. Co., 56 L. R. A. 663..... 42
- Coolidge *v.* Burke, 69 Ark. 237.311, 312
- Cooper *v.* Lee, 59 Ark. 460..... 337
— *v.* State, 37 Ark. 418....45, 47
- Cotton *v.* Penzel, 44 Ark. 484.... 532
- Covington *v.* Berry, 76 Ark. 460.. 201
- Crane *v.* Crane, 51 Ark. 287..... 502
- Crebbin *v.* Deloney, 70 Ark. 493.. 244
- Cribbs *v.* Walker, 74 Ark. 104.... 162
- Crill *v.* Hudson, 71 Ark. 390..... 539
- Cunningham *v.* Bay State Shoe & Leather Co., 25 Hun, 210..... 305
— *v.* Brumback, 23 Ark. 336..76, 132
- Curran *v.* McGrath, 67 Ill. App... 566 299
- D**
- Dalheim *v.* Lemon, 45 Fed. 225... 306
- Dallas Con. Elec. St. Ry. Co. *v.* McAllister, 90 S. W. 933..... 383
- Dastervignes *v.* U. S., 122 Fed. 30.. 598
- Davie *v.* Davie, 52 Ark. 224....188, 189
- Davis *v.* Choctaw, O. & G. Rd. Co., 73 Ark. 120..... 374
— *v.* State, 50 Miss. 86..... 194
- Deal *v.* State, 82 Ark. 58..... 271
- Dedman *v.* Earle, 52 Ark. 164.... 116
- Deland *v.* Miller & Cheney Bank, 119 Ia. 368..... 328
- De Loach Mill Mfg. Co. *v.* Bonner, 64 Ark. 510..... 49
- Delta Cotton Co. *v.* Arkansas Cotton Oil Co., 80 Ark. 431..... 318
- Dennick *v.* Railroad, 103 U. S. 11. 67
- Deutsch *v.* Dunham, 72 Ark. 141.. 401
- De Voegler *v.* Western Union Tel. Co., 30 S. W. 1107..... 481
- Dickens *v.* Howell, 24 Ark. 230... 281
- Dickinson *v.* Arkansas Improvement Co., 77 Ark. 570.....199, 338

— *v. Hardie*, 79 Ark. 364..... 199
Duffield v. Williamsport School
Dist., 162 Pa. 476..... 436

E

Earle Imp. Co. v. Chatfield, 81 Ark.
 296 160
Elliott v. Pearce, 20 Ark. 508..... 539
Elmore v. State, 45 Ark. 243..... 133
Emrich v. Little Rock Traction &
El. Co., 71 Ark. 71..... 9
Evans v. Davies, 39 Ark. 235..... 201

F

Fairchild v. Hagel, 54 Ark. 61.... 67
Fallbrook Irrigation Dist. v. Brad-
ley, 164 U. S. 112..... 348
Fayetteville v. Carter, 52 Ark. 301. 355
Felton v. Horner, 97 Tenn. 579... 26
Ferguson v. Josey, 70 Ark. 94... 133, 180
Fidelity Mutual Life Ins. Co. v.
Bussell, 75 Ark. 25... 582, 583, 584
Field v. Clark, 143 U. S. 649..... 472
Finlayson v. Chicago, B. & Q. Ry.
Co., 1 Dill. 579..... 302
First Nat. Bank v. Waddell, 74
 Ark. 241 36
Fitzpatrick v. State, 37 Ark. 239.. 195
Fletcher v. Fuller, 126 U. S. 544.. 76
Forbes v. Howe, 102 Mass. 427... 328
Fordyce v. Nix, 58 Ark. 136.... 8
Forsyth Mfg. Co. v. Castlen, 37
 S. E. 485..... 172
Fort Smith Milling Co. v. Mikles,
 61 Ark. 123..... 282
Foster v. State, 45 Ark. 361..... 229
Francis v. Western Union Tel. Co.,
 58 Minn. 252..... 42
Frank v. Unz, 91 Ky. 621..... 562
Freeman v. Russell, 40 Ark. 56..
 201, 202, 312
 — *v. Pere Marquette Rd.*, 131
 Mich. 544..... 25
French v. Barber Asphalt Co., 181
 U. S. 324..... 58, 59
Fulkerson v. Thornton, 68 Mo. 468. 214

G

Gaines v. Waters, 64 Ark. 609.... 77
Gallup v. Smith, 12 L. R. A. 353.. 542
Gannon v. Moore, 83 Ark. 196... 312
Garibaldi v. Wright, 52 Ark. 416.. 290
Gardner v. Collector, 6 Wall. 499.
 460, 466
Garland Novelty Co. v. State, 71
 Ark. 138..... 180
Gibney v. Crawford, 51 Ark. 34..
 238, 542
Giles v. Little, 104 U. S. 291..... 562
Gillan v. State, 47 Ark. 555..... 45
Goerke v. Rodgers, 75 Ark. 75.133, 172
Goss v. Austin, 11 Allen, 525..... 214
Grant v. National Bank, 97 U. S.
 80 327
Green v. Abraham, 43 Ark. 420... 348
Greenwich Ins. Co. v. State, 74 Ark.
 72 130
Gregory v. Bartlett, 55 Ark. 30.... 235
Guttenberger v. Woods, 51 Cal. 523 152
Guynn v. McCauley, 32 Ark. 97... 394

H

Haglin v. Rogers, 73 Ark. 491.. 125, 126
Haile v. State, 38 Ark. 564..... 29
Haldeman v. Jennings, 14 Ark. 330. 148
Haley v. State, 49 Ark. 148..... 195
 — *v. Taylor*, 39 Ark. 104.... 201
Haley's Succession, 50 La. An. 840. 607
Hallett's Est. In re, 13 Ch. Div.
 696 488, 489
Hamilton v. Duty, 35 Ark. 474... 419
Hamlett v. Tallman, 30 Ark. 505.. 485
Hammon v. Central Coal & Coke
Co., 156 Mo. 232..... 574
Hammons v. State, 73 Ark. 495... 381
Hanf v. Whittington, 42 Ark. 401. 501
Hardie v. Bissell, 80 Ark. 74..... 162
Harris v. Hannibal Ry. Co., 89 Mo.
 233 26
Harriman v. Meyer, 45 Ark. 37... 554
Hartgrove v. Southern Oil Co., 72
 Ark. 41 275

Harvey v. Douglass, 73 Ark. 221.. 339
 Hastings v. Johnson, 1 Nev. 615.. 73
 Hays v. McLain, 66 Ark. 400.... 286
 Hayward v. French, 12 Gray, 453.. 214
 Haywood v. State, 41 Ark. 479.... 267
 Hearn v. Ayres, 77 Ark. 497..... 80
 Hershey v. Thompson, 50 Ark. 484. 337
 Hightower v. Handlin, 27 Ark. 24. 73
 Hill v. Draper, 54 Ark. 395..... 311
 Hitchcock v. Galveston, 96 U. S.
 341 277
 Holt v. Kirby, 57 Ark. 251..... 36
 Hooks Smelting Co. v. Planters'
 Compress Co., 72 Ark. 275..... 49
 Hopper v. State, 19 Ark. 143..... 30
 Hot Springs Ry. Co. v. Maher, 48
 Ark. 522..... 140, 402
 Hudson v. Snipes, 40 Ark. 75..... 286
 Hunt v. State, 72 Ark. 241..... 459
 — v. Weiner, 39 Ark. 70.... 213
 Hunton v. Euper, 63 Ark. 323.... 22
 Hutchins v. School Committee of
 Durham, 49 S. E. 47..... 436
 Hysmith v. Patton, 72 Ark. 296... 370

I

Illinois, etc., Ry. Co. v. Hethering-
 ton, 83 Ill. 510..... 301
 Ince v. State, 77 Ark. 426..... 589

J

Jacks v. Adair, 31 Ark. 616..... 499
 — v. Chaffin, 34 Ark. 534..... 370
 Jacobson v. Massachusetts, 197 U.
 S. 11 435, 436
 James v. Gibson, 73 Ark. 441..... 511
 — v. James, 58 Ark. 157..... 566
 Johnson v. Hughes, 83 Ark. 105, 243, 287
 — v. Hunter, 127 Fed. 219... 542
 — v. Lewis, 47 Ark. 66..... 370
 — v. St. Louis Butchers' Sup-
 ply Co., 60 Ark. 387..... 243
 Johnston v. Ashley, 7 Ark. 470... 495
 Jones v. Mitchell, 83 Ark. 77. 425, 426
 — v. Railway, 53 Ark. 27.... 93

