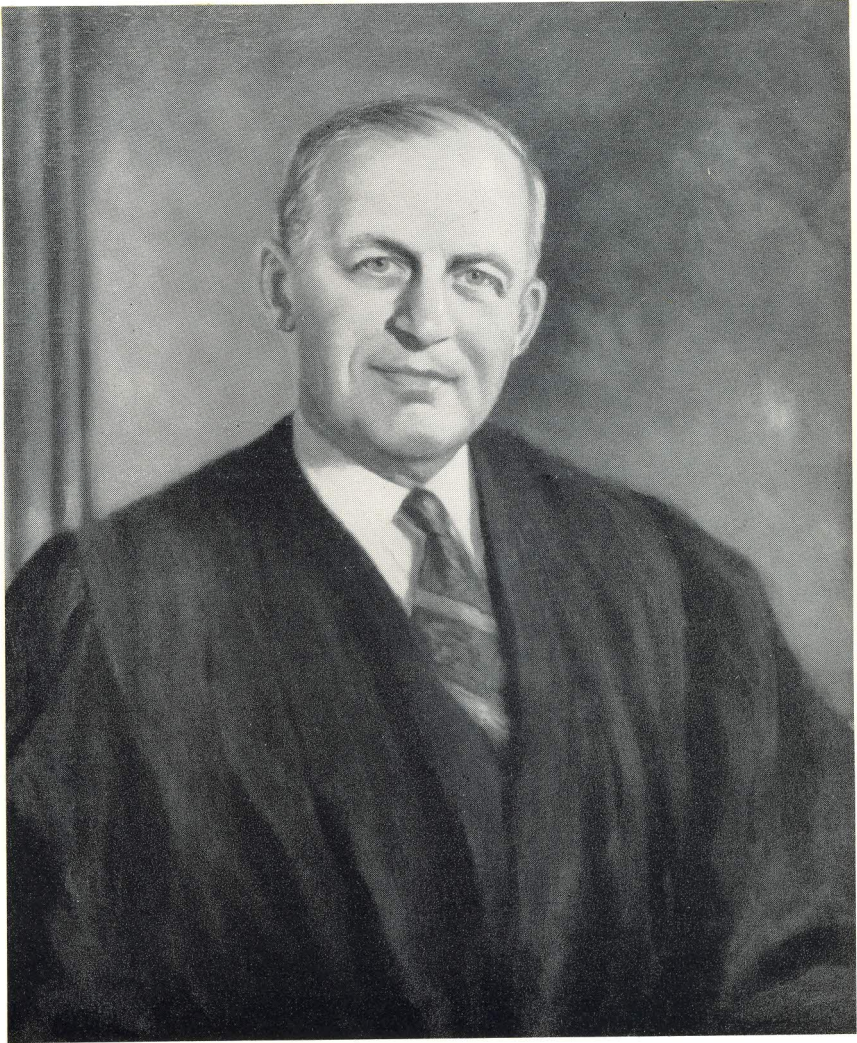


**The Honorable
Otto Kerner**

In Respect to the Memory
of
The Honorable
Otto Kerner

Proceedings had on the Seventh Day of April
One Thousand Nine Hundred and Fifty-three

Before the
United States Court of Appeals
for the Seventh Circuit



Hon. Otto Kerner

Painted by Grace Annette DuPré

**Memorial Ceremony for
Judge Otto Kerner**

**held in the United States Court of Appeals
Seventh Circuit
on Tuesday, April 7, 1953,
at two o'clock p. m.**

Present Circuit Judges:

Honorable J. Earl Major, Chief Judge,
Honorable F. Ryan Duffy,
Honorable Philip J. Finnegan,
Honorable Walter C. Lindley, and
Honorable H. Nathan Swaim.

Mr. Casper W. Ooms, of Chicago, Illinois,
Addressed the Court.

