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J. H. Henderson, Judge—Jurist

By FRANCIS I. MOATS*

Our English forebears who in the 17th and 18th centuries migrated to America laid the foundation for democracy in what is now the United States. They were the product of a civilization that had produced Magna Charta, the Petition of Right and the Bill of Rights. But in practice, limitations of wealth, religion and family reduced the number who were eligible to participate in the selection of their governing officials to perhaps not more than one-fourth of the adult male population. This condition still prevailed at the time of the American Revolution and even through the period of the making of the Constitution of the United States.

But the western frontier beyond the Alleghaney mountains had no place for a political system that was dominated by an aristocracy of wealth, family or religion. Wealth counted for little and few possessed any. It was an agricultural economy and all must work with their hands or perish. And all must cooperate at the house-raising or the corn husking parties. The new constitutions, beginning with Ohio, made manhood suffrage a fundamental of western democracy.

Not only did this western democracy demand that all adult males be eligible to use the ballot, but it held that the common man was capable of administering government at all levels. Thus arose political democracy as we know it now. It had its birth on the American frontier and all of the original thirteen states were soon forced to follow its practice.

Government now would be controlled by those who through qualities of leadership took over the reins of government. Legally all were equal but leaders were

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certain to come forth and assume the responsibilities of the community. The typical state, county and local units quickly developed men of leadership, and during most of the 19th century, local units were to assume far greater responsibility than those of state and national levels. Indianola and Warren county were new political units on this frontier at mid-century and perhaps no family played a greater role in this community than the Henderson family. This article will trace the part played by J. H. Henderson, second in the chronology of the family, as they appeared in public life.

John H. Henderson was born at Ackworth in Warren county, December 16, 1848, and is said to have been the first white child born in Warren county, as the county was at that time organized. He was the son of Paris P. Henderson, who moved to Warren county in 1847 from North Carolina via Kentucky. He was of Scotch-Irish descent.

In 1848, P. P. Henderson was appointed organizing sheriff of the county, and on January 1, 1849, was elected sheriff for a two year term. At the close of this term as sheriff, and after moving to Indianola in 1850, he was elected judge of the county court, a position he held until 1858. In 1859 he was elected as member of the Iowa senate where he served during the session of the Legislature in 1860, but resigned during the session of 1861 to organize a company of volunteers for the Union army. He served as captain of Company G of the 10th Iowa Volunteers and was mustered out December 23, 1864, after completing with Sherman the memorable "March to the Sea."

Returning to Indianola, he was elected treasurer of Warren county, which office he held for nine years. He was then elected mayor of Indianola, a position he held for twelve years, after which he served as justice of the peace for some years. During much of the time he had a private law office. He was a member

of the board of trustees of Simpson college for some years and very active in the Methodist church.

It was not by accident that John H. Henderson, son of Paris P. Henderson, early in life displayed qualities of leadership that marked him for a career in many activities of the community. He was educated in the public schools of Indianola and was enrolled for two years in Simpson college at the old Bluebird. During his college days, he studied law with his father and in 1870 was admitted to the bar in Iowa by examination. Three years later, in 1873, he entered a law partnership with W. H. Berry, and remained in that partnership until 1886, when he was elected judge of the State Circuit Court.

ELECTED A MEMBER OF THE JUDICIARY

By a reorganization act of the district circuit system in 1887, the district to which Henderson had been elected was abolished, but he was elected in 1887 to a new judicial district and was serving his third term as judge when in 1896, he resigned to re-enter a law partnership with W. H. Berry, who had been elected to the Iowa state senate in 1895.

The new partnership was continued until 1901, when Frank P. Henderson, son of Judge Henderson, completed a law course at the University of Iowa's law school and was admitted to the bar in Iowa. During that year, father and son formed a partnership, Henderson and Henderson, an association that lasted until the senior member was appointed Commerce Counsel of Iowa in 1911. The judge, a title by which he was always known, remained in that office for twenty-four years, or until 1935, save only for a few months in 1927 when the position was held by another appointee who resigned within a few months after his appointment, and the judge was again appointed to serve the remainder of this term and for another four-year term in 1931. He retired from public office in 1935 at the age of 86. He was the first appointee to this office

after its creation by the Thirty-fourth General Assembly in 1911.