J. W. Butler Paper Co. v. Goem-
 bel, 143 Fed. 295..... 328
 Jowers v. Phelps, 33 Ark. 465..... 554

K

Kansas & Tex. Coal Co. v. Chand-
 ler, 71 Ark. 518..... 573, 574
 Kansas City, Ft. Scott & M. Rd. Co.
 v. Becker, 67 Ark. 1..... 8
 — v. Joslin, 74 Ark. 551..... 212
 — v. Washington, 74 Ark. 9... 90
 Kansas City So. Ry. Co. v. Morris,
 80 Ark. 528 68
 Keatts v. Rector, 1 Ark. 391..... 415
 Keith v. State, 49 Ark. 439..... 195
 Keilums v. Richardson, 21 Ark. 137
 343, 415
 Kelsey v. National Bank, 69 Pa. St.
 426 444
 Kessinger v. Wilson, 53 Ark. 400.. 200
 Kinne v. Kinne, 45 How. Pr. 61.. 46
 Kinser v. Directors of Ind. School
 Dist., 105 N. W. 686..... 436
 Kinsley v. Chicago, 124 Ill. 359... 355
 Koch v. Kimberling, 55 Ark. 547.. 136
 Krumm v. St. Louis, I. M. & S.
 Ry. Co., 71 Ark. 590..... 24, 25

L

Lackey v. State, 47 Ark. 416..... 195
 Ladd v. Witte, 116 Wis. 35..... 606
 Lange v. Kearney, 4 N. Y. Supp. 14
 607, 608
 Laundry License Case, 22 Fed.
 701 354, 355
 Lawton v. Steele, 152 U. S. 133, 179, 180
 Lea v. Whitaker, L. R. 8 C. P. 70.. 148
 Lee v. State, 73 Ark. 148..... 126
 Lemon's Heirs v. Rector, 15 Ark.
 436 499
 Lenow v. Fones, 48 Ark. 563..... 313
 Leonard v. Olson, 99 Iowa, 162... 281
 Leonhard v. Flood, 68 Ark. 162... 36
 Lewis v. Lewis, 75 Ark. 191..... 606

— v. Western Union Tel. Co.,
 35 S. E. 556..... 479
 Lincoln v. Little Rock Granite Co.,
 56 Ark. 405..... 148
 Little v. Chadwick, 151 Mass. 109. 489
 Little Rock & Ft. S. Ry. Co. v.
 Chapman, 39 Ark. 463..... 491
 — v. Daniels, 68 Ark. 171... 93
 Little Rock & H. S. W. Rd. Co. v.
 McQueeney, 78 Ark. 22..... 68
 Little Rock, M. R. & T. Ry. v.
 Talbot, 47 Ark. 103..... 565
 Little Rock Traction & El. Co. v.
 Kimbro, 75 Ark. 211..... 221
 London v. Hutchens, 80 Ark. 410. 520
 Lonergan v. Baber, 59 Ark. 15... 157
 Long v. McDaniel, 76 Ark. 292... 263
 Lorsch v. Supreme Lodge of K.
 of H., 72 Mich. 316..... 22
 Louisiana Mol. Co., Ltd. v. Ft...
 Smith Wholesale Gro. Co., 73
 Ark. 542 243
 Lower v. Hickman, 80 Ark. 505...
108, 172, 243, 287
 Luckinbill v. State, 52 Ark. 45... 123
 Lumber Co. v. Buchtel, 101 U. S.
 638 547
 Lusby v. Atchison, T. & S. F. Ry.
 Co., 41 Fed. 181..... 26

M

McCustian v. Ramey, 33 Ark. 141. 501
 McDonald v. McCoy, 53 Pac. 421. 523
 McGuigan v. Gaines, 71 Ark. 617.
 133, 172
 McLaughlin v. Miller, 124 N. Y. 510 348
 McNeill v. Jones, 21 Ark. 277... 415
 McWhorter v. Pensacola & A. R.
 Co., 2 L. R. A. 504..... 598
 Main v. Dearing, 73 Ark. 470... 16
 Marbury v. Madison, 1 Cranch, 49.
 460, 461, 476
 Marquette Timber Co. v. Chas. T.
 Abeles & Co., 81 Ark. 420..... 133
 Martin v. Railway Co., 55 Ark. 510. 566

— v. Schichtl, 60 Ark. 595.... 282
 Mason v. Atkins, 73 Ark. 491.... 342
 — v. Gates, 82 Ark. 294.... 157, 158
 Matlock v. Reppy, 47 Ark. 48.... 413
 Matthews v. State, 24 Ark. 484.... 29
 — v. Weiler, 57 Ark. 606.... 286
 Meehan v. Watson, 65 Ark. 216... 290
 Meeks v. State, 80 Ark. 579..... 425
 Meisenheimer v. State, 73 Ark.
 407 495
 Memphis Land & Timber Co. v. St.
 Francis Levee Dist., 70 Ark. 409
 369, 543
 Merritt v. Wallace, 76 Ark. 217... 359
 Meyer v. K. of P., 64 L. R. A. 839. 606
 Missouri Pacific Ry. Co. v. Fitz-
 gerald, 160 U. S. 556..... 599
 Moffatt v. Thompson, 57 Am. Dec.
 737 315
 Montgomery v. Birge, 31 Ark. 491. 175
 Moore v. Goodbar, 66 Ark. 16... 186
 — v. Gordon, 44 Ark. 334... 415
 Morrisett v. Wood, 123 Ala. 384. 607
 Mullaly v. People, 86 N. Y. 365... 266
 Muschamp v. Lancaster & P. J. Ry.
 Co., 8 M. & W. 421..... 90
 Mutual Life Ins. Co. v. Hillmon,
 145 U. S. 293..... 258, 290

N

Narramore v. Cleveland, 96 Fed.
 298 574
 Neal v. St. Louis, I. M. & S. Ry.
 Co., 71 Ark. 445..... 593, 598, 601
 Neely v. Rembert, 71 Ark. 91.... 413
 Nelson v. Maloney, 174 U. S. 164. 599
 Neville v. St. Louis Merchants
 Bridge Terminal Ry. Co., 158
 Mo. 293 26
 Nevin v. Pullman Palace Car Co.,
 11 Am. & Eng. R. Cas. 92... 9
 New Hudson Co. v. Hoboken
 N. J. L. 72..... 355
 New Orleans v. Citizens' Bank, 167
 U. S. 371..... 547

- Newport *v.* Railway Co., 58 Ark. 270 277
 Nichol *v.* Stewart, 36 Ark. 612.... 315
 Norfolk Ry. Co. *v.* Ferguson, 79 Va. 241 26
 Norman *v.* Pugh, 75 Ark. 52..... 342
 Norwegian Street, 81 Pa. St. 349. 542
 Norwood *v.* Baker, 172 U. S. 269..58, 59, 60.
 Nugent *v.* Curran, 77 Mo. 323..... 214
- O**
- O'Connor *v.* Rowland, 73 Ark. 422.. 562
 Off *v.* Hakes, 142 Fed. 346....328, 329
 O'Neil *v.* Magner, 81 Cal. 631.... 281
 Osceola Land Co. *v.* Henderson, 81 Ark. 432..... 160
 Oswego Milling Co. *v.* Skillern, 73 Ark. 324..... 488
 Ozan Lumber Co. *v.* Haynes, 68 Ark. 185.....140; 402
 Ozark *v.* Adams, 73 Ark. 227.... 532
- P**
- Palmore *v.* State, 29 Ark. 248.... 85
 Park *v.* Lock, 48 Ark. 133..... 216
 Parker *v.* Sanders, 46 Ark. 229... 456
 Parsons *v.* Dist. of Col., 170 U. S. 45.....57, 349
 Patterson *v.* Poe, 81 Ark. 343..... 574
 Patton *v.* Wagner, 19 Ark. 233.... 561
 Peay *v.* Western Union Tel. Co., 64 Ark. 538..... 479
 Pembroke *v.* Logan, 71 Ark. 362.. 162
 Penwick *v.* Bancroft, 56 Iowa, 527.. 416
 People *v.* Hatch, 19 Ill. 283..462, 469
 ——— *v.* McCullough, 210 Ill. 283.....462, 463, 470, 475
 People's Fire Ins. Co. *v.* Gorham, 79 Ark. 160..... 130
 Petty *v.* State, 76 Ark. 515..... 274
 Pierce *v.* Edington, 38 Ark. 150... 238
 Philadelphia Nat. Bank *v.* Dowd, 38 Fed. 172..... 489
 Philpot *v.* Gruninger, 14 Wall. 570.. 170
 Pillow *v.* Roberts, 12 Ark. 822.... 539
 Pilsbury *v.* McNally, 22 Ark. 409.. 286
 Pinchback *v.* Graves, 42 Ark. 222.. 201
 Pindall *v.* Trevor, 30 Ark. 249.... 415
 Polk *v.* State, 45 Ark. 165..... 121
 Pope *v.* Campbell, 70 Ark. 207.... 235
 Porter *v.* Waters-Allen Co., 94 Tenn. 370..... 306
 Powers *v.* C. & O. Ry. Co., 169 U. S. 92..... 601
 Prescott & N. Ry. Co. *v.* Smith, 70 Ark. 179..... 324
 Price *v.* Skillern, 60 Ark. 112..... 116
 Prince, the, 8 Coke, 28..... 471
 Pryer *v.* Reyburn, 16 Ark. 671.... 499
 Pullen *v.* Chase, 4 Ark. 210..... 281
- Q**
- Queen of Ark. Ins. Co. *v.* Cooper-Cryer Co., 80 Ark. 160.....130, 584
- R**
- Railroad Co. *v.* Barrow, 5 Wall. 90..... 93
 Railway Co. *v.* Cravens, 57 Ark. 112..... 506
 ——— *v.* Neel, 56 Ark. 279..... 566
 ——— *v.* Spann, 57 Ark. 127.... 506
 Ramsey *v.* Whitbeck, 81 Ill. App. 210..... 47
 Raoul *v.* Newman, 59 Ga. 408..... 606
 Rector *v.* Robins, 74 Ark. 437.... 205
 Rhodes *v.* Covington, 69 Ark. 357.. 338
 Richmond *v.* Mississippi Mills, 52 Ark. 30..... 185
 Ricketts *v.* Western Union Tel. Co., 30 S. W. 1105..... 480
 Robinson *v.* Campbell, 47 Ia. 625.. 607
 ——— *v.* Nordman, 75 Ark. 593.. 522
 ——— *v.* State, 59 Ark. 341..... 46
 Rogers *v.* State, 72 Ark. 565....465, 466
 Ross *v.* Royal, 77 Ark. 324..... 199
 Rowell *v.* Western Union Tel. Co., 75 Tex. 26.....41, 43
 Ruble *v.* Helm, 57 Ark. 304..... 136