MAY IT PLEASE THE COURT:

The members of the bar of this Court, gathered from the three states of its jurisdiction, are privileged to participate in this proceedings to do honor to the memory of the late Otto Kerner, for many years a Judge of this Court. On their behalf we present this Resolution:

Memorial Resolution

WHEREAS, the Honorable Otto Kerner, appointed to this Court by the President of the United States in November, 1938, passed from this life on December 13, 1952; and,

WHEREAS, the members of the bar of this Court, as lawyers and officers of this Court, and as citizens of this Republic, wish to express and record their appreciation of his great public service and their immeasurable debt to him;

NOW, THEREFORE, BE IT RESOLVED: That Judge Otto Kerner has honored his profession and acquitted himself with distinction in a lifetime of public service culminating in his tenure upon the bench of this Court for more than fourteen years. His life expressed more articulately, than any review could, his profound convictions of the duties of citizenship, his vigorous pursuit of worthy public causes, his unselfish willingness to assume successive public offices, his unhesitating subordination of party to principle, his complete disregard of personal interest and private fortune in the assumption and execution of the many public duties entrusted to him, and his undeviating adherence to democratic principle. His was no academic citizenship, no mere rhetorical expression of the obligations of the member of democratic society. He lived the creed of democracy, assumed far more than his share of its obligations, and discharged each with a sincerity, industry, and kindly goodwill that left all touched by his service enriched by the example.

Judge Otto Kerner brought to this Court decades of experience, both in law and in the government of men. These talents, like those of his great endowments, he lent without stint to the demands of the office. He added to them a grace and kindness and patience that few men can claim.

In the passing of Judge Otto Kerner the community, the legal profession, and this Court have lost a great resource. In this example and in his work he has enriched us all and left us forever in his debt.

BAR ASSOCIATION OF THE SEVENTH
FEDERAL CIRCUIT,
BY ITS OFFICERS AND BOARD OF
GOVERNORS.

It is respectfully requested that this Memorial Resolution and the addresses to be given at this Memorial Proceedings be permanently preserved in this Court's records, a small expression of our gratitude for the great service of Judge Kerner, but we hope an enduring reminder to those who survive him and to those who were not honored with his acquaintance of the deep affection and esteem in which Judge Kerner was held by those who knew him.

Two speakers will address the Court, the first the Honorable Ulysses S. Schwartz, Justice of the Illinois Appellate Court, for more than forty years a collaborator of Judge Kerner in varied public offices, and Thomas L. Marshall, Esq., a member of the Bar of this Court.

Mr. Justice Schwartz:

Address by
Judge Ulysses S. Schwartz,
of Chicago, Illinois

It is not difficult to fit the events of Judge Kerner's life into the familiar pattern of the American saga of success—the rise from humble beginnings to great heights in a profession, in business, or in politics. Too often in such an account it is obvious that inordinate ambition, greed, or fear was the energizing force. No such drives formed a part of the inner workings of Judge Kerner's character. The recognition and honors he received in his ward, in his county, in his state, and in the nation all came to him without feverish and excessive striving. He had ambitions, but they were directed to the achievement of an education, to the improvement of his professional skill, and to a better knowledge of his fellow men.

In the 39th Psalm, David prays for self discipline; that he may take heed of his words and keep himself in hand, even when the wicked are before him and his heart is hot within him, and that God give him the wisdom to know the measure of his days and how frail he is, for "Verily every man at his best state is altogether vanity." This simple humility and self discipline were of the essence of Judge Kerner's character, and if his wishes alone were to be consulted, we would end the memorial here. But the story of a man who reached such a high place in almost every political subdivision in which he lived cannot be thus abruptly ended, for it is not a man in death whom we here honor.

It is the living memory of a life of honorable service to city, state, and nation.