HEADED STATE BAR ASSOCIATION

During his long career in the legal profession he was a member of the Iowa State Bar Association and in 1897 was elected president of that organization. He served as a member of the State Board of Law Examiners from 1902 to 1906, a position in which he rendered distinguished service.

While serving as Judge of the District Court of Iowa, Mr. Henderson embodied a statement in one of his many formal instructions to juries that found a permanent place in the court system of Iowa. This statement pertained to the subject of "reasonable doubt." At the opening of a trial the judge pointedly informed the jury that "the defendant is presumed innocent. The burden of overcoming this presumption is upon the prosecution, and to do this, the proof must be sufficient to convince you of his guilt beyond a reasonable doubt.

"A reasonable doubt is one that is real, not captious or imaginary, not forced or artificial, but one that without being sought after, fairly and naturally, arises in your mind as reasonable men, after having fully and carefully examined all the evidence, and deliberately and conscientiously considered the whole case.

"Having thus examined and considered the whole case, you should convict the defendant if the proof should establish his guilt to such a certainty as fully and firmly satisfies you beyond a reasonable doubt that he is guilty, but if it does not so prove his guilt, you must acquit him. And the defendant is presumed to be innocent. . . . This presumption of innocence applies to all acts of the defendant."

The judge's wide range of intimate association with members of his own profession resulted in high compliments, and an associate on the State Railroad Commission while he was serving as Commerce Counsel declared that "Henderson was one of Iowa's best pub-

lic servants who always had in mind the welfare of the state rather than his own interests." At the time of his passing, September 30, 1940, many high tributes were paid to the man who served the people of Iowa in a wide range of activities and deserves a place among the acknowledged leaders of his state.

SERVICE TO SIMPSON COLLEGE

It was not only in the field of his own profession that Judge Henderson served with distinction. In his relations to Simpson College he was to render a great community service and no one person has ever had a connection with this institution for so many years. Before he had reached his twenty-first birthday in 1868, he was elected by the board of trustees as secretary of its executive committee and the next year was made secretary of the board of trustees, a position he was to hold for a period of fifty-one years.

Henderson had received practically his entire education at this institution—five years in the preparatory department known then as the Seminary, and two years covering the first period of the regular course for a degree, but did not complete this course. From 1868 to 1919, a period of fifty-one years, he signed every warrant issued by the college and all diplomas and other legal papers as well. It has been said that during his fifty years as secretary of the board he missed but two of its sessions. When he resigned from the board, he was succeeded by his son, Frank P. Henderson, who was to serve in the same capacity for thirty-three years. In recognition of his service to the college, the board in 1910, through the recommendation of President Shelton, presented him with a gold-headed cane.

Many years earlier, in 1883, the Alumnae Association by a unanimous vote recommended that in recognition of his services the board of trustees confer on him the honorary degree of Master of Arts. The board complied and the degree was conferred at the June commencement that year.

Henderson became a member of the Odd Fellows lodge in 1869 and was to rise to state-wide prominence in that organization. In 1896 he was elected representative to the Grand Lodge and re-elected to this position for eight successive years. In 1904, he was elected Grand Warden, Deputy Grand Warden in 1905, and in 1906 was elected Grand Master of the Odd Fellows of Iowa. During this ten-year period he was a member of the judiciary committee of the Grand Lodge. He was a long time member of the Masonic lodge, a Knight Templar, a member of both the Grant club and the Des Moines club of Des Moines, and of the A.O.U.W. He was a member of the Methodist church in Indianola and for many years a member of its official board.