Sparkman <i>v.</i> Western Union Tel. Co., 130 N. C. 447.....	42	Texas & P. Ry. Co. <i>v.</i> Barrett, 166 U. S. 617.....	323
Sparks <i>v.</i> Farris, 71 Ark. 117.....	539	Theurer <i>v.</i> Brogan, 41 Ark. 88.....	214
Spencer <i>v.</i> Merchant, 100 N. Y. 585.....	349	Tillar <i>v.</i> Clayton, 76 Ark. 405.....	376
<i>v.</i> Merchant, 125 U. S. 345..	349	Towson <i>v.</i> Denson, 74 Ark. 302..	161, 522
Spicer <i>v.</i> Chesapeake & O. Ry. Co., 34 W. Va. 514.....	302	Trammell <i>v.</i> Bassett, 24 Ark. 499..	519
Springfield & M. Ry. Co. <i>v.</i> Henry, 44 Ark. 360.....	491	Trapnall <i>v.</i> Red Oak Junction, 76 Iowa, 744.....	590
<i>v.</i> Rhea, 44 Ark. 258.....	491	Traweek <i>v.</i> Kelley, 60 Miss. 654....	499
Sproull <i>v.</i> Miles, 82 Ark. 455.....	214	Trumbull <i>v.</i> Erickson, 38 C. C. A. 536.....	222
Stafford <i>v.</i> Western Union Tel. Co., 73 Fed. 273.....	481	Turner <i>v.</i> Burke, 81 Ark. 352.....	160
State <i>v.</i> Brown, 9 Baxt. 53.....	266	<i>v.</i> Collier, 37 Ark. 528.....	208
<i>v.</i> Chicago, M. & St. P. R. Co., 38 Minn. 281.....	598		
<i>v.</i> Hill, 50 Ark. 458.....	444	U	
<i>v.</i> Lancaster, 36 Ark. 55..	253, 255	Uhler <i>v.</i> Semple, 20 N. J. Eq. 288..	315
<i>v.</i> Ring, 77 Ark. 139.....	29	Union Pac. Ry. <i>v.</i> Wyler, 158 U. S. 285.....	201
<i>v.</i> St. Louis & S. F. Rd. Co. (1), 83 Ark. 249.....	255	United States <i>v.</i> Bethlehem Steel Co., 27 S. C. Rep. 450.....	367
<i>v.</i> Smith, 40 Ark. 431.....	116	Updegraff <i>v.</i> Marked Tree Lumber Co., 83 Ark. 154.....	522
<i>v.</i> Stephens, 14 Ark. 264....	80		
<i>v.</i> Vaughan, 81 Ark. 117....	331	V	
Stewart <i>v.</i> Smiley, 46 Ark. 373....	419	Vandiveer <i>v.</i> Stickney, 75 Ala. 255..	394
Stillwell <i>v.</i> Paepcke-Leicht Lumber Co., 73 Ark. 432.....	148	Vansand's Case, 59 Mich. 334....	355
Streett <i>v.</i> Reynolds, 63 Ark. 1....	545	Victor Coal Co. <i>v.</i> Muir, 20 Col. 320.....	574
Stuart <i>v.</i> Palmer, 74 N. Y. 183....	348	Viemeister, <i>In re</i> , 179 N. Y. 235.....	435, 436
Stucky <i>v.</i> Masonic Sav. Bank, 108 U. S. 74.....	328		
Sturdivant <i>v.</i> Cook, 81 Ark. 279..	283	W	
Sugar Creek Mining Co. <i>v.</i> Peterson, 177 Ill. 324.....	574	Wald <i>v.</i> Pittsburg, C. C. & St. L. R. Co., 162 Ill. 545.....	566
Suitz <i>v.</i> Brenner Refining Co., 141 U. S. 510.....	287	Wallace <i>v.</i> Western Ry. Co., 2 Am. St. 346.....	26
Sun Printing & Publishing Co. <i>v.</i> Moore, 183 U. S. 642.....	367	Wallis <i>v.</i> Smith, L. R. 21 Ch. Div. 243.....	148
Sutton <i>v.</i> Myrick, 39 Ark. 424....	415	Warner <i>v.</i> State, 54 Ark. 660.....	381
		Waterman <i>v.</i> Hawkins, 75 Ark. 120.....	456
T		Waters-Pierce Oil Co. <i>v.</i> Knisel, 79 Ark. 608.....	322
Telluride Power Transp. Co. <i>v.</i> R. G. W. Ry., 182 U. S. 569.....	599	Weeks <i>v.</i> Smith, 81 Me. 538.....	470
Terry <i>v.</i> Rosell, 32 Ark. 478.....	415	Westbay <i>v.</i> Terry, 83 Ark. 144....	367
Texarkana <i>v.</i> Friedell, 82 Ark. 531..	277		

Western Assurance Co. v. Altheimer, 58 Ark. 573.....	130	Wilson v. Hunter, 59 Ark. 528....	76
Western Union Tel. Co. v. Cavin, 70 S. W. 229.....	43	— v. Gaylord, 77 Ark. 477....	157
— v. Hollingsworth, 83 Ark. 39.....	479, 481	— v. Jonesboro, 57 Ark. 169..	148
— v. Reid, 84 S. W. 296....	480	— v. Spring, 38 Ark. 181....	370
— v. Reid, 85 S. W. 1171....	42	— v. State, 33 Ark. 557.....	29
— v. Partlow, 71 S. W. 584....	480	Winchester v. Bryant, 65 Ark. 116..	419
— v. Smith, 13 S. W. 169....	481	Winter v. Bandel, 30 Ark. 373....	413
Wettig v. Bowman, 47 Ark. 17..	523	— v. Smith, 45 Ark. 549....	213
Wight v. Davidson, 181 U. S. 371.	59	Wisconsin & Ark. Lbr. Co. v. Reaves, 82 Ark. 377.....	291, 448
— v. Reagan, 32 Ark. 282....	286	Wolf v. American Express Co., 43 Mo. 421.....	566
— v. Smith, 63 Ark. 513.....	77	Word v. West, 38 Ark. 243....	499, 501
Wibbing v. Powers, 25 Mo. 599....	533		
Wight v. Davidson, 181 U. S. 371..	59	Y	
Wilcox v. Corwin, 117 N. Y. 500..	214	Yazoo, etc., Ry. Co. v. Foster, 23 So. 581.....	481
Wilkes County v. Coler, 180 U. S. 506.....	465	Young v. Missouri Pac. Ry. Co., 84 S. W. 175.....	26
Wilkins v. State, 68 Ark. 441.....	274	— v. Rose, 80 Ark. 513.....	189
Williams v. Green, 14 Ark. 315....	147	— v. Stevenson, 75 Ark. 181..	221

APPENDIX

I.

IN MEMORIAM

JAMES EDWARD RIDDICK

On the 9th day of October, 1907, the Honorable James Edward Riddick, one of the Associate Justices of the Supreme Court of Arkansas, departed this life. On November 11, 1907, at a meeting of the court, the Chief Justice, the Associate Justices, and the members of the bar being present, the Honorable Wilson E. Hemingway, a member of the bar, delivered the following address:

May it please Your Honors:

At a meeting of the bar, composed of members from different parts of the State, and which was held in this room on the 14th of October last, resolutions of respect to the memory of Judge Riddick were adopted, and I am requested to present them to this court. They are as follows:

RESOLUTIONS OF THE BAR OF THE SUPREME COURT.

