

ORATION AND ADDRESSES

ON THE OCCASION OF UNVEILING THE

STATE MONUMENT

TO THE MEMORY OF

JOHN MILTON ELLIOTT.

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ORATION AND ADDRESSES

ON THE

Life and Character

OF

JOHN MILTON ELLIOTT,

A JUDGE OF THE APPELLATE COURT OF KENTUCKY.

DELIVERED IN THE

HALL OF THE HOUSE OF REPRESENTATIVES
OF KENTUCKY

APRIL 24, 1884.

PUBLISHED BY ORDER OF THE GENERAL ASSEMBLY.

FRANKFORT, KY.:
PRINTED AT THE KENTUCKY YEOMAN OFFICE.
S. I. M. MAJOR, PUBLIC PRINTER.
1884.

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By sculptured marble white and cold,
His worth, his virtue is not told—
It resteth not with human art
To carve a semblance of his heart;
The soul that spoke in eye and tone,
Is not unveiled to speak from stone.—H. T. STANTON.

By an act of the General Assembly of the Commonwealth of Kentucky, the sum of \$1,000 was appropriated to erect a monument over the remains of JOHN MILTON ELLIOTT.

His Excellency, Governor L. P. Blackburn, appointed Chief Justice Thomas F. Hargis, Judge W. S. Pryor, and General John Rodman a committee to carry into execution the will of the Legislature, which was done.

The monument is a white marble shaft, twenty-one feet in height, rising from a cubical base of the same material, and all resting upon a granite sub-base or foundation. It is surmounted by a life-size statue of Justice.

On the side of the cube facing to the north is a medallion likeness of Judge Elliott.

On the east side, the inscription:

JOHN M. ELLIOTT,
Born May 16, 1820.

ASSASSINATED FOR HAVING DONE HIS DUTY AS A JUDGE,
March 26, 1879.

On the south side:

"A statesman of stainless honor; he became a member of the Legislature of Kentucky, served three terms in the Congress of the United States, and two terms in the Confederate Congress; a judge of pure heart, strong intellect, fearless, faithful, kind, and efficient; as a Circuit Judge and Judge of the Court of Appeals he served without reproach."

On the west side:

"As a man he was ardent, social, genial; by nature a philanthropist, he won the love of his fellowmen by his generosity and worth; devoted as a husband; as a friend, faithful and just; a dutiful citizen, an upright official, his crowning virtues were candor, integrity, and love of truth."

4 *Ceremonies at Unveiling of Monument to*

The time that glorifies a State,
It may be truly said,
Is when her living sons relate
The virtues of her dead.—H. T. STANTON.

On the 24th of April, 1884, the monument was unveiled. The ceremonies were imposing and solemn.

The procession formed about 11 o'clock in front of the State Capitol, and moved in the following order:

Chief Marshal Hugh Rodman.

Assistant Marshals John Milam, Jacob Corbett, and
George Payne.

Frankfort Brass Band.

Frankfort Police in full uniform.

McCreary Guards.

Nuckols Guards.

Governor's Light Artillery.

Hon. Isaac Caldwell, Hon. W. J. Hendrick, Hon.
J. C. Beckham, and Hon. C. U. McElroy
in carriages.

Governor and staff in carriages.

Judges of the Court of Appeals and Superior Court
on foot.

Members of the Assembly in carriages.

Frankfort City Council in carriages.

The Frankfort Fire Department.

Citizens in carriages.

Citizens on foot.

It moved down Broadway to Washington, down
Washington to Main, and out Main to the ceme-

tery, arriving at the State's ground about twenty minutes past twelve o'clock.

The ceremony of unveiling was simple, and occupied but a short time.

Prayer by Rev. George Darsie, Pastor of the Frankfort Christian Church, as follows:

"O, thou great and eternal God, Creator and Ruler of the heavens and the earth. Author of life and all its blessings, in reverence and humility do we approach Thee this day, here amid the fresh, unfolding loveliness of nature, under the canopy of the sky, in this solemn city of the dead.

"We thank Thee that no true and good and useful life can ever be buried in a grave. We rejoice that, while the earth receives and holds the sacred dust of our beloved and honored ones who have passed away, the work they have done and the results they have achieved for the progress and enrichment of humanity bear mighty witness to the fact that, though dead, they yet speak and yet live.

"We thank Thee, O God, for the life of him whose mortal form sleeps beneath this mound of earth, and to whose memory we are met to-day to unveil and dedicate this shaft of monumental marble. We pray Thee that the power of this life, in its noble and heroic adherence to conviction, to principle, and to justice, may continue to be felt and remembered throughout our State and Nation, even until that far-off future day when this monument shall have crumbled to dust. Grant, O God, to deeply and indelibly engrave and impress upon the hearts and memories of our people, to untold

generations, the warning lessons of that fearful crime against the well-being and safety of human society which the tragic and martyred end of this lamented life has left behind it.