This was his native city. Here he lived, was educated, married, raised his family, did his work, and died. He was the child of immigrant parents. Bohemia, the land from which they came, was in the early part of the seventeenth century the scene of a great struggle between the Emperor and the people that resulted in an agreement guaranteeing full liberty of religious worship to all groups. This was 180 years before the adoption of our own constitution, and thereafter, the freedom-loving citizens of that small country never ceased to battle for their liberty. They are a sturdy, realistic people who have developed great skill in industry and commerce. In our own time, it was their proud and well-justified boast that under Masaryk and Benes, both of them friends of Judge Kerner, they had established a judicial system which, in the administration of fair and equal justice, compared well with the Anglo-Saxon systems. Before the sad days of Munich and the later Hitler and Communist tyrannies, they were known as the Yankees of Europe. Otto Kerner was not without a heritage for his judicial career.

In the latter part of the nineteenth century, many gave up the struggle in their own land and commenced to migrate to the young republic across the sea to find the freedom they loved and the economic opportunities they desired. Judge Kerner's parents were among these. His father was a cabinet maker whose earnings were small. Otto was the oldest son, the fourth of nine children. After leaving grammar school, he went to work in a law office, doing the small jobs expected of a boy. By night schooling and study he acquired high school credits, obtained his legal education, and was

admitted to practice in 1905. In 1907 he married Rose Chmelik who, to the end of his life, was his devoted companion in all his activities and enterprises. She was a skilled stenographer, and in the early days of his practice, frequently did the stenographic work. Two sons and two daughters were born to them. Tragedy struck the family when a son was killed in childhood by an automobile, as Judge Kerner's father had been sometime before. The other son, Otto Kerner, Jr., followed in his father's footsteps, studied law, achieved distinction in his profession and in the military service, and is now United States Attorney for the Northern District of Illinois. Both daughters have married, and with children and grandchildren, Judge Kerner lived a full and happy family life.

His earliest practice was among the people of his neighborhood. Here he had office hours four and five nights a week, often seeing ten or more clients of an evening, settling small disputes, advising with respect to domestic or business matters, drawing contracts, and examining hundreds of abstracts. He took an interest in politics and was speedily selected precinct committeeman, became one of the City's Prosecuting Attorneys, in which office we worked together, and in 1914, was elected alderman of his ward. Two years later I joined him in the City Council and we served together on the Finance Committee, where I came to know him best. Our days in the Council were filled with hard routine and laborious work. It was in the administration of "Big Bill" Thompson—a time of violent local political strife—and Otto Kerner was one of a small band which opposed the demagoguery and venality of those days. Not only was tremendous industry required of the man in the performance of his duties as alderman and in the practice of law by day

and by night, but great patience as well in the thousand and one routine tasks he was required to do for his constituency. After his father was killed by a truck, it was Judge Kerner's belief that some suitable protective device in the way of a fender could have saved his father's life. He introduced an ordinance requiring trucks to provide such fenders, and he battled for it alone with quiet tenacity, month in and month out, finally procuring its passage.

As a master in chancery, his industry, ability, courtesy and honesty won for him the confidence of lawyers, and he was elected a judge of the Circuit court in 1927. Here, the same qualities endeared him to the profession and brought him to the notice of the Supreme court. Little more than three years had passed, when in 1931 he was appointed by that court, as provided by our law, to sit on the Appellate court. An incident reveals how this came about. One morning late in 1930, I met Frederick De Young, then the Justice of the Illinois Supreme court from this district, at a railroad station. He had a large record under his arm, and his face bore the marks of a long night's work. I asked him what it was about, and he told me he was reviewing a record of one of the courts in connection with an application for supersedeas in a capital case, and that there was a serious error in it. "Now," said he, "if only that trial judge had read our decisions in the advance sheets, as Judge Kerner always does, we would not have this trouble." To him, Judge Kerner was the outstanding example of a careful and industrious judge. In the Appellate court, Judge Kerner served in the Second Division, the branch in which I now sit. His first opinion had to do with an attempt on the part of some heirs of Levi Z. Leiter to have the then trustee removed from office. The case involved

the discretion to be allowed a trustee in administering a large trust estate. It was a time when public sentiment ran high against trustees. The contest between the heirs was bitter, and the record was enormous. The opinion reveals the great care with which the pleadings, the master's report, and the decree of the trial court were analyzed by Judge Kerner. His conclusion that the trustee should not be removed reveals a clear understanding of the duties of a trustee and a sense of balance that held the true line between proper discretion and an abuse of trust.

