THE WRITINGS OF JUDGE GEORGE G. WRIGHT
VIII

Associates on the Supreme Bench (Continued)

Lacon D. Stockton should have had prior attention, but as too often said, I write amidst business cares and as names and the incidents of their several lives seem to be freshest.

Was a Kentucky Methodist—graduate of Transylvania. Meeting Judge Robertson, a long-time teacher, once in 1859 at Lexington, I mentioned Judge Stockton as my associate. He said, "Lacon D. Stockton?" "Yes, sir." "Remember him well and as clean and nice a boy as ever went from our state." Was appointed to the bench by Grimes in 1856. The Governor told me of his intention, and said, "Stockton is not as well known as some others, nor as some of those applying for the place, but I know him, I know his integrity; think he has peculiar aptitude for judicial life and that you will like him." He had been attorney for the old First District [for a time under the territorial government]. Modest, retiring, and yet faithful, but little impressing himself either upon bar or people. Was never agitated—never gloomy. Good presence and size, and of habits the most exemplary. He was at least one of the early lawyers—I think he settled in Burlington as early as 1842—who were temperate, free from most if not all vices, an earnest, consistent member of the church of his choice. In movement he was slow—never in a hurry. Most deliberate in mental processes—pleasant and ready to discuss his views in the consultation room. Not disputative nor much given to talk—not especially set or fixed until he had once carefully taken his ground, and then the case was closed—no moving him. At such times, indeed, he was apt to chafe or resent further appeals or attempts to change him.

His opinions will be found to compare very favorably with any of his compeers. While he moved with deliberation, he was an educated and studious lawyer—wrote with comparative ease and disposed of the questions before him with more than usual promptness. As a rule he was prepared to decide when the argument, if oral and by good lawyers, was closed; and yet in such case it was apt to be no more than the expression of a then clear conviction—open to further thought and comparison of views. If he had prejudices as to questions or parties which by [any] possibility colored his judgment, I never realized it. It was the honest well-balanced judge who spoke when he talked in our deliberations or put pen to paper, and if he erred, as we all did, it was of judgment, not purpose or intent.

Naturally and properly he felt that duty was discharged when he declared the views of the court on the question, and only the question

necessary to the case on hand. Once I remember, however, we had voted a point absolutely conclusive of the appellant's case, either there or thereafter, and having disposed of that, the opinion, which he was reading, went on and disposed of several others equally fatal to appellant. I noticed a twinkle in his eye as he read, and I said, "Judge, why say anything about other than the point [in] question?" "Well," he said, "I wanted to show ——— (Appellant's attorney who had ——— an ——— in his case) how bad I could beat him!" It was easy work. He rather enjoyed it. Laughed most heartily at what he felt would be the surprise and disappointment of counsel, and I could have the case if necessary. He seldom indulged in the humorous and yet few enjoyed a laugh more. His laugh was very contagious, for his expressive face told you how genuine was the stir-up of the heart and how thankful he was for the recreation. He was cut off in the very prime of life. I think, had his days been lengthened, he would have ranked among the strongest jurists of the state or the West. His friendships were among the most sincere and earnest. As a rule even-tempered, if excited he was a terror and had the physical ability and courage to care for himself. I should class him among the best type of Kentuckians, and, too, adapted to the West in its best phases.

But I must go back. J. C. Hall and George Greene preceded those last mentioned.

Jonathan C. Hall was from Ohio and settled in Mt. Pleasant in 1837 or 1838. Afterwards removed to Burlington. In 1840, and for years after, he was the best known lawyer and perhaps of largest practice in all the old First and Second districts, taking in Lee, Des Moines, Louisa, Washington, Henry, Jefferson, Van Buren, Davis, Wapello, Monroe, Keokuk and even Mahaska, and occasionally Muscatine, Johnson and even Cedar counties. Of course he was alike prominent in Federal and Supreme courts. He was not an educated man, not learned in books nor in the schools. A large man, plain in dress and independent as to his appearance, he was nevertheless among the strongest men ever at the bar in the state. I state this, my opinion, conscious that many may think it too strong and yet I speak for myself and others must do the same. I don't mean that there were not men who were a vast deal more logical in the statement of a case or legal preparation—much more studious and apt in the collection and application of the authorities—but that take him all in all, when at his best, few men equalled him in force and strength before court or jury. One element—and it is an element of his strength and success—was that he could satisfy the most hesitating or doubtful or heterodox mind that he believed what he was saying and that he was actually annoyed that any one should or did think otherwise. And this was as true if he was in error as if ever so correct. I think it might be said, therefore, and not at all to his disparagement, that he was just as "good in a bad case as a good one, and as bad (if bad) in a good case as a bad one." Jonathan C. Hall was to