“May we never forget that unpunished deeds of lawlessness and violence mean the inevitable overthrow of domestic peace, social order, and of civil government. May we ever remember that the only guaranty for the protection and security of our liberties, our homes, and our lives, is the certain, permanent, and impartial administration of the laws of our land. God grant us, therefore, a renewed sense and appreciation of the majesty of the laws, an increased regard and reverence for its methods and decisions, and for the exalted and inviolable sacredness of its officials. Remove from our midst the wide-spread and lawless spirit which would right wrongs and redress grievances by acts of personal vengeance. Correct, O God, the vicious public sentiment among us, which justifies and encourages such acts. And hasten, O hasten the time when murder, violence, and crime shall cease to stalk abroad unrebuked and unpunished, and when in their stead law and order, righteousness and peace, virtue and religion, shall everywhere prevail, filling our hearts, our lives, our homes, our State, and our land with joy and blessing.

“Remember thy servants, the President of the United States and the Governor of our Commonwealth, with their associated and constitutional advisers, and all in high place and low place who are in any way connected with the enforcement of the

laws of our country, to the end that our people everywhere may lead quiet and safe and peaceable lives in all godliness and honesty.

“Bless, O loving Father, the sad and stricken heart who sits to-day in the sable weeds of disconsolate widowhood, robbed by a murderous hand of him who was the pride, the light, the hope, and the joy of her life. Grant unto her richly of Thy grace and strength, to comfort and cheer her on her desolate and lonely way, and to guide her safely to the end.

“Bestow thy divine favor and approval upon the exercises of this day, upon all who shall participate therein, upon the speakers and upon the hearers, that in all things said, and in all things done, the blessed name of God may be honored and glorified, to whom, through the Lord Jesus Christ, be praises forevermore. Amen.”

The monument was then unveiled by Gen. John Rodman.

After the monument had been viewed by all assembled, the procession moved back to the Capitol. At a quarter past one o'clock, in the Hall of the House of Representatives, Hon. Isaac Caldwell, of Louisville, was introduced by Chief Justice Hargis, in these words: “Ladies and Fellow-citizens, I have the honor of introducing, as the orator of the occasion, a man whose best recommendation is his own honored name—Isaac Caldwell,” and delivered the following oration:

ADDRESS OF HON. ISAAC CALDWELL.

John M. Elliott, the distinguished and beloved citizen, judge and friend, in honor of whose memory we are assembled, was born May 16, 1820. He was of English, Irish, and Scotch extraction. His parents were John Lile Elliott and Jane Elliott, whose maiden name was Jane Ritchie, a relative of Thomas Ritchie, of the Richmond Enquirer, familiarly called in his day the "Napoleon of the American press." It was from his mother that John derived his Scotch blood. His paternal grandmother, wife of James S. Elliott, was Hannah Scott, relative of Charles Scott, one of the early Governors of Kentucky, and of Gen. Winfield Scott. John Lile Elliott, father of John M., was born on Flat Creek, in Bath county, and served in both branches of the General Assembly of Kentucky.

John M. received a very good academic education, and began the study of law in 1842, in the office and under the instruction of Henry C. Harris, of Prestonsburg (the county seat of Floyd county), Ky. In the following year, when 23 years old, he was admitted to the bar, and entered upon the practice of his profession, with success from the beginning, in Prestonsburg, his home for twenty years. In 1847 he was elected to the State Legislature as Representative from Floyd county. In 1848 he married Susan, daughter of William Smith, of Prestonsburg, to whom he was devoted until death. He loved to call her "Queen of the Mountains," and often introduced her by that appellation to his

friends. They had no children. In 1853 he was elected from the Sixth—called the Mountain—district of Kentucky Representative in the Congress of the United States, and was re-elected in 1855 and in 1857. During his service of six years as a member of Congress he acquired a national fame as one of the distinguished Kentuckians in the public service. In 1861 he was again returned as a Representative in the State Legislature, but did not serve long, leaving his seat to join the Confederate army under Gen. John S. Williams, between whom and himself the warmest friendship lasted until his death. In 1862 he was chosen a member of the Confederate Congress, and remained such until the close of the war. He then returned to Kentucky, and resumed the practice of his profession in Bath county. In 1868 he was elected Circuit Judge of the Thirteenth Judicial District, and served the full term of six years, and added much to his repute as a lawyer. At the expiration of his circuit judicial term he removed to Catlettsburg, in Boyd county, and again resumed the practice of law. In 1876 he was elected Judge of the Court of Appeals for the First Appellate District for the term of eight years. He served as one of the four judges of this the highest court of last resort in the State until his death, on the 26th day of March, 1879. His wife survives to mourn her bereavement, and to cherish the many recollections of his kind and noble traits.

Judge Elliott was a large-brained, large-hearted, open-handed man, generous and brave, a true friend, a formidable foe, who never sought or shunned a

quarrel, the idol of the people of his adored and adoring mountains. He was too noble to be untruthful, too magnanimous to be deceitful, and too brave to conceal whatever he thought or did. These traits gave him great leadership with the mountain people, rendered him always powerful before juries, and invincible at the polls. No man who has died in our day has left a warmer place in the hearts of his constituents.