"James Edward Riddick was born in Fayette County, Tennessee on August 29, 1849, the son of Edward Garrett and Harriet Ann Riddick. He graduated at the Academy of Macon, Tennessee, and then studied law at the law school at Lebanon in that State, and afterwards at the University of Michigan, where he received his degree in 1872. He entered upon the practice of his profession at Gainesville, Arkansas, and was at once recognized as a young man of marked ability. When he had been at the bar but four years, he was made prosecuting attorney. He afterwards served one term in the Legislature, and in 1886 he was elected judge of his circuit. It was then perceived that he had found his true vocation, and that he was a born judge, patient to hear, courteous to the bar and to litigants and witnesses, wise to decide, and possessed of that sound common-sense which is essential to the attainment of justice. During the eight years that he sat upon the circuit bench he

won golden opinions from all who entered his court; and the feeling that he was fitted for a higher place was so general that his appointment in 1894 to succeed Judge Mansfield upon our Supreme Bench was universally approved, and his election followed as of course. He has held that high position ever since, and it is safe to say that, had he been spared us, the people of our State would have been glad to retain him as one of their supreme judges to extreme old age.

"In the opinions of our court he has erected for himself a monument more enduring than brass or marble. In the long line of our judicial decisions, covering now nearly three-quarters of a century, there are none that are superior to his and few that are their equal. He was a man of literary tastes, and he expressed himself with rare felicity. His opinions are models of judicial style. His statement of the facts is brief and clear; his exposition of the law is lucid and convincing; and rarely does he fail to satisfy us with the conclusion reached. And they are business-like opinions, with no misleading *dicta*, no irrelevant matter, no attempt at fine writing. As long as our commonwealth lasts, they will be turned to by succeeding generations with pleasure and profit.

"And they are only the outward manifestations of a most admirable judicial career. He was careful and patient in ascertaining the facts, candid and impartial in his effort to find out and apply the law. Upon the bench he had neither friend nor foe. His one desire was to do justice between litigants.

"In all the relations of life he was equally worthy of our admiration. As a husband and father he was kind, just, patient and loving. As a lawyer he was industrious and successful. As prosecuting attorney he was faithful and just. As a legislator he was attentive and efficient. As a judge he was able, dignified and courteous. As a citizen he was progressive, enterprising and patriotic. Under all circumstances he was a manly man, receiving the deserved approbation of his fellow men, and loved and respected by all.

"When such a man is taken from us it is proper that we should make some record of our sentiments. Therefore

"Be it resolved by the members of the Bar of the State of Arkansas, that in the death of Judge Riddick the people of the State have lost one of their most faithful officers and a most accomplished jurist; a man who by his eminent talents, his extensive learning and his spotless integrity adorned the high office to which he was called, a citizen worthy of all respect and confidence; a man who was pure-hearted, kind and true and a friend to all that was good and noble.

"Be it also resolved, That we extend to the members of the Supreme Court our condolence in the loss of a colleague with whom it was a delight to co-operate, and whom they all truly loved for his many amiable qualities; and, above all, that we sympathize with his stricken family in the loss of such a husband and father as few have

known—a loss which nothing can compensate and the sense of which must grow deeper with the passage of the years.

“Resolved, that Judge W. E. Hemingway, Mr. N. W. Norton and Mr. Joseph W. House be appointed to present these resolutions to the Supreme Court of Arkansas with the request that they be spread upon its records; that Mr. J. C. Hawthorne be requested to present them to the Greene Circuit Court, and that a copy be transmitted to the family of the deceased.

“G. B. ROSE,
“MORRIS M. COHN,
“B. S. JOHNSON,
“EBEN W. KIMBALL,
“CHARLES COFFIN,
“J. C. HAWTHORNE,
“W. H. PEMBERTON,
“Committee.”

As is stated in the resolutions, Judge Riddick was born in Fayette County, Tennessee, in August, 1849. His boyhood and youth were passed amid social and economical conditions that were peculiar to the South in that time—that have now gone, and are to some of us a memory, but to most of us only a tradition.

His father was educated for the practice of medicine, and for a time followed his profession. But he had also a liberal education, with a taste for books and general knowledge, and he made his home upon a plantation, where he could indulge his tastes in the comfort and independence which plantation life of that day afforded. He was a typical, ante-bellum, Southern gentleman—educated, versed in polite learning, modest, unselfish and honorable, above want and without avarice, who cherished the sentiments of exalted patriotism and at all times held himself ready to work for the honor of his State, either in peace or in war. The women of the time were the fitting complement of such men, pure, refined, self-sacrificing, and abounding in love, charity and piety. The home of such a couple was peculiarly adapted to rear a boy into the best and noblest type of man. It was the good fortune of Judge Riddick to be born of such parents, and to be reared in such a home, and to these early influences he was, no doubt, largely indebted for the qualities of heart and soul that he illustrated throughout life.

Although he was quite unassuming, he was a unique personality, and his distinguishing traits seemed survivals of the era referred to. He was modest and free from all conceit. His life was simple, and without ostentation or display. Genuine worth was his test of character. He was unselfish, and devoted his time and talents to the public service. He was industrious, ambitious and conscientious, and applied himself assiduously to whatever he undertook, worked his talents to their full capacity, and sought their highest development as a means of increasing

his efficiency. He seemed absolutely destitute of egoism, of self-consciousness or self-seeking, but was intent upon doing whatever he undertook for the good there was in success. He thought of his work, not of himself; and he thought of it, not as its results concerned him, but as they promoted some worthy end.

His taste for books was inherited, and he early formed habits of reading and reflection that he indulged throughout his life.

His early education comprised the usual course at college and at a first-class law school. But that did not complete his education, for he constantly enlarged and built upon it, down to his last illness.

He came, a young man, to Arkansas, to make his home and practice law. His new friends elected him for two successive terms to the office of prosecuting attorney and later to the lower house of the Legislature. But the stress and strain, the conflicts and antagonisms of the prosecutor's life, were not suited to his tastes or temper, and there was little in its ordinary duties to extend his understanding of the law. Neither did the hap-hazard and random processes of legislative work, with their yielding of convictions and acceptance of compromises, and with an output both illogical and unscientific, suit his habits of exact calculation and careful preparation. While his conduct of these offices was creditable to him, and eminently satisfactory to his constituents, a short experience satisfied him.

In 1886, after the experiences mentioned, in executive and in legislative work, he was elected to the office of circuit judge, and then began the service suited to his taste and for which he was fitted by temperament, training and education. He had served as circuit judge for almost eight years when he was appointed by the Governor to fill a vacancy in this court.

It was never my privilege to see him preside on the circuit, but the excellence of his work is attested by the best of all proof, the praise of the entire bar of his court. And the transcripts of cases tried by him, now a part of the records of this court, give evidence of his pains and industry in trials, and of his uniform effort to follow the law as his guide, and to see that justice was administered through the judgments of his court.

In jury trials it was his practice to prepare a charge containing a terse, clear and intelligible statement of the issues to be decided by the jury, and then a statement in similar manner, of the rules of law to guide the jury in deciding each issue. No intelligent juror could misunderstand, or be in doubt about, his meaning. And when his cases reached this court, it was never embarrassed in deciding whether the jury had been misled by obscure or ambiguous generalities found in his charge. He had said what he meant, and the jury knew what it was. If he had erred, it was in his opinion as to the law, and not in his statement of it. He tried many cases during his seven years on the

circuit. They, at different times, presented questions not settled, or about which authorities differed, or under conditions that were relied on to change former rulings. Many times these questions arose in the hurry of a trial, or as a term drew to its close, and when there was little or no access to authorities. That he sometimes reached conclusions which this court, upon review, disapproved, was to be expected, and does not derogate from the excellence of his work. But, whether his conclusions were approved or not, the quality of his work was always good. It bore evidence of careful attention and mature thought, and his conclusions had the support, either of recognized authority, or of reasons based on justice and right. He was an industrious and an efficient circuit judge. His aim was to ascertain the law applicable to the case in hand, and to administer it in the judgment of his court. The high respect of the people in his circuit, generally, and the universal esteem of his bar, testify that he succeeded well in this purpose.

But, if Judge Riddick made a good circuit judge, there was yet work more suited to his tastes and attainments. The more deliberate and better advised processes of this court were more in accord with his ambition to know the law as a science, and to see it administered with approximate exactness. And, while not intending to depreciate his services as a circuit judge, I venture the opinion that he never attained his mission until he became a judge of this court.

When called to take a seat beside your Honors, he came with complete equipment. He did not come to grow into a judge, to acquire the learning, to mature the qualities, or to develop the powers of a judge; but he came a judge already, capable and learned, in the full maturity and development of a strong mentality and character, and ready to perform the functions of his exalted office.

If a seat on this bench exacted talents not required in his former work, he had them ready, and was a master in their use.

The animating purpose of his professional life was mastery of the law. His habits of application had been regular and assiduous for years; and his aim was to learn truth and comprehend the principles of justice that are eternal. He had mental alertness, energy and training to pursue his purpose to the extent of almost endless labor and toil; and, above all, he had a profound reverence and love of the law, as the force that regulates and controls organized society, upon the correct understanding and administration of which all private rights and the public order depend for their preservation.