all appearances, manner, tone, words, earnestness—always right—never seemed to entertain a doubt, and would take an exception and prepare for the appellate court with the same apparent confidence in all cases alike. He was almost invincible. Few men stronger if he "got loose" as it sometimes turned out and had free swing. By very force of manner, strength of will, seriousness in his presentation, earnest beyond most of his fellows, he carried his case and overwhelmed all opposition by almost absolute physical energy. He was thunder and lightning combined. As Judge Miller of the United States Supreme Court once said to me, "I feel comparatively easy when trying a case with Hall if I can keep him to the law and the very case in hand, but if he once gets outside and permitted to talk of '————' he is the most dangerous man and the hardest to handle I ever met." I don't think he studied much --prepared his cases with the care of many, and yet he, not at all elegantly nor in chosen language, would talk of legal propositions with a fire, energy, and as a rule with an intelligence and knowledge fully equal to the most studious or those having the most cases in hand. His very manner--the very confidence of his statements often carried conviction, especially with a young or inexperienced judge or the average twelve men, quite as much as the best put argument of an antagonist or the best prepared brief. He had a very large practice and for two years, say 1849 to 1851 or thereabouts, probably tried more cases, and [of] more importance, than any lawyer in the state. Had great powers of endurance—traveled in his old buggy (and his horse was for a long time "Old Simon," a "Black Hawk Morgan" as well known to the circuit as Hall himself, though his brother Augustus, to whom I shall refer hereafter, used him in like capacity also, and had a very large acquaintance. Was an inveterate chewer of tobacco. In the course of a hotly-contested case, I am sure I have known him to use a pound every day at least. Loved the plug. At the trial table it was always in his hands, and he would examine a witness, talk and chew and spit and chew, tear off the leaf, free his mouth, throw it out and become excited—with flushed face—sometimes laughing, then apparently very mad, and yet all the time trying his case for all there was in it, according to his ideas of it, formed it may be after the trial commenced, for often, like the rest of us, he would accept a retainer (or the promise of it!) after the clerk commenced the call of the jury and without the least knowledge of the case.

He was a most liberal man--most generous—had no more conception of the value of money than a child. Could make it, and often hangers-on and favorites (and he had them) would get it and he would go home from circuits perhaps in debt or with money owing by those who took advantage of his generous nature, and which they never paid. Whether the money in his pocket was his own or collected for a client, neither friend or the poor were ever turned away without help. I am sure he would go without a meal rather than withhold the quarter or more from

the poor or a friend whom he believed might otherwise suffer. Had one very bad habit—one too common in the early days—given to the cup. I have thought that he could and did drink more liquor than any man I ever knew, in view of his work, his standing at the bar and the ability displayed before court and jury. Like all men I ever knew, however, he never dreamed of danger to himself in the drinking but was always talking of the danger to some of his nearest friends and every day companions.

(Illustrations.) 1. He was known as "Blucher" all over the circuit. Gen. James M. Morgan, one-time speaker of the House, editor of the *Gazette* and one of the readiest writers ever in the state, was his near and constant friend. Saturday evening, in the saloon of the Barnett House, seated together, Morgan was called "Little Red" as distinguished from Judge Hastings, "Old Red." Red says, "Blucher, I haven't a thing to eat for Sunday nor any money." Blucher: "Well, Red, here is 50c, all I have." In due time home was mentioned and Red says, "One more drink," and 20 of the 50 went for the drinks. Another rest, another drink and 10 cents left. Off they started and as they passed a beer saloon, that was spent for a night cap—homes were reached and money gone.