In politics he was a Democrat of the Jeffersonian school of strict construction, adhering to the teachings of the great apostle in favor of an economical government, honestly administered by public servants chosen for their competency and faithfulness, to the end that the people, free from unnecessary restraints or burdens, might enjoy the fullest fruits of their industry, never forgetting that that is the best government which governs least. Whether as legislator or judge he was incorruptible and eminently self-reliant. A true patriot he loved his country; a true man he loved his countrymen. No man could be truer to his friends or more generous to his opponents; hence his friends were many, his enemies few, his admirers all who knew him. Possessing a remarkably quick perception of the abilities and motives of men, he was a ready and efficient legislator, and with an intuitive sense of justice, guided by strong intellectual powers and perfect fairness, he was a just and impartial judge.

As Judge of the Court of Appeals he was courteous and fair with his associate judges; dignified on the bench, and considerate of the rights of

counsel and litigants. His opinions published in 12th, 13th, and 14th Bush's reports are compact, pointed, and emphatic. His ideas clearly expressed leave no room for doubt as to their meaning, and through all a great regard for precedent is shaded and controlled by strong common sense and ever present love of justice.

Thus I have summarized my knowledge and estimate of the life of him whose monument you have to-day unveiled. Kentucky has had many able, faithful, and beloved judges who preceded him in death, and some who have followed him, to whose memory no monument has been erected by the State and no ceremony of unveiling celebrated by the executive, legislative, and judicial departments of the Commonwealth. Why are we here more than five years after the death of Judge Elliott to pay this exceptional honor to his memory? It is because he was assassinated in the Capital of the State, within a few hundred feet of the State House, whence he had just come fresh from the discharge of his official duties—ruthlessly shot down at the door of his hotel by an assassin who claimed as a grievance that the Court of Appeals had decided a case against his interest or contrary to his wishes—an assassination which paralyzed the people with the most shocking sense of horror and disgust. No word of quarrel, no word of warning, instantly and without cause he was shot dead. The people remember him as the Martyr Judge. His friends of the mountains have not ceased to grieve his loss. They feel that they are personally injured

and bereaved; and at their instance especially the Commonwealth pays this just tribute to a distinguished son, thereby emphasizing the public loathing of the assassination. Whether by a sane man or a lunatic, Elliott was assassinated, without fault, without offense—in cold blood assassinated. A jury of his country on full trial presided over by an able judge, have decided that the assassin was a lunatic. Is it not a relief to think so? Who that knew Elliott can realize that any sane person could be so depraved as to slay so generous and noble a man without the slightest cause for offense or resentment? As we love our race and would retain respect for our species, shall we not accept the verdict and let it go down to posterity that no one responsible for his acts was mean enough to kill Elliott, and that he fell the unfortunate victim of a diseased and distempered brain? But, whilst we submit to the finding of the jury we must not forget the lesson it teaches.

The case of Judge Elliott, enforced and revived by recent events, forces the conviction upon the minds of thinking men that the Judiciary of the State deserves and needs more respect and greater protection. The Judiciary of Kentucky merits a high degree of respect from the people of the State. Amid all the corruptions in politics, in finances, in commerce, the alleged corruptions of juries, the peculations of officials in all the States—in our National Government — the robberies of banks by presidents and cashiers, the purloining and embezzlement of the treasure and property of

corporations and large business establishments by trusted agents—amid all the corruptions incident to a great civil war, although Kentucky was a border State, and was swept over first by one army and then by another, the public morals degraded and debauched, fortunes destroyed, the people plundered—I say amid all this crime and ruin, I do not know of a single sustained case of a Kentucky judge who has been corrupt in his office. Why, then, shall not the Judiciary of the State command the respect, the admiration, and the gratitude of the people?

As the Judiciary merits a higher degree of respect, it deserves better protection. As far as legislation, well-advised, can be brought to bear, the judges should be protected from the insults, the assaults, and assassination by those who conceive themselves aggrieved by judicial decisions. This is necessary to the preservation of the independence and purity of the judges. The administration of justice should be without *fear* as well as without favor, and honest litigants and innocent parties can not be safe in their trials if the judges who preside are in terror of personal violence from those whose interests, whose passions, or whose prejudices may be in opposition to a true and just decision. Judges are conservators of the peace, and if they are to be involved in personal brawls in defense of their action on the bench, the dignity of the office will be degraded, and justice rendered unsafe and uncertain in its administration.

I know the answer to this ready to leap to the lips of the average Kentuckian, is: "Let the judge

off the bench take care of himself as other men do. If he is insulted knock the man down; if he is assaulted shoot him." But this answer will not stand the test of right reason or good morals. Judges should be selected for their qualifications and attainments of learning in the law, sound judgment, honesty, impartiality, and moral courage. Now if we must add to this the additional qualification of physical courage, the first objection is that you render it more difficult to find a competent man, and a greater objection is that if physical courage is once fixed as a necessity to fit a man for judge of a court, the proneness of mankind to admire this quality over all others would too often result in the election of the best fighter over the best lawyer. Moreover, if you fill your judgeships with the gamest men in the State this will not protect them against assassination, for the case uppermost in your minds this moment was the slaughter of an exceptionally brave man, morally and physically.

No! there is no safety short of such laws and such universal and emphatic public sentiment as shall throw around the judges the panoply of absolute protection in their persons from assault or insult because of their judicial decisions.