His earliest opinions permit no doubt that he entered upon his work here thoroughly equipped. His opinion in *Worthen v. Griffith*, (59 Ark.), among the first that he wrote for this court, shows this. It displays powers of discrimination in a very high degree, with ability to apply the law so as to accomplish its purpose and to preserve its spirit; and it also shows very clearly that he had great talent as a writer and

an unusual power of clear, terse and lucid statement and of close, connected and persuasive reasoning. His opinion work preserves throughout the same qualities of excellence, and may stand well any test of comparison with the opinions of distinguished judges of this or of other courts. His style was easy, fluent, terse, bright and pleasing; his statements of cases were plain, accurate, complete and intelligible, and his discussion of principles was connected, animated and convincing. Every period was instinct with life, and the reader saw in them the movement of his ideas.

Although he read extensively and learned much, his learning became a part of himself, and merely increased his own growth, and enriched his knowledge and understanding. He gathered no treasures from classic fields to display in his opinions by quotation or reference; what he gained by reading was shown in the quality of his work, in the tone and character of his mental output. The purity, elegance and simplicity of his writings proclaimed his culture, as the abundance and richness of the golden harvest prove a fertile soil. But he appended no ornaments or decorations to his opinions. They embodied their own charms.

His ability to state a position that he disapproved, and then to refute it, was exceptional. This is illustrated in *Thompson v. Van Lear* (77 Ark.). Examples of his powers of strong reasoning and just discrimination are too numerous to catalogue; but *Hoard v. State* (80 Ark.) and *Herman Kahn Co. v. Bowden* (80 Ark.) might be cited from his later opinions, and *Crane v. Siloam Springs* (67 Ark.) from his earlier ones. In *White v. State*, (74 Ark.), a tender, impersonal, catholic, human sympathy is manifested in an opinion which maintains the right of a poor, friendless criminal to a reduction of his sentence, on the ground that he was so far under the influence of liquor that his offense lacked the quality of malice essential to the crime of which he had been convicted.

Judge Riddick's perceptions were acute, and his mental operations rapid, but his mind seemed not to go straight to its conclusions, but rather to vacillate, first to one side, then to the other, of a controversy, as if to survey the entire field, and to waver between conclusions, before finally accepting either. This was perhaps a matter of manner only; at any rate, his mind always reached a fixed conclusion; and, then, he was able to sustain it by a power of logic and reasoning which commanded respect even when it did not change those who had held different opinions.

Reference has been made thus far to Judge Riddick's mental qualities; but they were by no means his best qualification for his exalted and exacting work. He possessed, in an unusual degree, the moral qualities that make the judge. If asked to name the best and highest quality of a judge, my answer would be, the capacity for complete self-effacement and absolute absorption in his work. It removes all thought of self in solving the problems that arise, and guarantees complete immunity

the most charitable and creditable construction upon human conduct. Sometimes this charitableness of thought caused him much doubt and hesitation in forming his opinion; but, once satisfied of wrong, his hesitation vanished, and he was firm and decided and courageous in conviction. It was always painful to him to pronounce judgment where he knew the decision carried sorrow or blighted hope or disappointed ambition. But this kindly shrinking from inflicting pain never swerved him a hair's breadth from his duty as God gave him light to see it.

The geniality of his nature, his keen sense of humor, his wide and varied attainments, made him a charming companion and a delightful friend. His honesty was so broad and his character so high that it never occurred to anyone who knew him to doubt the sincerity of his actions.

In after years we may make a more accurate estimate of his work as a Judge. Today we who were so intimately associated with him stand too near to him, and in the mist of our sorrow his figure looms too large to make a fair comparative measure with those who have gone before him. But, without invidious comparison, it may be truly said that no one who ever sat here excelled him as a master of judicial diction. He came to the Bench equipped for his work. His first opinion, *Hollis v. State*, 59 Ark. 211, may be taken as a model of lucid expression, clear analysis of authority and sound deduction from established premises. From that opinion to *Stubbs v. Pitts* (rendered July 22nd), the last decision of the Court which he wrote, he contributed much to American jurisprudence. None of it needs apology; and the best of it constitutes legal classics.

What Chief Justice Cockrill said of Judge Smith may be truly said of Judge Riddick: "Though dead, he speaks. His voice, through his decisions, will still find audience among those to come after us. His impress is upon the bar and the judiciary, and through them upon the people. His influence was always for good; with him there was no retrograde movement. He despised hypocrisy and detested wrong."

I have spoken of the Man and Judge, as he appeared in his daily walk and work. There was another side of his character, known only to his family, his intimate friends and his companions on the Bench. This side can not be written down in words, but is enshrined in the hearts of those near him. It is one of the memories for which we are the richer and the sadder.

The resolutions will be spread upon the records of the court and the addresses filed; and in memory of this great Judge and upright Man the Court will now adjourn.

uplift of the community in which he lived, faithful to his family and his friends, in every sense a strong man, Judge Riddick measured up to stature of noble manhood. Death came to him ere age and infirmity had crippled his physical and mental powers, and yet he lived long enough to attain a name and place worthy of lasting remembrance. Fortunately, his greatest service to the State was performed as a member of the court of last resort, and his work is preserved in its records.

"It is meet and proper that we, the members of his profession, bear testimony to his worth. Therefore, be it resolved:

"First. That in the death of Judge Riddick the State has lost an exemplary citizen;

"Second. The Supreme Court of the State an able and upright judge;

"Third. That in thus perpetuating his memory and emphasizing his virtues we honor our profession and serve our State.

"Fourth. That these resolutions be spread upon the records of this court, and a copy be presented to the Supreme Court of the State with the request that it be spread upon its records, and that a copy be delivered to the family of Judge Riddick.

"DANIEL HON,

"JAMES BRIZZOLARA,

"JAMES F. READ,

"F. A. YOUMANS,

"T. W. M. BOONE,

"T. P. WINCHESTER,

"Committee."

The Chief Justice responded as follows:

The death of Mr. Justice Riddick has been a personal sorrow keenly felt by each member of the Court. We have been exceedingly gratified at the evidences of respect and admiration which the people of the State have shown for him, and greatly appreciate the just and beautiful tributes paid his memory today.

To him this Republic has not been ungrateful, for it has paid him in its richest coin—its unbounded confidence. It is difficult to draw an accurate character sketch of Judge Riddick, for his versatility and originality were constantly presenting new phases to view. A predominant trait was his thorough simplicity of life. He had the utmost aversion to ostentation and display, and the devotion of some to the tinsel side of life was a source of keen amusement to him. In his composition there were no elements of harshness. Kindliness of thought and speech were distinguishing and charming characteristics. Those in closest and longest touch with him can not recall uncharitable or unkind words toward a fellow man.

While quick of speech, like all impulsive men, he was as quick to atone for an inadvertent wound. It was his habit of thought to place

never by word or innuendo made an ill-natured remark or an unkind allusion to anyone. His anecdotes and stories were chaste, humorous and entertaining, and could always have been related in a lady's parlor.

He seemed in the best of health and spirits. He never seemed tired or sleepy; and never seemed ready to go to sleep. He knew natural history, not second-hand nor learned from books, but by penetrating the forest, by camping on the banks of lakes and streams far removed from the realms of civilization. He could discourse learnedly on animals, fishes, birds, fowls, insects and reptiles, and knew their haunts and habits. He would often turn from his study of the dry legal principles and dusty tomes to investigate some snake, bird or flower. It is related of him that on one occasion he became greatly exercised over a bill in the Legislature providing for the extermination of hawks. He went to great pains and trouble to show that the hawk family was greatly traduced and much misrepresented, and was much more beneficial than harmful to the farmer, and was greatly pleased when the bill was defeated. On another occasion, he demonstrated that a certain reptile, commonly believed to be poisonous, was harmless.

He was an agreeable companion, was well versed not only in the old authors but in modern literature. It was surprising that one who had led such a busy life for the last twenty-five years could know so much of modern fiction and the current questions of the day as detailed by the periodicals and newspapers. He enjoyed this trip to its full limit, and was so enthusiastic that he bought a membership in the club, and stated that he would soon visit the place again with one of his daughters, who was also fond of country life; that he was going to rest more in the future, and not work so hard. The seeds of disease were then perhaps present in his body. He returned home, and I saw him no more. His plans were not to be carried out; he soon journeyed to the North in search of health, but returned later to take his bed, from which he was never again to arise.

The greatest heritage that can be left to a free republic is the good name of its judiciary. Its greatest possession is its learned, fearless and impartial judges. He had all the attributes that a judge should have. To his good name I gladly add my humble wreath of laurel.

RESOLUTIONS OF THE FORT SMITH BAR.

The following resolutions adopted by the Bar of Fort Smith were presented to the court:

IN MEMORY OF JUDGE JAMES E. RIDDICK.

"The death of Honorable James E. Riddick, Associate Justice of our Supreme Court, October 9, 1907, ends the career of a noble man.