2. W. H. Wallace—of whom more hereafter—fell into ways of dissipation, then reformed, and would again fall from grace. He and Hall lived in Mt. Pleasant. Were in Iowa City. Was very cold. Wallace was then most enthusiastic in temperance work, making speeches and head of some organizations. Meeting Hall he says, "Blucher, when for home?" Answer, "Tomorrow." "Are you in your buggy, driving 'Old Simon,' and can I go with you?" "Yes, of course." Thus Hall was tricked to ride so far, weather so cold, without drinking, or if he did, provide the temptation of Wallace. He wanted to help Wallace for he knew his danger, and determined to make the attempt and not drink en route. Next morning, however, it was so cold that he resolved to fill his bottle and drink when Wallace did not see him. They started —no place to stop—it grew colder and colder—he could not wait, and handing Wallace the lines, he took his bottle, leaned away off to one side, imbibed, replaced the bottle in his satchel—not a word. In due time Wallace took out the bottle, went through a like performance, saying nothing and replacing it. This was repeated through the day in perfect silence. The night was spent in Crawfordsville. Hall, looking at his bottle after getting to his room, found it almost empty, and the question was, What for the morrow? Wallace was blamed. Morning he sent for a supply and the answer was, none to be had. They started—still cold. In due time Wallace reached to his own satchel, took out his bottle, imbibed (to one side, of course) put it back. Hall in due time repeated, and thus without a word or offer of bottle to each other, they made Mt. Pleasant. Hall in telling this said he never took trouble about leading Wallace into temptation after that.

He was as artless as a child and hence never accumulated anything. Was kind-hearted and popular. A member of the Third Constitutional Convention[1], of the state House of Representatives, and as already said, judge of the Supreme Court. He was the author of Section 1 of Article 9, the provision of our state Constitution on education. His thought, and he was very much devoted to it, was that all legislation on this subject should be removed from the domain of politics. It is known that the Board of Education therein provided for was elected for several years but was finally abolished as permitted by Section 15 of the article by the Tenth General Assembly. It was a pet scheme of his, but others, and a majority, whether wisely or not, thought it a fifth wheel of government and unnecessary. He was led to it as a sincere friend of education and from a conviction that our public school system could thereby be made stronger and more useful.

As a judge he was never tedious nor prolix. His opinions show that he decided a grist. He could talk more about a case than he could write. He never liked the labor of much writing. Opinions very brief, and yet seldom, if ever, are left in doubt as to what he means. Didn't worship cases or precedents much. Would, if he must, follow precedents, if not in his opinion too glaringly wrong. If he thought the law ought to be otherwise, he dodged previous rulings if he could or passed without approval or expression of respect. In a word he was a strong man—of rigorous thought—honest and generous—and while men differed as to the real elements of his strength he was still counted as among the able lawyers and jurists of his day.

I may be pardoned here a word of his son, Benton J. Hall, now of Chicago, who, as we know, was for years a leading lawyer in Burlington—member of our state Senate[2] as also of Congress and commissioner of patents. He had education beyond his father—the best of the schools --and a mind most logical and accurate. Unlike his father, he loves the logic, and so to speak, the metaphysics of the law or of a case. Clear in his perceptions—unequalled almost in analytical power—ability to divide and subdivide—to distinguish and state and draw the finest distinctions—if he err, it is in too great effort at refinement and to follow things out to their last analysis, better impressing the judge than a mixed audience or the twelve jurors. He is justly proud of the father and the father might well be of the son.

George Greene was from northeastern Iowa and I did not know him so well. Appointed by Briggs, and I thought at the time the appointment was a surprise to the bar. He had not been a prominent lawyer —certainly did not rank with Tim Davis, Platt Smith, James Grant and others, then and afterwards in that locality, and yet he acquitted himself well. Take his opinions and his work as reporter (4 vols. G. Greene Rep.) and no one can deny his industry and devotion to his work. A

[1]He was also a member of the First Constitutional Convention.—Editor.
[2]He was also a member of the Iowa House of Representatives.—Editor.

large majority of the opinions there found are from his pen. A very vicious practice, as I regard it, obtained prior to 1855, in that cases were decided, results announced, and the opinions filed months or years after. It was provided after (see Code Sec. 205) that "No case is decided until the opinion in writing is filed with the clerk." Under the old rule it was said, with what truth I never knew, that many of the opinions in 4th Greene were written by Judge Greene even after he left the bench, and never filed with the clerk. Certain it is that a very large proportion of the work would seem to have fallen to his share.

