

IN MEMORIAM

Honorable GEORGE THOMAS McDERMOTT

Judge, Circuit Court of Appeals

The Court was convened on the 12th day of April, 1937, being the first day of the April, 1937, Term of this Court, the Honorable Orie L. Phillips presiding, Judges Bratton and Kennedy sitting. Upon the opening of Court, Judge Phillips said:

Gentlemen of the Bar, we are met here to-day to pay tribute to the memory of a distinguished Judge of this Court, George Thomas McDermott.

I announce that it was with deep regret that our Senior Circuit Judge, Honorable Robert E. Lewis, found it impossible to be present and to take part in these memorial services.

I call upon Mr. W. E. Stanley, of the Wichita Bar, who will speak in behalf of the Wichita Bar Association.

MR. STANLEY:

May it please Your Honors:

"The moving finger writes; and having writ

Moves on; nor all thy Piety nor Wit
Shall lure it back to cancel half a line
Nor all thy tears wash out a word of it."

True, indeed, but as we are gathered here to-day to do honor to the memory of a man, a friend, a judge, we know that in the story of life as George McDermott wrote it for himself, there is no single line that we would cancel, no single word which we would erase. What we find written there is a moving human thing and an inspiration.

Yet, somehow, we are filled with a bitter disappointment for to most of us his hand was stilled before the story of that life was completed. We feel a sense of loss as we close the book upon a journey partly finished, upon adventures yet untried, upon a tale which ended before the consummation of a march toward the highest pinnacle of achievement: which we felt should and would have been its only ending.

This morning we can turn back the pages and recall those contacts, where for per-

haps a year, a month, a week, or a day, his life touched our own and left us with something to be remembered and treasured. This morning each one of us must scan for himself those portions where for a moment he played a companion part and color them with a glow which only the emotions of the heart can give. But if we are to give it real meaning, we must voice the wife, the children, the bench, the bar, the wrangler, the guide, the soldier, and that host of friends who were bound to him as by hoops of steel.

To point out his achievements would be to merely translate into idle tinkling words, incidents and scenes, experiences and cases, which George has already recorded and placed beyond our ability to change or modify.

To pass by and view again those honors, which in profusion, came to him, would be like wandering into the corridors of a deserted palace, seeking in vain for the vitality which only a living, breathing occupancy could give.

Is it not more fitting that we review the chapters as George wrote them and see if with the small net of our imagination, we can catch something of the theme of that entire story, something of the vital impelling force behind the product, which is recorded, something of the message which he left for us to strike in our lives a flame, which will because he lived, weld us closer to the ideals of our profession, to our oaths as lawyers and to our honor as men.

As Tennyson has so fitly said:

"Since we deserve the name of friends
And thine effect so lives in me
A part of mine may live in thee
And move thee on to nobler ends.

"Nor blame I death because he bare
The use of virtue out of earth
I know transplanted human worth
Will bloom to profit elsewhere."

Let us take that chapter, which tells of his life at the University of Chicago. It

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was there that the great Mechem discovered in the student a mind so keen that he used him to assist in preparing his Second Edition of Agency. It was there that the excellence of his work won for him a degree, cum laude. In that chapter, the theme we find is industry and scholarship.

Turn to those years of happy partnership with Bob Stone, where he first used the tools of his profession, where increasing clients, important cases, success as an advocate, brought him recognition as one of the outstanding lawyers of Kansas. There the theme is diligence, care and skill.

Scan the pages written in his home, where with armor laid aside, no longer judge, he there became a husband, father, guide and pal, absorbed in interests that to him transcended those of bench and bar and to those friends, who came that way, the door was always open and the hearth was never cold. There we find written affection, kindness, and hospitality.

Turn to his life in Topeka, where as president of the Chamber of Commerce, president of the Rotary Club, a member of the Board of Education, a teacher of Constitutional Law at Washburn College, a trustee of that College, he gave his time and energy to build for the community in which he lived. That chapter is a record of service.

Take those many pages filled with meetings of the Bar where we find him advancing new ideas, new thoughts, fearless in the advocacy of those things which he felt would raise the standards of his profession. There we see leadership.

Then there is the chapter where he left his home and child and turned to don the olive drab and answer a call to the colors, even as his father had answered it years before. What is written there if not sacrifice and love of country?

Consider those jolly chapters of adventure, a tale of fishing trips, of duck blinds, of mountain streams, of open fields, of a galaxy of friends and best of all of that happy quartette, which like D'Artagnan and the Three Musketeers was ever ready, day or night, to writ from every passing circumstance some new adventure. There was written sportsmanship, friendship, courage, and steadfastness.

Then comes the last chapter, his record on the bench. When he assumed new duties and new power, there still remained in him the common touch; honors left him still a

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modest friend. Where cooperation with his associates was his practice, he never surrendered or compromised a conviction. His quick brilliance would push dull arguments aside to find the truth and from his pen came opinions, not only right and sound but ones where clearness of logic and excellence of expression attested the true Judge. And there it is that the pages portray that unerring sense of justice, that love of truth, that adherence to right.