"Clean and pure in thought and conduct, loyal to every obligation assumed, consistent in public and private life, always a factor in the moral

Mr. J. W. Blackwood then spoke, in substance, as follows:

May it Please the Court:

Nothing can be added to what has been said concerning the deceased as a judge, by the learned gentlemen who have preceded me in the formal addresses delivered on this occasion. But I desire to say a few words on one feature of the life and character of Judge Riddick. He was a great lover of nature. He was accustomed to take long rambles and excursions into the woods, hills and dales around Little Rock. Sometimes he was accompanied by members of his family, and at other times by congenial companions, and sometimes he went alone. He held communion with the visible forms of nature, and she spoke to him in various languages. He saw beauties in the woods, the hills and dales, in the flowers, in the herbs, in the shrubs, the trees and in the vines.

He believed religiously that man made the city, and that God made the country. To him there was "a pleasure in the pathless woods, there a society where none intruded" save those who loved nature's boundless beauties and latent secrets. I can see him on the occasion related by our brother Norton when the proposition was made to adjourn the court and go for a day to the woods, and he replied: "Not a day lost but a day gained." When he took his holidays he did not go to the busy, crowded cities or the marts of trade, but he sought out some of his old companions of earlier days and camped on some of the lakes of eastern Arkansas, on the banks of the St. Francis, Cache or White rivers, that he loved so well, seeking the shady places where the bass lurked, and the wild fowls disported themselves, and where he could enjoy nature's book of secrets.

Last summer, at the close of a busy and strenuous session of this court, he joined me with a party of other friends, and went to the Wattensas Club on White River for a few days' outing. While riding from the railroad to the hunting preserves, he would frequently leave the carriage and take long walks, enjoying the beauties of the forest, discovering many things not noticed by others accustomed to the woods. Arriving at the club house, he soon rigged up his rod and reel, and went onto the banks of the beautiful White River, where he enjoyed himself like a boy out of school. If he worked with energy, he rested with zeal. While others of the party were resting, he would often leave us and take excursions into the woods, and return full of enthusiasm with the results of his trips, telling us of many things that existed, but unknown to the members. After the day's sport was over, he would sit on the porch until late in the night engaged in pleasing conversation, often relating experiences at the bar and on the bench. He detailed, in an interesting manner, the part that counsel had taken in suits where he had been engaged as counsel, or had presided as judge. In all of these conversations he never evinced any malice or ill-will, and

opinion of the learned judge, who rendered the opinion in the case, as follows:

"I have labored to make a covenant with myself that affection may not press upon judgment; for I suppose there is no man that hath any apprehension of gentry or nobleness but his affection stands to the continuance of a house so illustrious, and would take hold of a twig or twine-thread to uphold it. And yet time hath his revolutions, there must be a period and an end to all temporal things, *finis rerum*, an end of honors and dignities, and whatsoever is terrene—and why not of DeVere? For where is Bohun? Where is Mowbray? Where is Mortimer? Nay, which is more and most of all, where is Plantaganet? They are entombed in the urns and sepulchres of mortality. Yet let the name of DeVere stand as long as it pleaseth God."

I was, at the time, deeply impressed with these remarks, and doubtless the thought occurred to many of us, who would be the next to answer the call of death. I have in my office the photograph of forty-two lawyers, made in 1898, of members of this Bar. Since that time six of them have gone to their reward—Judge Sam W. Williams, Judge Jno. A. Williams, Judge Sterling R. Cockrill, Judge Joseph W. Martin, Judge Simon P. Hughes and last but not least, Judge James E. Riddick. Certainly, time hath done her work. Among these were some of our ablest and most upright judges. It is a sad thought, and we realize as time advances the number of deaths will be proportionately increased. How natural for us to think, who will be the next to follow those who have gone before us? The very suggestion only tells us of our weakness, as nothing is more uncertain than the time when we shall be confronted with the grim monster, Death, and nothing is more certain than sooner or later we shall.

When this court took its recess last summer, who would have thought that Judge Riddick would be with us no more. Perhaps his last judicial act was done at my instance. This was some days after the court had taken its recess. When I left him, it never occurred to me that I had bidden my friend a last and final farewell. At this time he was vigorous, stout and the very picture of physical manhood, and in the very best of spirits and good nature.

Judge Riddick was an ideal man, as well as a great lawyer. His work has been finished. Beautiful flowers with their sweet aroma have been laid at his feet by hands of pure and noble women, who are always ready to give comfort and aid in the hour of distress. His work as a citizen and lawyer has ended. Life's pilgrimage, with its hardships, its toils and responsibilities, is over. He now sleeps in the grandeur and the glory of his own greatness

"Where no shadows shall bewilder,
Where life's vain parade is o'er,
Where the sleep of sin is broken,
And the dreamer dreams no more."

Whatever may be said of Judge Riddick as a lawyer, still it was in his private life where he showed to the best advantage. Where the purity of his purpose and the nobleness of his soul were known, he was best understood and appreciated. Gentle, courteous and manly to all with whom he was brought in close relation, it was his neighbors and personal friends who knew and loved him best. They respected and honored him for his real and genuine worth. To their call he was ever ready to respond with a frank and generous heart, which at once inspired that confidence and esteem more lasting than cords of steel or bars of iron. His life was a noble one. His work is the greatest monument to his memory, and will live forever and gather strength and force as the ages go on and on to eternity. He was happy, hence he made others happy.

Addison has said: "True happiness is of a retired nature, and an enemy to pomp and noise; it arises, in the first place, from the enjoyment of one's self; and in the next place from the friendship and conversation of a few select companions. False happiness loves to be in a crowd, and to draw the eyes of the world upon her. She does not receive any satisfaction from the applauses which she gives herself, but from the admiration she arouses in others."

Judge Riddick did not seek applause, except such as came from a conscientious discharge of duty. He was plain and unassuming, but at the same time he observed the injunction of the immortal Jackson: "To demand nothing that was not right; to submit to nothing that was wrong."

Socrates has said: "The way to gain a good reputation is to endeavor to be what you desire to appear." This was Judge Riddick's motto. He never attempted to impress anyone with a false idea of himself. He always desired to appear just as he was.

The poet, who has given the world some of the purest and best thoughts, filled with that love of humanity and burning pathos, which only found utterance, through his mighty pen, has beautifully portrayed a life and character like that of Judge Riddick's:

"So live that when thy summons come to join
The innumerable caravan, which moves
To that mysterious realm, where each shall take
His chamber in the silent halls of death,
Thou go not, like the quarry-slave at night,
Scourged to his dungeon; but, sustain'd and soothed
By an unfaltering trust, approach thy grave,
Like one who wraps the drapery of his couch
About him, and lies down to pleasant dreams."

I remember in presenting the resolutions upon the death of Judge Joseph W. Martin, not quite three years ago, Judge Rose in his remarks, referred to an important trial that had taken place in the House of Lords in England nearly three hundred years ago, involving the titles and estates of the Earle of Oxford of the House of DeVere, which had existed in England for some five hundred years. He quoted from the

with usefulness and distinction, whoever clears its foundations, strengthens its pillars, adorns its entablatures, or contributes to raise its 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 fame of human society." Perhaps no judge of this court has labored harder to strengthen the pillars of the law and fix a higher standard for the profession of which he was an honored member. He stood for law and order. As a lawyer, judge and private citizen, he was an exemplification of the best elements of human character. He has erected for himself a monument more durable than marble, steel or brass; more brilliant and enduring than can be portrayed by tongue or pen; more delicate and beautiful than can be painted by the greatest masters in art.

Man is allotted but few years upon earth. He comes and goes and is soon forgotten, but the deeds which he does or the thought he has advanced will live forever.

Where is Homer? Where is Milton? Where is Byron? Where is Scott? Where is Pitt? Where is Burke? They have long since passed to the great beyond, but their poetry, writings and speeches will live forever. In fact, in looking back over the dark dim ages of the past, we have nothing left but the thoughts and acts of men. They have survived the wreck of the ages, while the individual is lost in the revolution of time.

Where is Pompeii, the beautiful city upon the shore of the Bay of Naples, once the favorite resort of the nobles of Rome, beautiful and picturesque as it stood upon the sloping shore of the bay, extending back to the base of the mountain, where stood the temples of Jupiter and Venus? She is gone. Her gates, her temples, her theaters, her public buildings now lie beneath the smouldering ashes from Mt. Vesuvius.

Where is Ninevah, the famous capitol of the Assyrian Empire, once located upon the banks of the river Tigris, at one time the Mistress of the East in commerce and trade?

Where is Babylon, once situated upon the banks of the Euphrates, with her massive walls, her steeples, her spires and her hanging gardens? She is gone. She is no more. She has been lost in the ravages and wreck of time. Nothing remains but a few shattered and fallen ruins to tell the story of her civilization and greatness.

Where is Tyre, at one time the great commercial center of the world, with her docks, her harbors, her warehouses and her factories? Alas! she, too, is gone. She was lost in the convulsions of the sea, and where this proud Venetian City once stood is now covered with the rushing mighty waters of the briny deep.

Men come and go like the dew before the rising of the morning sun, with but a span between birth and death. Cities, steeples, columns and spires may crumble and fall, but the acts and deeds of a truly great man will never die. They survive the wreckage of matter and the ravages and shocks of time.

upon thy footstool.' But Mercy, clothed in her white robes, kneeling humbly before the Divine Majesty, answered: 'Yea, Lord, make him. I will care for him. I will protect him. I will guard him through the dark meandering scenes of life.' "And man was made with the Divine injunction—"Go and deal with thy brother." We can all attest how well she has performed this duty. Judge Riddick, in the administration of the law, both as a Circuit Judge and on the Supreme Bench, made an earnest and honest effort to follow this Divine command—"Go and deal with thy brother."