As long as the case of Judge Elliott was an isolated one the public mind had settled down to the belief that such an unreasonable occurrence would not happen again; but minor instances of the same tendency to insult or intimidate judges have since occurred in the State, and notably within a few days

past a Judge of the Superior Court, representing to a great extent the same territory which Elliott represented on the Appellate bench, has been assaulted, not by a lunatic, not by a man who can claim that he did not have information or sense enough to know the enormity of his offense, but by a practicing lawyer—a lawyer of eighteen years' experience in one of the richest and most enlightened counties of the State, a lawyer of good standing we are told among an able bar. By such a man the Presiding Judge of the Superior Court, second only in dignity and jurisdiction to the Court of Appeals, was brutally assaulted with a hickory club, and when the assaulted judge was stunned by heavy blows, then lashed with a cowhide when he was helpless, defenseless, alone, and unarmed. By such a man was this Judge assaulted in the most cowardly and deceitful manner. His pretended friend, he invited the Judge to his room on the pretense of consulting with him over papers materially affecting the interest of the Judge in a pending race for the Appellate Bench. When he had the Judge in his room alone and the door closed, he handed him a paper, not the paper that they had gone into the office to examine, but a petition for rehearing written by the attorney of the offending lawyer and asked the Judge to read it; and when he had him seated, thus closed in, thus engaged in reading the paper, he fell upon him with a heavy cane and then with a cowhide. This was a cowardly assault as well as brutal, and from the statements of the offending lawyer in the public prints absolutely

without a pretense of justification. The shallow pretext on which this unparalleled assault was made is that the lawyer suspected the Judge of having been false to him in a case decided by the Superior Court, in which the assaulted Judge took no part, either in hearing or in decision. The opinion of the Court rendered by two other Judges of the Superior Court held that this belligerent lawyer as proven by the record had been guilty of a most unprofessional and disgraceful fraud; and it is impossible to read all that he has written without coming to the conclusion that his real cause of quarrel was that the assaulted Judge had not abused his place on the Bench to protect him from this public exposure and disgrace.

This case is sufficient to demand that the General Assembly shall wait no longer. If the recurrence of such cases is not arrested by efficient legislation and rigid enforcement of preventive penalties, each case will be the fruitful parent of others until judges of the courts will be compelled to arm themselves for protection against violence.

But Kentucky is not alone in this apparent tendency to offer violence to courts who have not pleased litigants or the populace. In the sister State of Ohio, in the largest and most opulent city of the Ohio valley, only a few weeks since, on the pretense that a court and jury had only imprisoned a man to solitary confinement and hard labor for a long term of years, when the populace assumed to decide that the punishment ought to have been death, a great mob is raised, the jail is assaulted, its ponderous

doors are beaten down, policemen slain, the courthouse invaded, and the torch of the incendiary applied, and those who attempted to extinguish the flames are killed in their tracks. In addition to the loss of a building that less than half a million will not replace, incalculable damage was done to the people in their property rights and material interests by the destruction of public records, some part of which perhaps can never be repaired. And more, the finest law library west of the mountains, the accumulated result of sixty or eighty years of expenditure and care, was an especial object of their vengeance, and was absolutely and totally destroyed by the frenzy of this mob; and scores of people were killed and maimed and wounded, our civilization disgraced, and an example of violence and crime set before the youth of the country to debauch their morals and destroy their respect for law and order. This was a stupendous and appalling evidence of a want of respect by the populace for the laws of the country and the administration of the laws by the courts. The pretense was a shallow one. The jury had the discretion in law, if they believed the accused guilty, to determine the degree of his guilt, to decide whether he should be confined in the jail and penitentiary of the State, or hang by the neck until he was dead. In view of this well-known fact, and of the further fact that many of the best thinkers, wisest philosophers, most humane and moral teachers for a hundred and fifty years past, in Europe and America, have denied the moral right of a human tribunal to take a human

life, this blood-thirsty collection of malcontents, and communists, and idlers, and loafers, and thieves, and robbers, and assassins, assembled in great numbers, and under the guise of a holy horror that justice was not administered with sufficient severity, perpetrated all these great crimes, did these incalculable wrongs, about a case in which they were not competent, either by having investigated the facts, or by having the capacity to make an intelligent investigation, ninety-nine out of one hundred of them not knowing the definition of the word murder, or the distinction between murder in the first degree and murder in the second degree, utterly incapable of giving any intelligent opinion about the case of which they complained, make this lame excuse to manifest in this bloody way their disregard of the law, and their want of respect for the courts of the country.

These instances, not noticing others of less import, occurring in such rapid succession, are well calculated to alarm the patriot and puzzle the statesman as to what is the remedy. That there is a remedy I cannot doubt. I have an abiding faith in the people. I cannot doubt or question that sooner or later the people upon whose shoulders rests the whole fabric of our government, and who are ultimately responsible for all that is omitted and all that is neglected, will, through their representatives, find a remedy, and that the Judiciary will be restored in the confidence of the people, and that the law will be administered in fairness, in intelligence and justice, unawed by the shot-gun of the assassin, by the

bludgeon and cowhide of the bully, or by the destructive, sweeping violence of an irresponsible mob.