The last page is turned, the book is closed, we have caught many of the varied factors which gave color to his life but these are not enough. We find each chapter struck a different note. What we seek is that underlying theme, which runs through each page and line, that ineffable something, which gives texture to the whole, that lesson which is there for you and me.

What I see back of it all, running like a silver thread through every contact and every experience, greater than all the rest, is loyalty. Loyalty was the key note of that life. That to me is what he has left for us that we may catch the inspiration of its effect and with it implement our lives.

Read it all, consider well each page and there it stands, loyalty to his family, loyalty to his ideals, loyalty to his friends, loyalty to his profession, loyalty to his duty, loyalty to his principles, loyalty to himself.

This is his contribution which may carry on in each of us. His life gives voice to this admonition even as Shakespeare gave it voice through the words of Polonius,

"This above all: to thine own self be true,
And it must follow, as the night the day,
Thou canst not then be false to any man."

What more can he leave to his family, his associates, and his friends. We must solace ourselves with this contribution:

Let us no longer feel that his work is unfinished. A few more years could add little more which could better equip him for a new life. We must accept the wisdom of the judgment of that higher Court to which there can be no dissent.

"The moving finger writes; and having writ

Moves on; nor all thy Piety nor Wit
Shall lure it back to cancel half a line
Nor all thy tears wash out a word of it."

JUDGE PHILLIPS:

May I now present Mr. Thomas M. Lillard, of the Topeka Bar, who will speak in

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behalf of the Kansas State Bar Association.

MR. LILLARD:

May it please Your Honors: I have been requested on behalf of the Kansas Bar Association to express in what must of necessity be brief and sketchy fashion something of the respect and affection that the members of the Bar of his home state bore to Judge McDermott. While in recent years his labors upon this court had broadened his contacts and had given him an intimate acquaintance with eminent lawyers and jurists throughout many states, yet to us of the Kansas Bar he was still our brother lawyer. Off the bench and with judicial robe laid aside, we did not think of him as Judge McDermott. At his own insistence and by our own inclination, he was still just "George."

Judge McDermott had many close friendships among older men as well as among younger men, but the Kansas lawyers now in their late forties and early fifties were his real contemporaries. It was this group who as inexperienced and ambitious fledglings emerged from law schools and began to try out their wings at about the same time.

It was this group who golfed and hunted, who played bridge and billiards, who made trips and joined in social life with George McDermott. Our children grew up with his children, and our lives were intertwined with his life in intimate and neighborly fashion as the swift years rolled by.

When he entered the federal judiciary and climbed far towards the heights from which Fame's fair temple shines, there was nothing of jealousy on our part and nothing of patronage nor any lack of the old comradeship on his part.

My first recollection of George McDermott is as I saw and heard him at a Chamber of Commerce gathering in Topeka back in 1910. A community enterprise of some sort or another was under discussion. The elder statesmen of the town were expressing their views. Finally a slim young fellow arose and with no lack of self-possession and in free and easy style began to tell what he thought about it. This slim young man who talked so fluently I learned was George McDermott, about 24 years of age and of only a month or two residence in the city. There was no precedent for such audacity. But he had ideas, good ideas. He expressed them clearly and forcefully and in a convincing manner.

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From that time on, George McDermott became more and more a force in the conduct of the affairs of his community and of his state. In the field of good citizenship he was a leader whose able counsel and service were often sought and were always given unstintingly.

But in this presence and at this time it is more appropriate that we think of his service as a lawyer and as a judge.

George McDermott's apprenticeship at the Bar was short. In 1910, after finishing with honors his law course at Chicago University, he formed a law partnership with Robert Stone of Topeka—one of those happy associations which thrived and prospered for more than seventeen years. Having entered an office whose practice was already extensive and included important business in various courts, young McDermott, as the junior partner, was early given important work to do and was soon attracting the attention of the judges and the lawyers by his dashing and able work as a trial lawyer. In a very few years he had won his place among the top ranking lawyers of the state.

His natural endowments were such that he would doubtless have been a good lawyer in any environment. But his association with the courts and lawyers as he found them in Kansas was such as to develop in full measure his native talents.

A steel blade when whetted against softer metal is not sharpened. But whet one fine steel blade against another and they both take on a keener edge.

McDermott in his thirties, and even in his later twenties, was matching swords with such outstanding lawyers as Dick Hite and Charles Blood Smith of Topeka, with Hackney of Winfield, with Vermilion and Long of Wichita. I will not lengthen the list and will thus spare the blushes of other men of equal or greater ability, some of whom I see now in this court room.