The knowledge of his character will inspire the younger men of our profession to a nobler field of thought, a higher plane of duty, and will make them better men and greater lawyers.

As a lawyer, he stood preeminently high. His opinions, covering thousands of pages, will be read with interest and profit for all time to come. And, while his influence has been felt and appreciated by those of us who knew him, yet that influence is now in its infancy. It will continue to grow deeper and deeper and to expand wider and wider on and on to eternity. He was concise and accurate in his statements of law and facts. His mind was methodical and analytical, hence it is not strange that his opinions are marked for their clearness and certainty.

Like the huge pine, standing aloft with outstretching boughs over-looking and seeming to command the respect of the surrounding forest, so it was with Judge Riddick. He stood out among the best lawyers of the State. He had the confidence and respect of all. He was peculiarly fitted and qualified for the place which he has held so acceptably to the people, and with so much honor and credit to himself. It will neither be disparaging to the other members of this court, who have served with him so long, nor to his honorable successor, to say that his place on the bench will be hard to fill. Indeed, I have no doubt but that whatever may be said of his ability and character will have a hearty response and the approval of all the members of this court. They doubtless feel his loss more deeply and sensibly, if possible, than those of us who were not brought in daily touch with him. They have been constantly where they saw the full strength of his character, the power and force of his mental grasp and legal mind, and felt his influence as a man of high and noble purpose.

He knew he was human, and liable to err. He knew that perfection in the law was impossible, hence, from his early manhood down to his death, he sought to make the nearest approach to perfection in the law.

Mr. Webster, perhaps one of the greatest lawyers of this or any other country, has said: "Justice is the great interest of man on earth. It is the 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

Riddick was one worthy of our imitation, and a heritage of which any one might feel proud.

Expressions of love and esteem for those who have distinguished themselves, whether in war or peace, are but the out-pourings of the hearts of a generous and patriotic people. They find expressions from the humble as well as those in more exalted stations of life.

Judge James E. Riddick is dead! All of him that is mortal has been placed at rest amid the tombs of those who have gone before him. This is a sad and solemn thought, but the lesson of his life will live in the hearts of the people of Arkansas for many years to come, and will bear fruit for generations yet unborn. The acts and deeds of a truly great man can never die. He was a man of exceptional literary attainments, as well as a great lawyer. His opinions are models in diction, brief, concise and always to the point, and they show they are from the mind of a trained lawyer. And, above all, he was true and sincere to his friends, and eminently just to every one.

I first knew him in 1878, twenty-nine years ago. He was then a young man in his profession, full of hope and ambition. Even then he was regarded by those who knew him, as a sound lawyer and one of great promise, and they were not mistaken. A man, like Judge Riddick, true to his friends, honorable and upright and a hard worker in his profession was certain to assert himself and take a position among the best lawyers. His promotion in official life did not come from political scheming or cunning. These elements were foreign to his nature. He despised a mean thing from any source. He never appealed to the passions and prejudices of the multitude for political or other preferment. His success came from his rugged honesty and his determined effort to discharge his duty in every relation of life. His life and character are worthy of emulation by all and a noble example to the younger lawyers who come after him.

His judicial opinions were inspired by a lofty purpose and an honest desire to do right and so to adjust the scales of justice that they would mete out to every one that which was due him. And, when punishment had to be inflicted under the law, it was always administered with clemency and mercy. Neither malice nor revenge ever entered into his opinions or judicial acts.

Perhaps twenty years or more ago, I read a speech, delivered, as I now remember, by Mr. Wilson of Kentucky. I do not remember his exact language, but among other things, he said in substance: "When the Eternal Being first conceived the thought of man's creation, he called around and about him the three Graces—who constantly waited at His throne—Truth, Justice and Mercy—and inquired if man should be made, to which Truth responded: 'Nay, Lord, make him not. He will disregard thy commands and trample upon thy laws.' Justice responded: 'Nay, Lord, make him not. He will disregard thy precepts and trample

No more fitting place could have been selected than this, where he sat so long as an upright, honorable and faithful judge, dealing out equal and exact justice to all, as he saw it, always tempered with that mercy which flows from the soul of a generous and upright man.

In the death of Judge Riddick, we have suffered more than we can tell. Our hearts are saddened, and perhaps the greatest tribute we could pay him would be to gather within the walls of this hallowed precinct, where he has been so faithful, and where he has left the impress of the best efforts of his life, leaving a heritage for generations yet unborn, and then depart in silence, as nothing we can say will add to his merit or strengthen the ties which bind us together. But, perhaps, it is better for us that we speak of his intellectual, his legal and his moral worth, so that our reflection upon his memory will serve to consecrate and prepare us for a better, purer and nobler life.

The thought of death is always a sad one, yet it softens and quickens the better elements of our nature. There is nothing quite so touching to me, even now, as my early recollections of the tolling of the church bell amid the quiet country homes. It seemed to soften and sweeten the song of the birds; all nature seemed to halt in dreadful and awful silence; the men would stop their plows; the good women would stop their household duties, and, with their children, go to pay the last sad rites to some man or woman who had commanded the respect and confidence of the people of that neighborhood, or to put at rest some child whose soul had taken its flight to the realms of the blessed, and then the good women, with their fair hands and pure hearts, placed beautiful flowers upon the grave, as a token of respect and esteem for the dead and of their sympathy for those who were most sorely afflicted, then returned to their respective homes in deep and solemn meditation and prayerful thought. Even now I recall memories of these touching events which I shall never forget. These thoughts serve to bring us to a full sense of our individual responsibility, with a deep and intense contemplation of our relation to our Creator, and we are made to feel our utter dependence and helplessness.

To honor the illustrious dead is instinctive in every civilized country, and, as civilization is advanced, people will honor and cherish those who, by their lives and characters, have strengthened the bonds which bind men together, and who have helped to elevate them to a higher and nobler field of thought. This instinct to pay a tribute to the dead is beneficent to the living, as it is just and right to those who have given the best years of their lives to the service of mankind.

The fact that we are here today to pay a tribute to our deceased brother is an object lesson to us all. Who is it here today who will not leave this court room with firm and determined resolutions to try to be a better and purer man? It is immaterial what your creed or religion may be, you will all say with one accord that the life of Judge

was attempted. A lawyer's mistake—whether by the young with trepidation or the old with hardihood—brought forth no more than a quiet suggestion. Being free from vanity and filled with charity, criticism of another was to him impossible. The people of the second judicial circuit honored themselves by keeping him upon the circuit bench until he was called as a member of this court.

He was best known to the bar of the State as one of the judges of this court. Here the surroundings and duties were peculiarly fitted to his studious and painstaking nature; and here his best work was done. Much of it has far more than a passing value; and it is a pleasure to know that it is in a permanent and enduring form.

While the larger portion of Judge Riddick's adult life was spent in office, he was in no sense a politician. As between him and the legal voters of his district and State, the relation was more business-like than political. It was such as brings to mind the legal phrase, "offer and acceptance." He "offered," which for him was impliedly saying: "I think I can do the work, and would like to have the place." He never meant either more or less. The "acceptance" was always forthcoming. The people honored him in selecting him. He honored them in the service rendered.

He was a good citizen, just judge, safe friend. And there has been no better man.

Judge Riddick's habits of industry from the time he became a member of this court are well known. They were the same in the earlier years of his professional life. To make some worthy use of each day was with him a habit forceful and binding as a religious rite. Still he could relax, if thereby nothing was neglected. While he was circuit judge, and at a court where little was being done, some one suggested that court adjourn for a day, and that all go to the woods and river. Another objected, saying it would be a day lost. He said, "No indeed. It would be a day made—a day gained." It showed how highly he would appreciate a day during which he could free himself of all cares, and at the same time feel it was all right to do so.

Labor and Rest. Each necessary to the other; and following the other in turn. No one understood this law of nature better; and those who best knew him, those who knew of his happy contentment—contentment with things, past, present and to come—can conceive of him at the last as feeling, if not, saying: "It is good to have been here, and I would willingly stay longer; but my work is done, I will rest."

Mr. Joseph W. House, also of the committee, addressed the court as follows:

May it Please the Court:

In coming together today, we come with many sad reflections. We have assembled here to pay our last sad tribute to the memory of our deceased brother and distinguished lawyer, Judge James E. Riddick.

Mr. N. W. Norton, also a member of the committee, spoke as follows:

May it Please the Court:

Because of the course of nature, Judge James E. Riddick is no longer with us nor of us. Because of the course of that same nature, we are prompted to come together, and to place on the records of this court a memorial of our appreciation of his character and virtues. It was my privilege to have his acquaintance and friendship for something more than thirty years.