Of much greater significance was the enormous quantity of cases which came to his attention in his first period on a reviewing bench. The depression was at its worst. Despair gripped the country. As always in times of crisis, men were quarrelsome about property. Thus, a great variety of cases involving not only many aspects of the law, but a great deal of human interest and emotional conflict came before the courts. No experience could have been better for a judge who was to go on to a reviewing court where the questions presented would have perhaps even a larger scope. As I looked over the list of cases decided by Judge Kerner in the Appellate court, I saw such varied legal subjects as usury, problems of husband and wife, res adjudicata, bank stock liability, real estate and rent cases, corporation law in many aspects, negligence cases, injunctions, and foreclosures. Judge Kerner was extremely happy as a judge of the state Appellate court, both with his work and with his associates—two of the most eminent men who have served on our court, Justices Gridley and Scanlan. It was my privilege to serve with the latter in the last years of his service on the bench before his retirement at the age

of 86 after 42 years on the bench. He was an inspiration to Judge Kerner, as he has been to me, in his unswerving integrity, his alertness, legal skill, and his mellowed wisdom. While thus happily placed for life, as he thought, Judge Kerner was urged by the late Mayor Anton J. Cermak, to be a candidate for Attorney General.

No account of Judge Kerner's life can be presented without some reference to the friendship which existed between him and Anton Cermak. They were in many respects, men of different temperaments. Anton Cermak was a man of tremendous vitality, industry, and executive ability, and he played the game of politics with a strong and skillful hand. His attachment to Judge Kerner dated from the time that the latter, as a young lawyer acted as his attorney in compelling the Board of Election Commissioners to place Cermak's name on the ballot for an office he sought. Otto Kerner became his personal lawyer, and the hard, vigorous, fighting Cermak came to have the greatest respect for the honesty, judgment and legal ability of the modest and studious Kerner. Judge Kerner could not resist his plea. And so, in 1932, he resigned from the Appellate court and was elected Attorney General of Illinois. That was the year in which Judge Henry Horner was elected Governor. They became fast friends. The Governor relied implicitly upon the opinions of his attorney general, and it was largely upon the Governor's suggestion that Judge Kerner was appointed to this high court in 1938. An account of his illustrious career as a judge of this court will be given by Mr. Marshall. However, Judge Kerner had been on this Court of Appeals only two years when, as in the case of the Appellate court, the exigencies of politics almost terminated his service here.

In 1940 it was apparent to Governor Horner that his health would not permit his being a candidate for reelection, and it was his first wish that Otto Kerner be his successor. In conference with the late Mayor Edward J. Kelly and other influential members of the party, it was agreed that Judge Kerner should be asked to come to a conference at Springfield. There, they laid before him the importance of his acceptance of their proposal, in the interest of his party and the people. He listened to them and said he would give them his answer the following morning. As Judge Kerner weighed his decision, he must have thought of the long road he had taken and of this prospect of becoming governor of what was then the third largest state of the union. On the other hand, there arose before him all his past professional experience and the knowledge that on this high court he was realizing what he considered to be the fullest measure of service in his profession. Still, there was a strong temptation to yield to the flattering proposal by men who sincerely believed that his candidacy for governor was important to his party and to the people. But he had fortified himself against this temptation. He had taken Rose Kerner to Springfield with him, and here the influence of the woman who had been his partner through all the years made itself felt. She had shared in all his public activities. She knew the burdens such an office would place upon him, and she was concerned for his health. She was adamant in her insistence that he should not leave the comparative serenity of his life on the bench for the hurly-burly of politics. So, on the following morning he gave his answer. It was only occasionally that he allowed himself any humor in such matters, but this was such an occasion. When he met with the

Governor, the Mayor, and other leaders of his party, he said, "I resigned as a master in chancery to become a Circuit Court judge. I resigned from the Circuit Court to go on the Appellate bench. I resigned from the Appellate court to become Attorney General. I resigned as Attorney General to become a judge of the United States Court of Appeals. Gentlemen, I am through resigning." And so Judge Kerner chose to continue his service in this court, and where can a man render higher service?