His early practice was before such able trial judges in the state courts as Whitcomb and Dana and Heizer, in the federal district court before Pollock, in the Kansas Supreme Court before Johnston and Mason, Benson and Burch, and in the Eighth Circuit Court of Appeals before Sanborn and Hook and Lewis.

It augured well for the future of the youthful McDermott to be recognized by such veterans at the Bar as a helpful associate or a warthy foe, and to be re-

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garded by such able jurists as an advocate whose presentation of intricate legal questions could be relied upon as always thorough and sound and always honest and sincere.

I will not trespass upon the time of others by making any extended comment on the work of George McDermott in the seventeen years that he practiced law before he went on the Bench. He was in the general practice of the law. Every lawyer knows what long hours of laborious research, with the not infrequent burning of the midnight oil, are incident to the profession. Every lawyer knows the moments of thrill and the moments of depression that come and go as fortune seems to perch alternately, first on your side and then on your opponent's side, as you fight your way through a long, hard lawsuit.

Every lawyer knows how his spirits rise with the exhilaration of victory and how he is restrained from too great pride in his own prowess by the discipline of defeat.

Such was the life of George McDermott as a member of the Kansas Bar,—a fine, able, hard-working lawyer, the peer of any lawyer in his state.

Before going on the Bench, he handled several important matters in a manner which indicated an aptitude for judicial service. Appointed by the Kansas Supreme Court to have an important part in liquidating the funds of the defunct state bank guaranty system, he displayed excellent administrative ability. His report as Commissioner appointed by the same court to hear a large and important telephone rate case is a remarkably able treatise on the subject of telephone rate regulation.

I will attempt no reference to his work as a member of the federal judiciary beyond the statement that in his a little less than ten years service upon the Bench he proved himself a worthy successor to such eminent Kansans as Brewer and Hook and Pollock.

To the members of the Kansas Bar, George McDermott was a beloved friend and associate.

Twenty-four hours before his death we had never dreamed but that for some twenty years or more he would still be with us rendering active service and growing in wisdom and in learning. It is hard to believe that he is dead. We still look for his friendly greeting. We can still almost feel his genial, fascinating presence.

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His death was untimely and his brethren mourn. Regretfully and with heavy hearts, we lawyers of the Kansas Bar say the long farewell to George McDermott. His like will not soon pass this way again.

JUDGE PHILLIPS:

May I now call upon Mr. Albert Faulconer, of the Cowley County Bar, the county in which Judge McDermott grew to manhood.

MR. FAULCONER:

May it please Your Honors: It is a high privilege to speak in behalf of the Kansas State Bar Association, honoring the memory of Judge George T. McDermott in his association with and service to that institution of Kansas lawyers.

I knew George McDermott as a college student in my home county, during his law school work, and at the beginning of his practice of the law. It was my privilege to associate with and to be opposed by him in the trial of lawsuits, and throughout my thirty years of intimate acquaintance with him I experienced a growing appreciation of his gentlemanly qualities, professional dignity, and learning.

When he was honored by being appointed a judge of the United States District Court I experienced the pleasant reaction that the Kansas Bar Association and the lawyers of Cowley County, of Winfield and Arkansas City had received some personal honor. This feeling in some measure expresses the esteem in which George McDermott was held by those of us who were privileged to have a close acquaintance with him.

He was thoroughly democratic. When I learned that he had been appointed Judge of the District Court, I wrote to him a letter of congratulation, and among other things said, "I shall be proud to stand before you and address you as 'The Honorable Court,' but when off the Bench I will be very much inclined to say 'George'". His reply was, "I shall be tempted to reprimand you if you do not so address the Court, but I certainly will regard it as contempt if you do not call me 'George' when I am off the Bench."

I cannot now recall any meeting of the Kansas Bar Association when Judge McDermott was not present. Not content with merely attending meetings of the Bar he was constantly devising ways and means for improving and strengthening the ideals and influence of the lawyers, ready always to work

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as an individual or as chairman or member
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ment of duty. He was more than a willing
worker. His conception of the functions of
a Bar Association, and his alert mind made
him a natural leader. His courtesy and re-
spect for the opinions of his fellow lawyers
and those coming before the Association
made of him one who commanded the
thoughtful and dignified respect of all of his
associates.

His sense of right and wrong and his art-
ful way of accomplishing certain desired
ends without violating any principle of jus-
tice and without personal offense, has left
the course of his life and association with
the lawyers deeply marked upon the memo-
ries of all of us. The radiance of his social
nature stands out like the grandeur of a
perfect sunset, and the more we reflect upon
his life and accomplishments the more deep-
ly we are convinced that that which marks
the difference between one man and another,
between the weak and the powerful, the
great and the insignificant, is personality,
energy and invincible determination.

It is appropriate here to say that the
waste of life lies in the love we have not
given, the powers we have not used, the
selfish prudence that will risk nothing, and
that no one ever yet was the poorer in the
long run for having given the length of his
reins to a chosen ambition.