He became a member of the Iowa State Historical Society in 1910 and retained that membership until his death in 1940. He was made a life member in 1925. He had also served as a member of the Indianola school board and had thus served in a wide range of activities in his home community, a range scarcely equalled by any of his contemporaries.

TRIBUTES TO ABILITY AND CHARACTER

As a young man, J. H. Henderson brought good cheer to his many associates and as early as 1872 the *Simpsonian*, Simpson College publication, declared that "there is no place in our city where the young folks like to go better and no place where they will be received with greater cordiality than at his home." President John L. Hillman of Simpson College was to say of him, "Judge Henderson was an apostle of good cheer. Wherever he went, he carried sunshine. His spirit was contagious . . . His record as a trustee of Simpson College was most unusual. I know of no parallel to the length of his service extending as it did over a period of seventy-one years. Most of that time he was very active and very influential."

Among those other than Dr. Hillman to pay tribute to the Iowa judge on the occasion of the last rites in

1940 was Harvey Ingham, then editor of the *Des Moines Register*, who declared that "Judge Henderson was an able man and devoted a long and useful life to the service of the public . . . The state is a better one for all of us to live in because of his valuable contributions to a broader life."

Judge Cooper, a close associate in the Iowa courts, declared that "Judge Henderson had the reputation among the older lawyers of being one of the state's outstanding jurists."

Another publication "The Courts and the Legal Profession of Iowa," Vol. II, by C. C. Cole and E. C. Ebersole, said of the judge, "He was always highly esteemed as one of the ablest and cleanest judges the State has produced."

Still another appraisal declared that "he was devoutly attached to his profession, systematic and methodical in habit, sober and discreet, and diligent in research, conscientious in the discharge of duty, courteous in demeanor, just on all occasions—qualities that enabled him to take high rank among the representatives of judicial offices of the state."

"And," said Don Berry in the *Indianola Record*, "I want to pay an humble tribute to the man who was a friend of my father and a friend of all those men and women of his time among whom I grew up. I know that tribute will be echoed by men and women here and elsewhere in Iowa, on the East coast, on the West coast, in the North and in the South . . ."

Henderson was a lifelong Republican and was honored by his party by his selection as a delegate to the national convention in 1904.

When report of his death was received at the office of the National Association of Railroad and Utilities Commissioners, Washington, D. C., a special bulletin was issued by John E. Benton, then general solicitor for the association, appraising the work of Mr. Henderson. "Judge Henderson," said Mr. Benton, "was long the dean of the legal corps of the state commis-

sions. He became commerce counsel of Iowa in 1911 upon nomination by the Iowa Commerce Commission and confirmation by the senate. He received five subsequent appointments and served almost a quarter of a century before his retirement on July 1, 1935.

"Prior to his first appointment as Commerce Counsel he had served for several terms on the State District Court Bench. . . . Upon the expiration of his last term he was close to his 88th birthday and indicated to the commission that he did not desire reappointment . . . Judge Henderson was a strong man from strong stock . . . He was a man of many interests, active in the political and social life of his community and state, an able attorney and advocate, loved and honored by all who had the privilege of knowing and working with him during his long and honored career of public service."

On October 8, 1868, he married Nannie Jane Spray, daughter of John and Margaret Spray of Indianola. To them were born five children—Edgar Brinton, who for many years practiced medicine at Marengo, Iowa; Frank P., for several years associated with his father in a law office at Indianola; Inez, who married Clyde D. Proudfoot and resided for many years in Indianola; Dwight F., for many years an electrical engineer in Spokane, Washington; and a fifth child who died in infancy.

He died September 30, 1940, at the age of 92. His first wife, Nannie Jane Spray, died February 10, 1902, and three years later he married Hattie Spray, a sister of his first wife.

Centennial Coin at Big Premium

The half-dollar issued in 1946 in commemoration of Iowa's Centennial year, which sold through the centennial committee for \$2.50, is now sought by collectors and bids range up to three times that amount, with listings as high as \$8.25. They were widely purchased at the time by Iowa people. 100,00 of the coins were minted.

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