I have said he was industrious. And let me add here that this was a necessity if much was accomplished. This grew among other things out of the fact that, even for years after I went to the bench, we were without printed abstracts or transscripts, and seldom even printed briefs. There would come to us, and [in] a majority of the cases, without oral arguments—written transcripts--every style of writing—25 to 100 or more pages in length, perhaps a written brief or argument 10 to 100 pages, not typewritten, but with the illegibility for which lawyers are ever famous! And these we had to read by the hour and day, often together and then from necessity separately, reporting the case in council, and in this way prepare the way for discussion, decision, and opinion. Thus the work was, as will be readily seen, heavy and arduous enough, and I often wonder how we decided cases with an approximate correctness. Now, with increase of business keeping pace with the growth of the state, not five (we had three most of my service), not twenty men could do the work with like transcripts and arguments. I marvel that we ever submitted. And yet the state was new, facilities for printing were not as now, it was difficult to break away from the old order, and though we often threatened and proposed, as often we would fall back, and resolve and submit, and especially as the bar adjudged and proceeded. Compared with the old ways, consultations, examining records and preparation of opinions ought to be, and I doubt not is, a luxury.

But of Judge Greene: He was a practical man of affairs and of business, and took more naturally to railroads, building up cities or towns—large schemes--than to the law. And yet he was a good judge because he was so industrious and had a just ambition to do well whatever was committed to him. To few men does the state owe more for enterprise, energy and devotion to the material, educational, and moral interests, too, than to Judge Greene. He had ability to command and did command the attention of capitalists, and after leaving the bench, was among a few leading spirits in directing their attention to Iowa and especially the locality (Cedar Rapids) with which he had so much to do in developing, and where to this day his name is greatly respected and esteemed.

He was a useful man and a useful judge. Don't think he was familiar with the books, and yet as a judge was a "book worm." Studied his cases out and noted more from cases than the strong grasp of prin-

ciples. He was so devoted to his duties that he labored to dispose of the business and hence was useful beyond many others. For it is not to be denied that for [all] parties, the bar and the public alike, it is often better to have litigation ended, if not always upon the most correct lines, than to be confronted with delays, whether from accumulation of cases or inattention of judges to the work before them. Perfection in theory is not so important to the average mind as fair practical certainty and reasonable speed in decision. His opinions, therefore, because of his industry in their preparation—fair ability in discussion—are entitled to and will stand well as a part of our legal literature. On the whole Judge Greene was a valuable judge and most worthy and valuable citizen.

FEARFUL DECLINE IN THE PRICE OF NEGROES

Misfortunes never come single. While the Democratic party is rent by Kansas feud, it is assailed even more dangerously by the terrible decline in the price of the Negro.

We cut the following from the *Richmond South:*

December 14, 1857.

Heavy Decline in Slaves! *The Dispatch* on Friday last, for the benefit of "country readers," on what it no doubt thinks reliable authority gave the price of the slaves in this market. To show that the prices given in the *Dispatch* are not to be had, and slightly artificial, and must be above what slaves are bringing, and to prevent owners and sellers of slaves from being misled, I request that you publish the sale of seven, made on Thursday by the leading house here, and probably the same who posted the *Dispatch:* A No. 1, field hand, black, 22 years old, $620. No. 2, a woman, stout and healthy, a good cook, $475. No 3, a No. 1 brown, fancy woman, 26 years, good seamstress, $530. No. 4, man and wife, 40 and 30, man slightly unsound, taken in at $670 for the pair. No. 6, a man, about 27, $416. Little niggers, from 5 to 7 years, so slow that they are generally sold in lots or by the dozen.

The above sale is regarded as a fair test of the market, as the subjects were fresh from the country, and fully guaranteed, and the auctioneer exerted himself to obtain high prices.—Verifier.—*The Iowa Citizen,* Des Moines, January 12, 1858. (In the newspaper collection of the Historical, Memorial and Art Department of Iowa.)