There is certainly no short-cut to wisdom
and influence, and after all the centuries of
invention, the soul's path lies through the
thorny wilderness which must still be trod,
often in solitude.

All of us who knew Judge McDermott
realize that these little philosophies permeat-
ed his life and that he made much of study-
ing and learning to know himself and his
own resources.

Alfred Russell Wallace has given us in-
spiration in these words:

"This earth with all its infinitude of life
and beauty and mystery, and the universe in
the midst of which we are placed, with its
overwhelming immensity of suns and nebu-
lae, of light and motion, are as they are,
for the development of life, culminating in
man, and as a vast school for the higher
education of the human race in preparation
for the enduring spiritual life to which it is
destined."

Every man marches to the music he can
hear, and every man according to his ability
must play some part in the great symphony

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of human life. There are those among us
who at times, forgetting the fundamental
theme, play discordant notes and distract the
attention of others, but of our deceased
friend, lawyer and jurist we can in all
sincerity say, that in and out of his pro-
fession he played his part, following the
fundamental ideals that have made of ours
the greatest nation on earth, never con-
sciously contributing a single word or act
to confuse the harmony of our national
life.

As one gains spiritual power from those
columns of humanity in which he marches,
the Bar Association of Kansas in this last
tribute deems itself richly influenced by the
eternal qualities of the life of Judge Mc-
Dermott; and may Almighty God inspire
and a concerned people help us to preserve
and defend the practical idealism by which
he lived.

JUDGE PHILLIPS:

May I now present Honorable Hugo T.
Wedell, Justice of the Supreme Court of
Kansas, who will speak in behalf of that
court.

JUDGE WEDELL:

May it please Your Honors: Friends and
relatives of the deceased, it is deemed a
signal honor to have been selected by the
supreme court of the State of Kansas to
appear as its representative on this memora-
ble occasion.

It is not my purpose to repeat the splendid
and well deserved eulogies which have been
so ably delivered here this morning on the
life of the distinguished citizen in whose
memory we have met. It is, however, my
definite purpose to express on behalf of
members of the supreme court, simply but
most genuinely, the grief and sorrow ex-
perienced when they learned of the passing
of George McDermott. It is also my pur-
pose to convey our deep sense of loss oc-
casioned by what appears to have been an
untimely death of so noteworthy a charac-
ter.

His name appears as a lawyer in numer-
ous important opinions of our court. It is
only fair to say those opinions themselves
reflect his keen analytical mind and stalwart
character.

To members of his family, relatives and
his most intimate friends, to those who
knew him best, his passing will ever be an
irreparable loss. His sphere of influence,
however, transcended family circles. It

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reached far beyond mere contacts with admiring friends. Most of us gathered here might easily pass from the scene of life and be little missed. Certainly the nation would not be disturbed. Probably the state in which we labor would scarcely note the event. Possibly the community or neighborhood in which we reside would not be seriously moved. It was not so with the passing of George McDermott. His friendly interest, his helping hand, his penetrating thought had created an ever expanding field of service. His generous counsel, his sound judgment were in constantly increasing demand. His capacity seemed unlimited. His prospects for continued achievement and advancement were most brilliant. He had a normal expectancy of many years of distinguished service. Notwithstanding these facts, we are all persuaded he had lived an exceedingly full life at the early age of fifty.

Immediately upon notice of his passing, many remarked, "Well, we've lost him." That is true only in part. True, we shall miss him greatly in many ways, but he has left us something we shall never lose. We shall never lose the memory of his life. That memory of his charming personality will remain with us always. What a beautiful memory it is. In memory's eye we shall not see him with physical or mental vision dimmed. We shall not see him with palsied hand and tottering step or with vital senses sadly impaired. In memory's eye we shall see him always as we love to think of him. We shall see him in the full power, vigor and enthusiasm of life, eager to cope with the perplexing problems of humanity. This beautiful memory of George McDermott will be an ever-abiding inspiration to all who have been privileged to really know him. That memory cannot be lost. It will live so long as men, women and children live who knew him.

So, on this occasion and in years to come, we shall delight in the memory of a truly brilliant lawyer, a soldier proud for having stood in the service of his country in time of war, a truly patriotic citizen who generously served his community, his native state and the nation he loved, in time of peace as he did in time of war, a distinguished jurist and a lovable character.

For these and many other admirable qualities we shall ever hold him in our memory. We shall be grateful for the inspiring memory of a man who became what he was

and accomplished so much in so short a time.

JUDGE PHILLIPS:

It now becomes my privilege in behalf of my associates and myself to express these words of tribute.