But delays are dangerous, and there is a duty now devolving upon the Governor and General Assembly of Kentucky. The Judges have not the law-making power. In many regards the Judiciary is the most defenseless of the three branches of our government. The first step is to pass more potent laws to punish offenders against the dignity, security, and safety of the occupants of the bench; to make laws more efficient to punish the leaders of mobs, and the instigators, inciters, and promoters of mob violence. I was gratified a few days since to see that an act was already introduced into the General Assembly of the State by Representative Stone in the right direction. It is the duty of the Judiciary Committee, in co-operation with that able representative and other patriotic and enlightened members to consider well and enact all the laws in their power to arrest and avert the evils of which I have been speaking.

The press has here a great public duty to perform. The public prints of Kentucky seem aroused to a sense of this by the recent outrage in Mount Sterling. But in the matter of the Cincinnati riot it was distressingly painful to witness the press of the country half apologizing for the mob, and abusing the courts and juries and lawyers for not hanging everybody that the rabble thought ought to be hanged. This is next to an invitation for another mob to tear down jails, burn court-houses and pub-

lic records and libraries, seize accused parties that are the particular subjects of their wrath and murder them by immediate death, and turn those who are not the objects of their vengeance loose upon society.

There can be no defense, no palliation, no mitigation of the enormity of the crimes committed by the Cincinnati mob, and of the wrongs they wrought and caused to be wrought. It is immaterial what the court did and what the lawyers did and what the jury did so far as the mob and its justification are concerned. If the courts and juries are at fault, the evil should be corrected in a lawful way, by lawful means. The power and the means are in the hands of the people. If competent judges are not secured by the present mode of electing or choosing them, adopt another. If juries are not honest and faithful, seek a better system of selecting juries. If lawyers abuse their privileges, bring them before the courts, to be tried and disbarred. The evils complained of can never be corrected by wanton, reckless, cruel, and destructive violations of the law.

Cherishing the memory of our Martyr Judge, as we admired and loved him in life, as we revere him in death, in his name we appeal to the people, through their trusted servants, to knit up this raveled place in our laws. This we know they will and can do, as they have so often provided remedies for equally perplexing evils. As malefactors find new devices in crime, new modes of redress are demanded; as the "mills of God grind slowly, yet they grind exceeding small," so the people sooner or

later apply protecting remedies to all evils that threaten the safety and efficiency of our matchless institutions. With undoubting trust in God and the people, we despair not, but with eyes of patriotic faith look forward to ceaseless progress and triumphant success in the onward march and unbounded spread of true liberty and human happiness under free governments, founded in and resting upon the consent of the governed.

The Chief Justice then introduced Hon. J. C. Beckham, who spoke as follows:

REMARKS OF HON. J. C. BECKHAM, OF SHELBY.

LADIES AND GENTLEMEN:

I must first thank the committee for the compliment implied in the invitation to me to take part in this solemn ceremony.

There are many great events in history that have been and are still commemorated. Events that have changed the channels of human thought, and have given direction and current to human affairs, are very often long held in fond and sacred remembrance by the peoples affected by them. Not so, however, with individuals. Few men furrow so deeply as to leave lasting marks on the field of time. Most of us are of mediocrity; most of us are so completely the creatures of education and training; most of us have nothing not common to all; so few of us rise superior to our surroundings, that we pass the brief allotted span, moving hither and thither like children chasing butterflies, and

then vanish, "so soon forgotten when we are gone."

Occasions like this are exceedingly rare. It is true indeed that only a few months ago all Christendom stopped and stood still that it might again, after the lapse of even four hundred years, hold up to the gaze of the world the picture of a single man. But that man, stern, phlegmatic, heroic, had made no common impression in his day. Lifting himself out of and above his generation, he had liberated thought, and sent it freely coursing and rejoicing from his time to our own; but Martin Luthers are very rare. Occasions like this are had only in memory of those who have opportunity for the display of qualities that mark and set them apart from others. They are especially rare in memory of those who wear the straight-laced harness of the judicial office. When before, sirs, did the entire machinery of government pause? When before did Executives leave their offices, Judges the study and the bench, Senators and Representatives their seats, to do honor to the name of a Judge who had been buried more than five years?

The great jurists who wrote separate opinions in *Lapsley vs. Brashears & Barr*, while their names are still green in our memories, and their labors toward the conservation of the best interests of society are still appreciated by us all, lie beneath a sod on which the State has placed no sign. The loved, admired, and venerated Chief Justice, who gave so many years of his life to the service of the State, whose name and fame are not bounded by the two oceans,

but whose judicial deliverances are quoted as guides in Westminster Hall—he “sleeps the sleep that knows no waking” in a grave yonder at Lexington, without a shaft reared by his countrymen to tell the stranger of his great service and his great worth. Why, then, are we here to-day? Why sit here around me all the officers of State, citizens, and maidens and mothers, all moved by a common impulse?

That Judge Elliott was a man of sterling integrity nobody doubts; but so, also, may be said of many others, both of those who went before and who came after him. He was learned in the law; others have been more learned than he. He was kind and generous; but these are qualities common to many of his fellows. He was patriotic; but scores of others equally with him have loved their country and their kind. He did his duty; but this busy world of ours seldom pauses to do homage to so grand yet so common a quality. Something else he must have had. That something was the courage of conviction—the spirit of martyrdom—to do, to dare, and to die. It is where the lines of duty and the lines of danger fall together, and lead to one and the same place. It is where duty and danger stand in sharp antithesis, the one to the other, that the performance of the one in the face of the other ceases to be commonplace, and comes to be heroic.