De Tocqueville, in his classic study of our institutions, comments that the courts of America are unique in that they decide political questions. He meant by this that they pass upon the constitutionality of legislative acts. He noted that this gave them a power far greater than the courts of other lands, a power which enabled them to shape the political destiny of the nation. He noted, too, that this made the courts the ultimate custodian of the fundamental rights of the people, and he liked it. Learned Hand, in one of those beautiful expositions of his philosophy of law and of society for which he stands preeminent, said recently that in the end, the making of law contemplates a prophecy and a choice. We cannot be sure that the final judgment will be right, he adds, but if those who have the judgment to make are familiar with the humanities, not only with history and philosophy, but with letters and the arts, then it is more likely that they will have the informed sympathy and understanding of others and the moderation to judge wisely.

Judge Kerner's early life was not such as to permit of the acquisition of great erudition. But was it not so with Abraham Lincoln? Yet, when the cultured and highly educated Rufus Choate heard Lincoln

deliver his Cooper Union speech, he sat down and wrote this spontaneous tribute: "It was marvellous to see how this untutored man, by mere self-discipline and the chastening of his own spirit, had outgrown all meretricious arts, and found his way to the grandeur and strength of absolute simplicity."

Judge Kerner loved history and he read avidly the biographies of great judges. But it is not alone from books that wisdom may be had. Men who are to judge wisely must know their contemporaries. As much as any man I have known, Judge Kerner knew and loved the people among whom he lived. He loved them in their lodges, in their meeting places, in their precincts, their wards, their picnics, at their weddings where he frequently officiated, and at their swank clubs. He loved the sociable and friendly game of golf, his one athletic hobby. He loved the great Masonic fraternity of which he was a member and in which he rose to high rank and office. He walked freely among all types of men, and yet never has any man who knew aught of him questioned his integrity and his complete devotion to the public weal. It was from his fellow men in this direct, simple fashion that Otto Kerner acquired an informed sympathy with the values and desires of others. Approaching his work, as he always did, in true humility, he acquired the capacity for reason and understanding that marks the highest attribute of man. And so, having found the spirit of this fine citizen in the low tones and sage pessimism of a gnomic psalm, we can close on the high note and exultant phrases of Shakespeare's tribute to man: "What a piece of work is man! how noble in reason! how infinite in faculty! in form and moving how express and admirable! in action how like an angel! in apprehension how like a god! the beauty of the world! the paragon of animals!"

Address by
Thomas L. Marshall, of Chicago, Illinois

In the words of Aristotle, that citizen is best who shares the honors of the State.

After years rich in public service, Judge Otto Kerner came to this court in 1938. His experience in law had been extensive. He had engaged in private practice. He had been City prosecutor, Illinois Attorney General, judge of the circuit court of Cook County, and judge of the Illinois Appellate Court.

Judge Kerner had a wide acquaintanceship with Chicago and with Chicago people. He was born and grew up upon our West Side. His father and mother came here many years ago from old Bohemia which became part of Czechoslovakia and succumbed to the tyrannies of Hitler and Stalin. During the year following his appointment to this court, the judge got as far as Paris in his effort to visit Prague, only to be turned back because of inability to obtain visas. He was a friend of the Masaryks and other leading Czechs. He kept up his associations with the Bohemian and Czech groups. He kept up his activity in Masonic societies. He maintained his contacts in many fields. One of the judge's outstanding traits was his genuine love of people.

At my request Mr. Otto Kerner, Jr. made available to me the volumes of his father's opinions written while he was a member of this court, some 700 in number. I have found it interesting to thumb through them.