It was during a session of the United States Circuit Court of Appeals for the old Eighth Circuit at St. Paul when I first met Judge McDermott. He made an able argument in a case before the court in which I was sitting as an assigned District Judge. I was impressed with the clarity and fairness of his presentation, with his keen analysis of the issues of fact and law, with the force and logic of his argument, and with his delightful personality. That evening I chanced upon him in the hotel lobby as I was about to go for a walk and asked him if he would like to accompany me. He did and there began an acquaintance which ripened into an intimate, affectionate and loyal friendship.

It was my good fortune to know him intimately and well. We came up on this court at the same time, my commission antedating his but one day. From April 30, 1929, to the time of his untimely demise we labored together and on many happy occasions sought recreation together.

I have sat with him in a duck blind on a cold, crisp autumn morning, and with him witnessed the oncoming day, the first golden blush of a morning sun as it burst into matchless splendor over an eastern horizon, and with him heard the call and stir of wild life, the murmuring of the morning breeze and the rustle of leaf and tulle as we waited for the first sound of whirring duck wings in God's great out-of-doors, which he understood and loved so well.

I have pursued with him the elusive mountain trout in the clear cold streams that rush down from the majestic Rockies.

I have been afield with him following the noble pointer in that greatest of all outdoor sports, the taking of bobwhite quail.

I have sat with him round the glowing embers of a campfire and cabin fireplace where he regaled his companions with wholesome humor and engaged them with delightful philosophical dissertation.

It would be impossible to appraise accurately his service as a lawyer, a teacher, a soldier, and a judge without keeping in mind the compelling force of his personal-

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ity, the unselfishness of his heart, and the nobility of his character.

He came to the bar in 1910. The keenness of his mind, the power of his intellect, and the strength of his character early won him recognition as an able advocate and a sound and trustworthy counsellor. His career at the bar was a brilliant one.

In 1928 he was appointed by President Coolidge as Judge of the United States Court for the District of Kansas. In a span of less than two years his work as a nisi prius judge was so outstanding that his selection as a judge of the new Tenth Circuit by President Hoover met with universal approval by the members of the bench and bar in the new circuit.

Judge McDermott had a broad understanding of human nature and human frailties and a deep sympathy for his fellow men. He found good in everyone but mere sentimentality never clouded his judgment nor stayed his vigorous condemnation of sham, pretense, falsehood, or wrong.

He loved justice and ordered liberty. He hated wrong and oppression.

He understood, believed in and appreciated American institutions and the American way of life.

Intellectual power, tempered with sentiment, spiced with humor and balanced with common sense produced in him a rare sanity of judgment.

He was learned in the law and in the ways of men; he stood firmly for truth and virtue and uncompromisingly against falsehood and wrong; he was patient when forbearance was required, swift when dispatch was possible; he was equally insensible to the attack of the demagogue and to the blandishments of the flatterer; he strove to square his official conduct with the dictates of his own conscience and his high conception of even-handed justice; he was human, humble, unselfish, sympathetic, tolerant, courageous, and just. He was loyal to his friends, to his principles and to his country. Added to his attributes of character and his unusual intellectual powers was the charm of a gracious and lovable personality.

He had the ability to quickly cut away the brush, to discard the immaterial and irrelevant, and to go speedily to the heart of the controversy. He had a keen insight into factual situations, an accurate conception of equity and justice, a profound knowledge of legal principles which condition the

disposition of cases and the ability to make an analytical application of those principles to the material facts, always with an eye to exact, certain, swift, and complete justice.

He met the views of his associates with open-mindedness, tolerance, and patience. If convinced they were wrong he combatted them with the full vigor of his great intellect and the strength of his convincing logic. He readily gave way when convinced of his error. But when certain of his views and unable to bring his associates to them he dissented with respect but with vigor.

As was said of another great jurist:

"With him, service in the temple of Justice was not an austere performance, with the ill grace of an unnatural aloofness, but a necessary human endeavor, with the dignity of lofty purpose, but pursued with a benignity and an affection for his fellows which made his presence in that temple a constant benediction."

In a little less than eight years of service on this court he wrote the opinion of the court in 240 cases, and wrote dissenting or concurring opinions in 22 cases.

His opinions touched every field of litigation in the federal jurisdiction, except admiralty. They showed prodigious energy expended in study and research. They reflected:

"Genius and learning and consummate skill,
Moulding each thought obedient to the will."

They not only decided the case at hand but accurately charted the way for future action.

They made a contribution to the judicial literature of the federal courts that will abide.

The perpetuity of American institutions and the preservation of individual freedom and ordered liberty, depend in a large measure upon the maintenance of judicial establishments composed of courts presided over by judges who are able, conscientious, fearless, honest, independent, and just; where the humblest citizen may resort when his property, his liberty, or his life is threatened either by an unwise majority or a selfish minority seeking to deprive him thereof without due process of law, and calling to his aid the principles of right and justice embodied in the Constitution and the law, may defy the multitude knowing that the

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sword and buckler of the law will afford protection to his rights, and the restraining hand of equity will stay those who would encroach thereon. Where rich and poor, and high and low may confidently meet any adversary, knowing that right and justice will align their strength with him whose claim is just. And where justice shall be administered to everyone alike according to the righteousness of his cause.