This—this it is that the race refuses to forget. History gives a record of but one Thermopylæ. That was for a soldier. If there were another, it should be for the intrepid judge.

But enough. He has gone, leaving to his State the legacy of his labors; leaving to us an example to be emulated, and to his family the priceless heritage of a spotless name.

May the grass grow green upon his grave, and the laurel and myrtle flourish there together, while his countrymen shall long remember him with hearts of pride and affection.

The Chief Justice, on introducing Hon. W. J. Hendrick, said: "The committee have selected this young lawyer for his virtue, courage, and learning, to speak for the immediate people, who loved and honored the dead Martyr Judge." Mr. Hendrick spoke as follows:

REMARKS OF W. J. HENDRICK, OF FLEMING.

From the distinguished gentlemen who have preceded me you have heard the outlines of the career of this gifted son of Kentucky, and I need not stop at this stage of your proceedings to reiterate any of the facts of his long and useful public life.

A resident of the district from which he was elected a Judge of the Court of Appeals, and uttering in these ceremonies the sentiments of his people, coming from the land where his death was greeted with a wail of anguish which has not yet ceased to whisper its woeful echoes around the mountains, and from contact with a people in whose hearts he held a throne, I deem it appropriate that I should speak of him as his people knew him. And in grateful commemoration of the large space once filled in the general mind by him whose epitaph a

fond State mother has chiseled in marble, I would come, with becoming reverence, and gentle, tearful sympathy, to recall to your visions, as vividly as may be, the person and character of that knightly presence once known among us as John Milton Elliott. But in this I may with difficulty succeed. For while I might speak of the illustrious dead in the measured set phrases of eulogy which custom has appointed for such occasions, it is not my purpose thus to treat the memory of that great heart, but rather with his image warm in my heart, and his great personality melting away the frost of idle ceremony as the morning sun is wont to drive the mists from mountain summits, to recall with melancholy interest some of the traits that marked him a leader of his people, to dwell a moment on some of his striking characteristics, and then leave with the assembly of martyrs the memory of the dead judge.

It is one of the dregs of the Edenic curse that the immaterial and ethereal graces which do most adorn the noblemen of nature cannot be perpetuated in words. So that we know from history and biography too often only the anatomy of those with whose spirits we seek acquaintance. And as only those who heard and saw the witchery of Clay's or Henry's eloquence understood fully the charm of their power, so no one who did not know him can understand fully the intangible, indescribable, magnetic power of the dead Highland chieftain.

I cannot tell you how it was he breathed his spirit into the souls of his people, and animated them with his own hopes, ambitions and purposes, so that they

moved to his will as a single man. But I purpose to tell you some of the facts, to recall his mien, to name his spirit, which may perchance come again, and breathe into the minds and hearts of those who hear a knowledge of the man which no mere words can give.

John Milton Elliott was born with convictions. The blood that coursed in his veins had warmed the hearts of sires willing to die for their opinions. The cross of the Stewarts, the Scotts, and the Ritchies on the blood of the Irish Presbyterian abated not a whit the spirit of the original stock, and poured into his veins some of the best blood of the Virginias.

With such a heritage by nature, he came upon the theatre of action in the mountains common to Virginia and Kentucky on the 16th of May, 1820. Of his boyhood and youth we know nothing, save that he received a good academic education, and came to the bar in his twenty-third year, better prepared for the responsibilities of the profession than was usual in his day. When he had practiced law three years in Floyd county, he was taken from his desk to sit as the Representative of that county in this Hall. Of the impression he made upon his people, both as a legislator and a lawyer, we may judge from the fact that he was elevated in 1853 to a seat in the Congress of the United States, and twice re-elected over men of the highest talents and popularity.

In the troublous times of 1861 we find him again here as the Representative of Floyd county in the

Legislature; then in the Confederate army with Gen. John S. Williams; then in the Confederate Congress for the rest of the war; then a Circuit Judge; then a Judge of the Kentucky Court of Appeals—and now, a martyr.

Thirty-five years he went in and out before us, for thirty-two years of that time a public servant, and there lives not now, nor has lived, one who could impeach his integrity, not a friend to whose cheek he ever brought the blush of shame. He was never defeated in a political race, never refused anything he asked of his people, and was, by common consent, the acknowledged leader of the Democracy of Eastern Kentucky.

He was a patriot in the broadest, highest sense of the word—literally a lover of his country. With him it was a passion absorbing and consuming. His patriotism, like his charity, began at home. He loved the mountains; their grand solitudes spoke a silent eloquence which sunk into his soul as dew into a flower. Her people, bold, impulsive, faithful, and clannish, he loved with a genuine devotion, and received in return the homage of their hearts. He knew and appreciated his mountain country, at first, simply with the warm, pure, generous passion inspired by the majesty of her hills, the beauty of her romantic scenery, the crystal clearness of her dashing streams, the inspiring purity of its air, the profound solitudes of its forests, and the bold, frank character of its people. But as the knowledge of the vast resources hid away in the fastnesses of his glens and hills dawned on his mind, there came with

it the grand conception of the possible destiny of such a land. It was no longer simply the land of beauty and majesty and inspiration to him—though it was all that still—but an empire in embryo, a new Eldorado, into which he purposed should come the germs of a new life, the quickening impulse of enterprise, and the busy spirit of commerce. But he was not sectional in his sentiments, and he loved his State and his country with a love as broad as the continent, and as fervent as it was sincere.