During his first year on this court, I was impressed by the high percentage of his opinions which related to bankruptcy, income tax, anti-trust, the Federal Trade Commission, and the National Labor Relations Board. Those opinions are striking for the thoroughness and care with which he entered fields which then must have been comparatively new to him.

It was not unnatural that Judge Kerner's background and experience should emphasize an appreciation of the greatness of this country of ours and the soundness of most of its institutions, and should particularly cause him zealously to support the function of the judiciary.

The firmness of his convictions is well illustrated by his early opinions involving the National Labor Relations Board. There were 34 such opinions during his first five years upon this court. In 12, the orders of the board were enforced as the Board had written them. In 22, the orders of the board were either reversed or to some extent modified.

In many of those cases was involved the clear and clean-cut issue as to the meaning of the provision of the Act of Congress which read:

“The findings of the board as to the facts, if supported by evidence, shall be conclusive.”

In Judge Kerner's opinions, and he was joined by the majority of the judges of this court, that provision of the Act was taken to mean that the findings were conclusive if from examination of the entire record they were found to be supported by substantial evidence.

To the contrary, counsel for the National Labor Relations Board maintained that the findings of the

board were conclusive even if there was some evidence in the record upon which the findings could have been based. The Supreme Court gradually came to accept that viewpoint, thereby almost nullifying any judicial review of the facts.

At that juncture, in an opinion of this court in which Judge Kerner joined, there appears the following unusual language:

“We have recognized (or tried to) that findings must be sustained, even when they are contrary to the great weight of the evidence, and we have ignored, or at least endeavored to ignore, the shocking injustices which such findings, opposed to the overwhelming weight of the evidence, produce. We must confess that at times we have apparently failed to recognize that evidence which would not appeal to any normal, rational appraiser of the truth, may yet fall within the field of ‘some evidence.’ ”

The Congress stepped in and amended the Act to read:

“The findings of the Board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole shall be conclusive,”

adopting almost the very words to be found in Judge Kerner’s opinions.

Of course no one can make any adequate summary of fourteen years of opinions within a few minutes. I refer to one which probably few have noticed. A man was arraigned before a district court upon a charge of stealing an automobile and transporting it across a State line. The district judge asked if the prisoner had a lawyer and he said no. The judge asked if he

wanted a lawyer and the prisoner said no. After such conventional procedure, the prisoner pleaded guilty and was duly sentenced. The opinion of Judge Kerner reversed. He was not clear the prisoner understood that the judge would appoint a lawyer if the prisoner's reason for not having a lawyer was he could not afford one. The unquestioned principle of law was not to be applied in such conventional or routine manner that by any possibility a prisoner could be uninformed as to his rights.

In another case, the immigration authorities properly sought the deportation from the United States of a man and his wife, former residents of Poland, who in the 1930s had come in illegally. The immigration authorities sought to deport them to Poland, even though the war had completely changed the status of that country.

Judge Kerner said:

“In our case deportation to Poland is fraught with serious and harsh consequences—we do not hesitate in stating that deportation to the Poland we know today is inhuman and shocking to the senses.”

An effort was made to dispose of the case in accordance with other domiciliary evidence. Judge Kerner would not permit the application of a principle of law to cause an inhuman result if there were any possible way to avoid it.

In the last bound volume of Judge Kerner's opinions I note a lengthy opinion joined in by two other members of this court respecting a cease and desist order by the Federal Trade Commission. I would not give the impression that his opinions frequently reversed

the Federal Trade Commission. They did not often do so. This particular opinion involved the somewhat controversial question whether it is proper for a large manufacturer to give to its agents or representatives a substantially graduated quantity discount which isn't clearly supported by cost data, sometimes difficult to develop. Judge Kerner's opinion emphasized the examiner's finding which the Commission had disregarded, with one Commissioner dissenting; and Judge Kerner's opinion concluded from the entire record that the discriminatory price differentials did not injure competition and that there was no reasonable probability or even possibility of such injury, as shown by the record. The Supreme Court granted certiorari. The recent advance sheets show that the case was affirmed upon the ground that the petition for certiorari had not been seasonably filed. One dissenter could not refrain from discussing the merits.