Could we always be assured of judges of the character and learning of Judge McDermott, we could rest confident that such judicial establishments will be maintained.

Judge McDermott would have graced the Supreme Court of the United States. He rendered a judicial service which can only be properly described by the use of superlatives, and which entitles him to a place along with the great jurists of America.

Mr. Webster in his eulogy of Mr. Justice Story, said:

"Justice, sir, 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 with usefulness and distinction, whoever clears its foundations, strengthens its pillars, adorns its entablatures, or contributes to raise its august dome still higher in the skies, connects himself, in name, and fame, and character, with that which is and must be as durable as the frame of human society."

The character of the judicial service rendered by Judge McDermott "connects himself, in name, and fame, and character, with that which is and must be as durable as the frame of human society."

Amidst a busy public career, he found time to give a course in constitutional law at Washburn Law School where he taught for many years. Not only did he impart to his students a proper understanding of the principles of constitutional law, a profound respect for American institutions and an appreciation of the American system of government, but he also made a deep and lasting impression on their minds and character that will be beneficently reflected in their contributions to society as members of the bar and citizens of our republic.

When America entered the great war he unhesitatingly left a busy law office and

volunteered to serve his country. He was commissioned a First Lieutenant and served in France with bravery and distinction.

Great as were his public attainments, demanding as they were upon his time and his energies, he did not permit them to overshadow or detract from the devotion, love and care which he bestowed as a husband and father upon his charming wife and loyal helpmate and his fine and lovely children.

Away from home, engaged in the trial of an important lawsuit, on the first birthday of his eldest daughter Jane, he found time to indite one of the finest things that ever came from his facile pen, in form a birthday letter to daughter Jane, in substance a most beautiful tribute to her mother, in style and composition a literary masterpiece.

Though his span of years was short, his life was full, complete, and long, because he lived life to the utmost and made the most of the exceptional talents with which he was so richly endowed.

He lived a life "in simpleness, in gentleness, in honor, and in clean mirth." He loved his fellow men and was beloved by them. He gave in fullest measure of his talents, his prodigious energy, and his extraordinary ability to his profession and to his country. He walked according to righteous precepts. In the broad sense he was deeply religious. He was a great, a good and a just man, a brave soldier, a loyal friend, a patriotic citizen, a devoted husband, a loving father.

To us it seems he was cut down in the full bloom of his powers. We bow as he would have us to the will of the Mighty Judge of all men whose "ordinances are true and righteous altogether."

Words are but feeble instruments with which to characterize the life and attainments of a man like George T. McDermott. What we say here will soon be forgotten. What he did here will long endure. He gave to life an impulse that will abide.

He is gone! And the night in ever narrowing circles weaves its shadows about us who were his contemporaries and yet remain.

We his associates, enriched by the high quality of his work, influenced by the nobility of his character, and inspired by golden memories of our association with him, will labor on in this temple he so richly graced, in the work of administering law and equity to the end that the actions of men and of

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government shall be in accord with right and with justice.

The following memorial of the Topeka Bar Association was presented by Mr. Robert Stone, Chairman:

GEORGE THOMAS McDERMOTT, eminent lawyer and jurist, for twenty-seven years a member of this bar, is dead. Surviving him are his wife, Katharine Stewart McDermott, two daughters, Jane and Mary Katharine, and a son, James Stewart. He was born at Winfield, Kansas, on October 21, 1886. He was educated in the common schools of his native city, graduated from the Southwestern University and studied law in Chicago University, where he was graduated with the degree of Doctor of Jurisprudence cum laude in 1909.

During his law course, Professor Floyd R. Mechem employed him to assist in preparing his second edition of Mechem on Agency. This was an early recognition of his native ability and he did the work to the great satisfaction of Mr. Mechem.

In January, 1910, he came to Topeka and became a law partner of Robert Stone under the firm name of Stone & McDermott. This partnership relation continued for eighteen years, when he was appointed Judge of the United States District Court for Kansas. At the time of his appointment to the federal bench and for several years previous, the firm was Stone, McDermott, Webb & Johnson (Robert L. Webb and Beryl R. Johnson). The only break in his active participation in the partnership was during his service in the World War, to which reference will be made below.

When the Tenth Circuit Court of Appeals was created in 1929, he was promoted to the appellate bench upon which he served until his death at Winfield on January 19, 1937, nine years after he assumed the robe as federal district judge.

While engaged in the active practice, he held many positions of service and honor, among them President of the Topeka Chamber of Commerce, President of the Topeka Rotary Club, member of the Kansas State Board of Law Examiners, and member of the Topeka Board of Education. During his service upon the Board of Education, the site for the present high school building was purchased and the plans were adopted for the building of which Topeka is justly proud.