To John M. Elliott more than to any other man, living or dead, was the South indebted for Southern sentiment in Eastern Kentucky. But for him, the armies of the South, under Marshall and Williams, could not have remained a week in Eastern Kentucky; and the recruits gathered into those armies from the Eastern mountains were carried there, mainly, by the spirit and influence of Elliott.

He was a generous and faithful friend. Not only to those who shared with him the responsibilities of high official position was his hand and heart open, but to the lowly, the poor, the distressed, and the unfortunate, he was ever kind and sympathetic. To a friend he never learned to say no, and though always enjoying a liberal income, he died poor. His readiness to serve his friends cost him dearly, and his last horse has more than once been surrendered under execution to pay the debts of others.

To the men who loved him, and whom he loved, to those who understood him and comprehended his motives, aims, ambitions, and purposes, who sympathized with his struggles, and celebrated with

him his triumphs, to these his soul was a crystal mirror. In their society, the man as he was, and as he purposed to be, was always, and at all times, without effort and without affectation, truly himself. It was in such company that the greatness and purity of his soul shone with unclouded light. There, sure of his ground, he talked and thought and planned, sympathized, encouraged, suffered and loved as with his own soul. It was the atmosphere best suited to his nature, in which the traits of his character most lovable and admirable found their best play, their most perfect development. It was here he threw off, if he ever wore one, his mask, and it is from those who looked into the depths of his life on such occasions that we get the truest pictures of the man.

From them we know that he was as guileless and simple as truth and candor ever make a man. Conscious of the honesty and integrity of his own motives, he was perfectly sincere and ingenuous.

In temperament he was ardent and impulsive, quick to resent an injury or an insult, and ready to forgive and forget. He was a fine talker, a ready and forcible speaker, apt in illustration, and quick at repartee. Without great learning he had the genius of nimble perception, which never failed him in any emergency, and which has been said never leaves its possessor in an awkward, embarrassing, or ridiculous position. He realized nearer than any man of whom I know anything an absolute ignorance of physical fear. He was as fearless as Homer painted Achilles; as chivalric as a knight errant,

and as loyal to his principles and convictions as a martyr.

The truth of all I have said, as well as his power with men, is illustrated by a thrilling incident of his eventful life, narrated to me by an eye-witness.

In the stormy times of 1861, Wolfe county, Ky., was a stronghold of Federal sentiment, and, in those intolerant days, it was dangerous for a man of Southern proclivities to utter his thoughts. The occasion was an advertised joint discussion between Elliott and an exponent of the popular view whose name I did not learn. Bold, open threats against the life of any man who dared express rebellious sentiments in a public speech had been made by zealous partisans of the Union cause. On the appointed day the small, brick court-house at Campton was crowded with excited men. Elliott's opponent, a popular speaker of eloquence and power, opened the discussion, and was again and again interrupted by the storms of applause with which partisans greeted his periods. After a speech of an hour and a half, in which the flame of passionate invective had played steadily against the already heated elements before him, the speaker closed with an appeal to the passions of the crowd that left it a seething, hissing mass of infuriated men, bent on a signal demonstration of their hatred of secession, and intolerance of sentiments that sympathized with rebellion.

During all this time, Elliott, who had been notified that he must not attempt to speak, sat below and immediately in front of the speaker, taking

notes. When the shouts of applause had died away, not a man moved, and the ominous stillness that settles on a crowd when every man knows and feels that a crisis is at hand, brooded over the assembly. There was a moment of intense and awful silence, in which the tumultuous heart throbs of every man beat audibly to his neighbor. Elliott deliberately collected his papers and ascended the low platform, forming at once the judge's bench and the speaker's stand. He had hardly reached his position when the metallic click of a double score of pistols told with awful emphasis the fatal resolution of fanatic zeal. To no man there was the fearful import of those sounds more thoroughly understood than by that one who now, with unblanched cheek and flashing eye, met with steady and unawed look the upturned faces of his audience and the muzzles of their weapons. The men who now stood ready to act his executioners knew him, and in former days had followed his banner to victory. And now about to make good their threats, with their supposed victim unarmed, covered by scores of weapons ready to deal death, they quailed before that dauntless eye, that proud, defiant, blazing figure, while he said to them, in a voice trembling with suppressed emotion:

“My countrymen, if any man here holds a faith which cannot endure the sunlight of truth, let him cast it from him as a delusion and a snare; and know you that I am here this day to speak the truth as God gives me to see the truth, or to stain this floor with my blood.”

In a moment the whole scene was changed, and in the pause that followed the utterance of the sentiment, a revolution had been wrought in the wild hearts of his audience. His handful of adherents, unable longer to repress the swelling pride of their full hearts, burst into a hallelujah of exultation, in which men, but a moment before so deadly hostile, joined with fervor, and Elliott stood grandly, proudly victorious in the eyes of friend and foe.