In contemplating his life, it comes to mind that one may be great in a sense, and still furnish but little material for a biographer. He lived a simple, sensible life, such as frequently attends greatness, if indeed it is not a component part of it. True greatness always includes a realization of the little that man can accomplish, even when he is granted long life, and what we all pleased to call great achievements. And this realization leads to a life of simplicity, modesty and charity; no matter how high the station, or wide the sphere of usefulness.

It is likely true that men are frequently unconscious of their predominant trait. Judge Riddick, in all probability, did not know that with him the thing to be done always, and in spite of everything, was a discharge of duties. Not that they sat heavily upon him, or were irksome to him. On the contrary, he would look upon their discharge as an agreeable habit, formed upon the basis of a broad comprehension. His duties to his family, to his fellow man and to the State, through the high office he held, were all faithfully performed; and thereby his duty to himself was done, and an ideal life lived.

As a lawyer practicing at the bar, the judicial sense was always the first to be roused; his mind, from the first knowledge of the case, feeling its way, as it were, to the ultimate right. His personality was such that unconscionable causes were not offered him.

His success at the bar was attributable, not to eloquence or brilliancy, but to honesty of purpose and a penetrating judgment that infallibly located the right and the wrong, and an ever present loyalty to the court and to himself and his profession. The same qualities that brought him success at the bar pre-eminently fitted him for judicial office.

As prosecuting attorney, he was ever alive to the fact that his office was judicial. He knew that the laws would be violated, and penalties stand to be paid; but he also knew that offenders were often sorely tempted, and that many men, when met by temptation, are weak. The charitable view was ever uppermost with him, and it is safe to say that cases were in a measure rare in which he did not have more or less sympathy for the accused. Still, his sense of duty was so much a part of his nature that sympathy never impaired his efficiency as a prosecutor.

As circuit judge, his courtesy to the bar was unflinching. With him every member was in good standing, so long as nothing unprofessional

We feel that Judge Riddick's death, in the prime of intellectual vigor and energy, was a loss to this court, to the profession, and to the State; but, so long as the bar affords men of his type to fill vacancies in judicial office, the courts need not distrust their ability to preserve the law in its symmetry and to administer it in its integrity. It is only when we contemplate the course of judicial action in the past, and the useful lives of such judges as Judge Riddick, that we make any proper estimate of the credit to which they are entitled in upbuilding and safe-guarding our country. And it is indeed fortunate that we can leave the graves of Judge Riddick and the others who have gone before him, and rejoice that they were permitted to live their lives, and to leave their work as a legacy to the public.

I now have the honor, for the bar of the State, to move that the resolutions presented be spread upon the records of this court.

Mr. Hemingway also presented the following:

RESOLUTIONS OF THE BAR OF UNION COUNTY.

The circuit court of Union County, upon hearing of the death of Judge James E. Riddick, of our Supreme Court, adjourned and the bar met and adopted the following resolutions:

"The members of the bar of El Dorado learn with the deepest regret and most profound sorrow of the death of Judge James E. Riddick, for many years an efficient, loved and honored member of our Supreme Court.

"We deplore his loss to the profession which he adorned, to the State which he ably served, and to the Court which he graced with noble devotion.

"That he should be stricken in the midst of his mature manhood and taken in the day of his great usefulness is an added reminder of the vanity of earthly things, but who can question the wisdom which decrees our passing from life in the midst of our labors rather than after the time when our hand refuses to do well the work of our Master?

"We tender our earnest and sincere sympathy to his family and relatives.

"H. G. BUNN, Chairman,

"NEILL C. MARSH,

"T. J. GAUGHAN."

Presented in open court, this 10th day of October, 1907, and ordered by the court to be spread upon a separate page of its records, as a part of the proceedings of the day, and the clerk directed to send a copy to the Supreme Court of the State, and a copy to the family at Little Rock.

against the hope of favor or the fear of opposition. It closes all avenues of approach, save by the beaten path of the law. The stealthy step of the scheming flatterer is as effectually barred, as the open advance of the undisguised corrupter. Observation of Judge Riddick in his work furnished convincing proof that he had this quality. He was unconscious of himself and intent upon the matter in hand. Friendship imposed no claims upon his judicial favor, and hostility incurred no disadvantage. And there was no danger that he would strain virtue, in an effort to be impartial, and thereby wrong a friend; for to him matters of friendship and of hostility were so irrelevant and immaterial that they never suggested themselves, in the decision of causes. Aside from his work, he was a genial companion and a warm friend, but those sentiments never crossed with him the threshold of this court.

To say of a judge that he is honest, in the sense that he is above any reward as the price of his judgment, is no praise; for, while that type of honesty is indispensable, it is not a qualification for the judicial function. But to say that a judge is honest, in the sense that his judgments are absolutely free from the influence of every personal consideration; that he cannot be tempted by personal flattery, public applause, or the hope of advancement; and that he cannot be deterred by the disappointment of friends, the hostility of enemies, or the clamor of the multitude—to say that a judge is honest in this sense is to accord him the praise which the upright judge merits. When I say to your Honors that Judge Riddick well merited this praise, I state a fact which his whole life proves, and of which your own consciousness, as his associates, assures you.

His opinions begin in the 59th, and will continue into the 83d volume of our State Reports. If his first showed him ripe for his work, his last gave no evidence of decline. He laid it down, as he had taken it up, in the full enjoyment of his faculties. Years had not dimmed the clearness of his vision, chilled his enthusiasm, or impaired his powers of execution. The close of his career seemed to us abrupt, but it finished a record in which there is no blot or blemish, and from which there is nothing to be expunged. His recorded opinions make the one element of a good, useful and active life, which cannot perish so long as our legal institutions last. They contain his own outline of his mental and moral manhood, and it is, and should be, a matter of congratulation to us that they make the true picture of one of our members, and illustrate such many virtue and judicial excellence. His work now passes under the review of impartial and discriminating public judgment. That some corrections may be made in it, with advancing knowledge, is to be expected; but it is safe to assert that his opinions will secure for him, throughout time, an honorable position among the distinguished judges of our country.

APPENDIX

II.

OPINIONS NOT REPORTED.

Grayson *v.* St. Louis & S. F. Rd. Co.; appeal from Mississippi Circuit Court; N. F. Lamb, special judge; appeal dismissed May 27, 1907; *per* Wood, J.

Delk *v.* State; appeal from Van Buren Circuit Court; B. B. Hudgins, judge; affirmed May 27, 1907; *per* Hill, C. J.

Thalheimer *v.* Gans; appeal from Pulaski Chancery Court; Jesse C. Hart, chancellor; affirmed May 20, 1907; *per* Hill, C. J.

Dutch Creek Lumber Co. *v.* Damon; appeal from Yell Circuit Court; William L. Moose, judge; affirmed June 3, 1907; *per* Hill, C. J.

Deal *v.* Beck; appeal from Arkansas Circuit Court; George M. Chapline, judge; affirmed July 1, 1907; *per* Riddick, J.

Simmons *v.* Kirby; appeal from Desha Chancery Court; James C. Norman, chancellor, and X. O. Pindall, special chancellor; reversed July 8, 1907; *per* McCulloch, J.

St. Louis & S. F. Rd. Co. *v.* Thompson; appeal from Crittenden Circuit Court; Allen Hughes, judge; affirmed July 22, 1907; *per* Riddick, J.

Odd Fellows' Benefit Association *v.* Burton; appeal from Nevada Circuit Court; Joel D. Conway, judge; reversed July 15, 1907; *per* Wood, J.

III.

CASES DISPOSED OF ORALLY.

W. W. Shirey *v.* Delia Shirey; Craighead Chancery Court; Edward D. Robertson, chancellor; appeal dismissed for non-compliance with rule nine, June 3, 1907; *per curiam*.

Lois Hall *v.* Alfred Crebbins; Lawrence Chancery Court; R. H. Powell, special chancellor; reversed by consent, June 10, 1907; *per curiam*.

El Dorado & Wesson Railroad Company *v.* Sallie A. Greshap; Union Circuit Court; Charles W. Smith, judge; settled and appeal dismissed, June 24, 1907; *per curiam*.

Chicago, Rock Island & Pacific Railway Company *v.* M. L. Rainwater; Monroe Circuit Court; Eugene Lankford, judge; affirmed as a delay case, without penalty, July 1, 1907; *per curiam*; Hill, C. J., dissenting from refusal to impose penalty.

J. R. LeBosquet *v.* Harry H. Myers; Pulaski Circuit Court; Edward W. Winfield, judge; settled and appeal dismissed, July 1, 1907; *per curiam*.

C. B. Aydelotte, et al., *v.* T. J. Lott, et al.; Little River Circuit Court; Pratt P. Bacon, special judge; appeal dismissed for non-compliance with rule nine, May 20, 1907; *per curiam*.

Marvin Skipper *v.* The State of Arkansas; Drew Circuit Court; Zachariah T. Wood, judge; affirmed on motion of the attorney general, May 27, 1907; *per curiam*.

The State of Arkansas *v.* John Cross; Sebastian Circuit Court; Daniel Hon, judge; appeal dismissed on motion of the attorney general May 27, 1907; *per curiam*.