It appears that Judge Kerner's opinions were rarely reversed. I was able to verify that statement, for his bound volumes carefully note reversals.

Modest, a man of simple tastes, a man of few words, these traits all appear from a reading of his opinions. The opinions at once get to the heart of the case, contain extensive citation of pertinent precedents, state the facts so far as relevant, and quickly get to the decision. The style is so concise and clear as occasionally to be disarming, causing the casual reader even to wonder why the case ever got here. There are no stilted phrases, no unaccustomed words.

Out of some 700 opinions, just 37 of Judge Kerner's opinions were dissents, enough to have preserved the judge's viewpoint upon matters of real disagreement but not so frequent as to have caused doubt of the

reliability of the governing law which it is the function of the courts to state and to apply.

Judge Kerner's law clerk has said of him:

“Of Judge Kerner it may truly be said that he really loved work, and his standards of work were high; his industry was prodigious and his devotion to duty extraordinary. He had a very retentive memory which enabled him at all times to draw upon the rich background of his experience in private practice as well as in his public life, both in the judicial and other fields, thus making practical use of all aspects of that experience to the enhancement of his service on the Bench. An oft repeated preface to some helpful analogy from his earlier experience was: ‘I remember a case when I was—’. And he had an unusual memory and grasp of the cases which had arisen in his own court, whether or not he had participated in their decision, and in those of other courts with which he managed to keep abreast to an astonishing degree.”

No one could try cases before Judge Kerner without being impressed with his kindness. It was an outstanding characteristic. In his opinions he avoided, to the extent reasonably possible, criticism of anyone. He never criticized a lawyer unless the circumstances really compelled. In oral arguments, he was known to come to the aid of the lawyer whose opponent made a personal attack.

The last opinion which Judge Kerner filed was on December 11, 1952. It happens to have been in a case in which I had made one of the arguments. The appeal had been pursued by one of the parties with unusual vehemence toward others. You cannot tell that at all from the opinion. The opinion rose above all that and relied upon a purely legal ground which finally dis-

posed of the matter, and, I believe, to the ultimate satisfaction of the parties upon both sides.

I adopt as descriptive of Judge Kerner's urbanity and judicial temperament the language which Judge Learned Hand used upon the twentieth anniversary of the appointment of his colleague Judge Swan to the bench:

“In temper and bearing he was transparently made for the office. His manners on the bench were, and are, a model; and—be it said in all humility—often an admonition to others whose composure is not equally proof against irritation. He speaks but little, and is no ‘ill-tuned cymbal’; he never seeks to bring out in advance what will appear in season; nor does he lead the argument far afield into pastures whence the return is tortuous and uncertain. When he does speak, it is to put a narrow question, directed to inconsistencies already apparent, or to the untoward consequences of that which has been said.”

We mourn the loss of Judge Kerner. We look with pride at his accomplishment. To no inconsiderable extent his work lives after him, in the example which it supplied to so many, and in the written opinions which all may read and which will be cited and relied upon for many years.

Judge Kerner's philosophy was well stated by Mr. Justice Oliver Wendell Holmes when speaking in 1911 at his college class reunion, he said:

“I learned in the regiment and in the class the conclusion, at least, of which I think the best service is that we can do for our country and for ourselves. To see so far as one may and to feel the great forces that are behind every detail—to hammer out as compact and solid a piece of work as one can, to try to make it first rate, and to leave it unadvertised.”

Response by
Judge J. Carl Major
Chief Judge

By JUDGE MAJOR:

The eloquent and sincere words spoken in memory of our late associate assuage minds clouded with sorrow and hearts laden with grief. They are the more comforting coming from those who through long acquaintance and close association are in a position to best appraise his life and activities. To those who have spoken, to the many who by their presence pay silent tribute, the court is grateful. It was my high privilege and great honor to sit by the side of Otto Kerner for fourteen years, during which the respect I entertained for him in the beginning ripened into an affection, deep and abiding. And so it was with all his associates.