After going upon the bench, he taught the course in constitutional law at Washburn Law School, following the death of Justice Henry Mason. About two years ago, he was elected as a member of the Board of Trustees of Washburn College.

His highest extra judicial honor was his election as a member of the council of the American Law Institute in 1934. This was an extraordinary tribute to his outstanding ability. The council is limited to thirty-three members, selected from the bench and bar throughout the United States. His selection, notwithstanding the fact that Chief Justice Burch was already and continued to be a member of the council, gave to this small city a double representation on this council of distinguished jurists and lawyers.

His death was untimely but he had crowded into that scant half century more of life and achievement than most men can find in three score years and ten. In less than twenty years at the bar, he participated in many large and important lawsuits, some of them involving great constitutional questions. At the time of his appointment to the bench, he was recognized as a leader of the Kansas bar.

His unusual ability as an advocate led many of his friends to doubt whether his temperament would permit him to become a good judge. At first, it seemed difficult for him to restrain the spirit of advocacy and to wait with judicial calm until each side had presented its case, but he shortly mastered that difficulty and became a great trial judge, forcing the lawyers to cut through the rubbish and present for decision the exact issue of facts as well as law.

When advanced to the Circuit Court, his opinions on appeal soon became recognized by the bench and bar throughout the country because of his direct thinking, his power of analysis, logical reasoning, incisive language, and his exact use of words and legal phrases.

As a trial lawyer, he was always on the qui vive to develop the truth from an unfriendly witness or to expose the fallacy of the argument of opposing counsel. As a trial judge, he was quick to find the nub of the case and to limit the trial to the exact controversy.

Woe betide the lawyer who went before Judge McDermott with a poorly prepared or with an ill-founded case! A few terse

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and pointed questions from the bench—a why this? or a how about that?, and there wasn't much left of the lawsuit. Judge McDermott could discern and put his finger on the weak spots with discomfoting skill.

But what a joy he was to the lawyer who went before him with a well-prepared and well-founded cause. If the lawyer's argument was logical and well arranged, McDermott would not merely follow him with understanding and appreciation but was always a jump or two ahead and would frequently, out of the exuberance of his spirit, state the conclusion before the lawyer could utter it himself.

In his many extra legal activities, he was equally ready in analyzing and determining matters in conference and would become impatient of prolonged discussion of immaterial matters or hesitation in reaching an apparent definite conclusion.

At this bar, there have been other able men, other brilliant men, other genial, witty, fascinating men. There has been no other member who possessed in such rare degree as did George McDermott the combination of these very desirable qualities. A man is an able man when he habitually succeeds in attaining ends which are difficult and are worth while. Such a man was George McDermott. A man is a brilliant man when his mind, with the flashing swiftness of a skilled swordsman's blade, penetrates to the heart of a problem. Such a man was George McDermott. The genial man is the man who is not dull and morose but who possesses and imparts to others a spirit of joy and good will and happiness. The witty man is not the clown or the fool but the man who, with deftly turned word or phrase, can give vibrancy and life to conversation that would otherwise halt and drag a weary and boresome course. The fascinating man is the man with whom one likes to spend his time.

All will agree that George McDermott was genial and witty and fascinating and had an unusual personality. He had a mind which functioned with the precision of a fine piece of machinery and with the speed of an electric current. Many a brilliant man has failed to achieve success because he relied too much upon his native ability. But George McDermott used to the utmost his God given endowments and his achievements were due not alone to genius or native brilliancy but very much to an honorable ambition to excel in whatever he undertook, a fixed purpose to do thoroughly whatever

was in hand, to be industrious, attentive and efficient.

He had learned to think straight. He was a ready, entertaining speaker and always had something worth while to say. He loved the beautiful things in life and in nature. He had the will to work, an unusual power of concentration, and the ability to acquire facts and to arrange and keep them ready for use. He had an acquisitive mind, a retentive memory, and a remarkable ability to summon to instant use what he knew. He was able to think and to say when the occasion required those things which were appropriate to be said at the time.

In addition to the qualities already mentioned, no summary of his life and character would be complete without a reference to his unlimited energy, his unresting driving force. George was a human dynamo.

In the death of George McDermott the bar of this county, as did the bar of the country, not only lost a great lawyer and jurist, but more than that, this country lost a patriotic American citizen. He personally felt a great pride in his service to his country. This pride of country came to him naturally. His father, James McDermott, a prominent Kansas lawyer for many years, a native of New York, enlisted at the beginning of the Civil War as a private in the Kentucky Volunteer Infantry Regiment, served in twenty-one engagements, was wounded in action at Chickamauga and was discharged as captain. Many times George would speak with feeling and pride of his father's service to his country in time of need. The name of Thomas was given to George Thomas McDermott because his father, Captain James McDermott, had served under General George Thomas during the Civil War.