As a lawyer, Judge Elliott was a safe counsellor and a strong and vigorous advocate. Full of resources, thoroughly grounded in the common law, and ready and apt in the application of legal principles, he was a valued ally, and a formidable and dangerous opponent.

Upon the circuit bench he was a prime favorite of his bar, and no judge who ever held a circuit court combined more happily the characters of a dignified judge and agreeable companion. With the people of his circuit he was on terms of the utmost intimacy, without losing any of the dignity so befitting a judge. By his executive ability he dispatched business with an ease and smoothness at once agreeable and business-like. He was prompt in his decisions, and while tenacious of a position once taken, was always open to argument and authority. No litigant entered a court over which he presided who did not get the full benefit of the law upon the facts developed. He was kind and courteous, yet dignified always, and when occasion required it, severe. To subterfuge and artifice he was an open and avowed enemy, and was not

careful of technicalities to get at the right of a cause.

Such was John Milton Elliott as his people knew him when he put on the ermine of a Judge of the Court of Appeals of Kentucky. He found it pure, and he left it unstained, save by the ruddy drops of his own life-blood.

“The deep damnation of his taking off”

the world already knows, and can even now recall the shudder of horror that flashed over Christendom. To the world at large his death was a shock, as of the breaking of some great wheel in complicated machinery; to the people of the State and the Union, a blow at the very life of their cherished institutions; but to the people of the First Appellate District, it came as the withering blight of pestilence, and wrung from them

“A cry that shivered to the tingling stars,
And, as it were, one voice, an agony
Of lamentation, like a wind that shrills
All night in a waste land, where no one comes,
Or hath come, since the making of the world.”

To the people of Kentucky 'so fearful a crime suggests serious reflections, irrespective of the demands of friendship and affection. If Demosthenes could find a refuge in the temple of the gods, and Israel protect her blood-stained children in the cities of refuge, surely Kentuckians should find security under the eaves of the Capitol. But hardly would one run to the Temple of Justice, when Murder singles out for his victim a high priest of the Blind

Goddess ministering at her altars. If the spirit of lawless violence does not hesitate to attack the ministers of justice and butcher her priests, how far are we standing from chaos and anarchy?

If this monument to the Martyr Judge is but the initial one of a series of monuments which Kentucky must raise over the graves of her murdered children, be they judges or citizens, then truly should the emblems of woe trail their sable banners from the flagstaff of the Capitol.

But if, with this monument which we here raise, shall be raised the standard of law and order; implicit obedience to the law, and a just and fearless execution of it; the creation and cultivation of a healthy public sentiment, in which it will be impossible for lawlessness to live; then, indeed, will the monument which you have this day unveiled mark an epoch in your history—the Kentucky *renaissance* of law—the mile-stone from which you shall count the progress and happiness of the Commonwealth. Then, indeed, could the heads now bent in sorrow and anguish over the loss, by such unhallowed means, of a useful life, be raised in joy and hope, and the spirit of the dead Judge, if permitted to revisit the sphere of his usefulness here on earth, as we are told the spirits of the departed sometimes come again, would doubtless address to his beloved State the sentiment of Malek Adhel, when condemned to death by the decree of his royal brother—

“Pleased by my fate to add one other leaf
To thy proud wreath of glory.”

The Chief Justice then introduced Hon. C. U. McElroy, who closed the ceremonies with the following address:

REMARKS OF HON. C. U. M'ELROY, OF WARREN.

MR. CHAIRMAN:

There is nothing remaining undone which the hand of a generous pride can do, and nothing remaining unsaid which the voice of affectionate remembrance can utter.

Over the remains of him who was loved in life, and honored in death, the Republic of Kentucky has reared a monument of voiceful marble, beneath whose shadow we stood to-day with mingled feelings of pride and sorrow, and whose mournful inscription coming generations will read with amazed and wondering interest. Those who knew the dead jurist best—those who dwelt longest beneath the influence of the witchery of his genial and endearing manliness—have borne truthful evidence, and paid eloquent and deserved tribute to the endowments which made him eminent, to the deeds which made him famous, and to the elements of character which made him beloved.

So that, it seems to me, there remains nothing unsaid, the utterance of which could add aught whatsoever to the completeness of this splendid tribute paid by a great Commonwealth to the memory of one of her sons.

Just one thought more, and I shall have done.

The memory of the lives of some men constitutes the most priceless treasures of a State, and

the richest legacy which our age can bequeath to those which succeed it.

The remembrance of the death of some men constitutes the most impressive chapter in all the unnumbered volumes of historic truth.

Upon more than one page of the annals of Kentucky the name of John M. Elliott is written.

It is an honored name, and a legacy of no mean worth to those of future generations whom patriotism shall inspire, and whom virtue, in its old Roman sense, shall impel to the performance of noble deeds, and the conception of lofty and heroic purposes.

Upon no other monument reared in all this broad Commonwealth is there such an inscription as gives to the monument we have this day dedicated such a mournful and peculiar interest.

My hope and my prayer is, that the memory of the life of this buried citizen may be kept perpetually as fresh as the early spring flowers now blooming around his grave, and that the drama of the death of this buried jurist may never have a parallel in all the years of the happy, peaceful future of our beloved Commonwealth.