He was a man of high character and great worth who approached the problems of life with a rare degree of honesty and good faith. A notable characteristic of his, one ever to be remembered by his associates, was the tolerance which he invariably displayed. He was ever willing to listen to the views of an associate, whether he approved or disagreed, but whether in agreement or dissent, he was ever the same courteous and affable gentleman.

Few men have been permitted to serve the public over such a long period of time and in so many capacities as was Otto Kerner and, of those, even fewer emerged as did he with a reputation untarnished and

unsullied. Whether in the storm-tossed field of political life or in the more calm atmosphere of the judiciary, his guiding principle was to deal fairly and honestly with his fellow man.

Otto Kerner was a proud man in the sense that he had a deep appreciation for the many blessings which he had enjoyed—proud of the country which had afforded him such numerous opportunities and of the service he had rendered in its behalf; proud of this court to which he contributed so generously of his energy, experience and able counsel, and above all, proud of his family, his faithful wife and devoted children.

It is not easy to say the final farewell to a friend and associate of such nobility. At the same time, the memory of his exemplary life affords much consolation. And more important, the same faith which he professed enables us to discern a Voice from the Great Beyond carrying the assurance that his departure from our midst was the beginning, not the end.

At this point it seems appropriate to read two letters, one from retired District Judge William H. Holly and the other from Justice Sherman Minton, neither of whom is able to be present. Judge Holly writes from Tucson, Arizona:

UNITED STATES DISTRICT COURT

Chicago 4.

Chambers of
Judge William H. Holly.

3429 E. Pima,
Tucson, Arizona,

March 12, 1953.

*Honorable J. Earl Major,
1212 Lake Shore Drive,
Chicago, Illinois.*

DEAR JUDGE MAJOR:

I am sorry that I cannot be present at the memorial services for Judge Otto Kerner. He was a distinguished jurist and my good friend. I had greatly esteemed and admired him. He filled many public positions during his lifetime and in each of them served the public faithfully and with great ability. His death deprives the people of Chicago and the Northern District of Illinois of a most useful public servant. I am sure he will long be remembered by the Bar and the members of the court on which he sat for his learning, his ability and his graciousness.

Most sincerely,

(Signed) WILLIAM H. HOLLY.

Justice Minton writes from Washington:

SUPREME COURT OF THE UNITED STATES,
Washington 13, D. C.

*Chambers of
Justice Sherman Minton.*

April 2, 1953.

MY DEAR JUDGE:

May I join you in tribute to Otto Kerner, an able judge and a great man.

I was privileged to work with him for eight years and to know him as man and judge. To know him as a man was to admire him and to have for him a genuine affection. To know him as a judge was to recognize in him great capacity for work—superior work—and honesty and fairness never excelled in a judge.

He loved his work second only to his family, and for the latter he had a passionate devotion. He took pride in the race from which he sprang, and his fellows were in turn proud of him.

If I were to sum up my impression of Judge Kerner in one word, I would choose "courtly." Everything he did was done in a courtly manner, without being pompous. Those who have seen him on the bench will remember him as a courteous, pleasant, interested and attentive judge. Those who have seen him outside the courtroom will retain the same impression of a real gentleman. He was always the soul of courtesy and

affability, with a pleasant remark for everybody, even when he himself might be in some discomfort. A man like that is not soon forgotten.

I salute his memory with affection and deepest respect.

Sincerely yours,

(Signed) SHERMAN MINTON.

The Honorable J. Earl Major, Chief Judge,
United States Court of Appeals for the Seventh
Circuit,
1212 Lake Shore Drive,
Chicago, Illinois.

The resolution offered by Mr. Ooms is adopted, and it is ordered that it be spread upon the permanent records of this court.

The court is now in recess.