At the time this country entered the World War George was married, the father of one daughter and another baby was soon expected. The second daughter, Mary, was born in June, 1917, and the following August George entered military service attending the Officers' Training Camp at Ft. Sheridan, Illinois. He was commissioned a First Lieutenant and assigned to the 339th Field Artillery, 88th Division, stationed at Camp Dodge, Iowa. He was later selected as one of a special detachment for instruction at the French school of fire, landed in France in August, 1918, and was stationed at the French artillery school near Clermont Ferrand. He was billeted with

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a French family and became very much attached to his French instructors and associates and kept up a correspondence with his French friends until the time of his death. Prior to leaving Camp Dodge he was recommended to a captaincy but when the order of promotion came through he was on the high seas on his way to the French artillery school. It would, perhaps, have been a simple matter of routine to have had this order reinstated after his return to the states in January of 1919. Since his services were no longer required, he did not make application.

When we consider a man with a family, with the brilliant business prospects before Judge McDermott in 1917, and as yet no urgent need for his service, we must admire a man who voluntarily gives what he did to enter the service with combat troops. With his training and experience he could have secured many assignments in the army that would not have taken him to the field of battle, but ever proud of the fine military record of his father, he desired the opportunity to serve his country as a fighting soldier. His patriotism was intense and his friends believe that he was more proud of his army record than of anything that came to him during his life.

The life of a soldier came to him naturally and when he returned to civil life he attended, whenever possible, every gathering of ex-soldiers, taking a most active part in the local Post of the American Legion as well as in the selection of state and national officials of that organization. The warm friendship he had for former comrades was evidenced by the great interest and pleasure which he took in the selection of two of his friends, who are members of this Bar Association, as National Commanders of the American Legion and few realize the important part he played in securing their election.

Death is a great mystery. But, after all, death is only the absence of life in the body. Life is the greater mystery. When death occurs, because we love life and love to know about the lives of men, we naturally think of the future life and hope and believe that the life which is begun here may continue throughout the hereafter. Of that, we may only hope and believe. But, the life which we know here is the greatest mystery which we can explore.

Where does life reside? Is it in the body, in the mind, or in the soul? Who and what

is a man? Why does one man differ from another? A man is not the body but if he be not the body, is he the mind or the soul or both or all of these? Why are some active in mind and body, while others are lethargic in one or both?

Why are some thrilled by strains of sweet music or the glories of a sunset, while others neither hear nor see the beautiful? Why are some motivated by hate, while others are moved by love? Why do some men seem born to success, while others are doomed to failure? Does life with its variable personalities reside in the body or appear in the face, or is it concealed in the intellect or the will, or is it something somewhere more elusive and ineffable than any of these?

We may think we know a man, but when we look in his face, he is not there; when we listen to his voice, he is not there. He is somewhere behind the face, somewhere back of the voice, somewhere within the body. He is never really seen by another's eye or really heard by another's ear, for he lives within himself, alone, unknown to any other fellow creature however intimate. He is often unknown to himself.

Upon the ancient temple of Apollo, at Delphi, the Greeks inscribed the maxim "Gnothi seauton"—Know thyself. That is the beginning of wisdom. If one can know himself, with all his faults and with all his goodness, each of which he usually exaggerates or depreciates, if he can truthfully know himself with all his powers and all his limitations, with all his virtues and all his vices, then he may reach that more abundant life which is the gift of God. He may then become master of himself, captain of his soul, his intellect and his will. Then he may achieve great things.

George McDermott's power and usefulness at the bar, on the bench, and in the community were due in a large measure to his knowledge of himself, his ability to use himself and the powers that were within him. To him, it was the key to success.

We offer the following resolution:

Be It Resolved By The Topeka Bar Association:

That we mourn the irreplaceable loss of George T. McDermott, eminent lawyer and jurist;

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That we extend our sympathy to his widow and children, and other members of his family;

That we spread the foregoing memorial upon the records of this association, and that the committee be directed to offer this memorial to the Supreme Court of Kansas, the United States District Court of Kan-

sas, and the Tenth Circuit Court of Appeals.

T. F. DORAN,
OTIS E. HUNGATE,
T. M. LILLARD,
RALPH T. O'NEIL,
ROBERT STONE, Chairman.

JUDGE PHILLIPS:

The court will now be in recess.

Abuja v. Uni
Adams, In re
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Albizu v. Unit
Albright v. K
Allen, In re—
Alliance Trus
Alpha Portlar
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Ames; Comr
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Andersen; U
Anderson v.
Anderson v. C
Andrea, Inc.,
Andrews; Se
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Antone Bldg.
Aqua System
Armstrong v.
Army & Navy
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Atlantic Gulf
Azzarello, Uni
Badger v. H
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Banning v. S
Bare; United
Barnett Nat.
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Barrett v. In
Barton Mfg. t
Bass; Anders
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Bates, In re—
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Bekins v. Ll