



JUSTICE HARRY B. HERSHEY
SECOND (NOW FIFTH) DISTRICT

MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE
SEPTEMBER TERM, 1968, ON THE LIFE,
CHARACTER AND PUBLIC SERVICE
OF THE LATE JUSTICE
HARRY B. HERSHEY.

At the hour of eleven o'clock A.M., on September 19, 1968, other business being suspended, the following proceedings were had:

MR. CHIEF JUSTICE SOLFISBURG:

The court is now in session and this time has been set aside for the purpose of receiving a memorial concerning the life and public services of the late Justice Harry B. Hershey, a former distinguished member of this court and an outstanding jurist. Although this is not a cheerful occasion (memorial services never are) we are pleased to see so many of the Hershey family present with us today, as well as Governor Shapiro and other State officers or their representatives. The members of this court were all very close to Justice Hershey but of course some of us knew him longer than others. I always admired Justice Hershey as I did my own father. In fact, a few years ago, I asked for and received from Harry an individual photograph which to this day graces my Aurora office, next to the picture of my father. Words cannot really describe our love, affection and respect for Justice Hershey.

The court will be pleased to hear from a distinguished judge of the circuit court of Christian County, the Hon. Daniel H. Dailey, who is here as a close, intimate friend of Justice Hershey and as the representative of the Christian County Bar Association. Judge Dailey.

JUDGE DANIEL H. DAILEY:

May it please the court—The Christian County Bar Association has honored me by giving me the privilege to present on its behalf, and on behalf of the residents of Christian County, remarks in memory of our late friend, the Honorable Harry B. Hershey.

Christian County remembers that Harry Hershey was born in Mifflin, Ohio, and came to our county a friendly, wholesome boy, the son of a groceryman father and a dedicated, religious mother. It was in the grocery store that he got his early training in getting along with people—rich and poor, important and unimportant, young and old, in a community that was ignorant of racial or religious prejudice. His education in the public schools of Taylorville was a sound base for his later academic achievements.

Christian County remembers Harry Hershey as an outstanding student at the University of Illinois, class president as a freshman, and as a youthful sophomore was chosen to represent the University on the debating team. Later, while in law school at the University of Chicago, he received widespread prominence as captain of that University's debating team. It didn't surprise anyone in his home county that he graduated from law school with honors.

We remember his early days as a practicing lawyer, not so much for the important cases tried, but for the effect the rough and tumble practice of those days had on his later career. His reminiscences, especially of experiences before Justices of the Peace, made enjoyable listening for old acquaintances and neophytes alike.

Elected State's Attorney of Christian County in 1912, the History of Christian County recites "He served the people so faithfully he was re-elected in 1916."

In 1920 Harry Hershey declined his party's nomination for re-election to devote his energies to the practice of law in Taylorville and Decatur. His practice steadily grew as his ability and characteristics became known. During this eventful period he was honored by fellow citizens, in that they elected him Mayor of

Taylorville, giving him still more background for a career yet to come. He and Charley Bliss made Hershey & Bliss as prominent a name as any law firm in Illinois.

A lifelong Democrat, Harry Hershey served as State Central Committeeman and later as chairman of that committee. An early supporter of Henry Horner, and later one of Governor Horner's most trusted friends, Mr. Hershey passed up many posts of honor to serve in the highly sensitive post, in those mid-depression days, as head of the Insurance Liquidation Bureau. Honors in this field came later when Governor Adlai Stevenson appointed him Director of Insurance for the State of Illinois.

It was characteristic of Harry Hershey that he never complained about his defeat in his race for Governor in 1940—he only spoke of loyal friends made and humorous incidents along the campaign trail. This points up an admirable quality of Harry Hershey that Christian County fondly remembers—his determination not to complain himself, and his impatience with those who complained with little reason. Criticism from Mr. Hershey was constructive, or there was no criticism.

Another recollection that brings a smile was his sense of humor—nothing off color, just little things that struck home. His story of the petit juror being questioned by defense counsel on *voir dire* "Do you understand that the indictment in this case is not evidence of the guilt of the Defendant?" and the juror's reply "Well, it's not much of a recommendation," never failed to liven a speech or a conversation.

Christian County was deeply impressed by Mr. Hershey's election to the Supreme Court, but frankly, most of us looked on it as a fitting reward for our most deserving citizen. No one doubted his ability to execute the duties of a Justice of the Supreme Court—and we relish the humility with which he wore the mantle of this proud office. He was a "regular" at our local Elks Club every Wednesday night until after his retirement. His interest in the Presbyterian Church, his widespread farm lands and local banking made him a vital factor in our community until his death.

We remember Harry Hershey daily because his widow, Leah, is a livewire member of our Library Board and the Womens Club.

His son, Richard, ably carries forward his father's banner in the law and insurance field. Another son, Auguste, has achieved prominence in chemical engineering.

In conclusion, Christian County says "Very well done Harry Hershey, you have done more than your part in making our County, State and Nation a better place to live, now and for time to come."

Personally, I say "Thank you, Mr. Hershey, for your many favors, your guidance, your counsel, your patient understanding and your splendid example." I feel sure most of those present here today, join with my personal sentiments.

Mr. Chief Justice, I wish to join with the Illinois State Bar Association in a motion that these proceedings be received by the court, and made a permanent record as a memorial to our friend, Harry Bryant Hershey, late of Christian County, Illinois.

MR. CHIEF JUSTICE SOLFISBURG:

State Bar Association, Mr. Alfred Y. Kirkland. We are pleased to hear from Mr. Kirkland.

We also have present the distinguished president of the Illinois

MR. ALFRED Y. KIRKLAND:

May it please the court—Mr. Chief Justice, honorable members of the court, the dear family and many distinguished friends of Justice Hershey:

When Harry B. Hershey was elected in June, 1951, to represent the Second Supreme Judicial District on this honorable court he brought with him a broad background of experience perhaps never excelled by any of his predecessors.

While lacking in judicial expertise, his wealth of practical experience in State and local government, as a prosecutor and as a general practitioner, gained over a period of 40 years, brought to this court a deep knowledge of the law and understanding of the problems of those litigants, both public and private, whose cases he was to judge. He had served as Mayor of his city, State's

Attorney of the county and Director of the Department of Insurance of the State of Illinois.

Although he had served as chairman of the State Central Committee of his party and was its candidate for Governor in 1940, his partisanship was never to influence his judgment or the opinions he was called upon to write as a member of this court.

Justice Hershey's great love of the law and deep concern for the welfare of the legal profession and the due administration of justice was demonstrated in his treatment of disciplinary cases decided by this court. Years of contact with the day-to-day problems confronting a lawyer in advising his clients and representing their interests had strengthened his belief in the necessity of maintaining at all times high standards of professionalism.

As a member of this court, Justice Hershey considered forty disciplinary cases, writing the opinion in seven of them. In only three of these cases decided by the court during his tenure were the respondents discharged without some discipline being administered pursuant to the recommendation of the governing board of either The Chicago Bar Association or the Illinois State Bar Association acting as commissioners of this court. In one of these three Justice Hershey joined in a dissenting opinion with two of his colleagues that the recommendation of the commissioners for discipline of the respondent should have been upheld.

He recognized that the Canons of Ethics of the Illinois State Bar Association were essentially guidelines by which members of the bar should govern themselves and their activities. However, he believed, and so wrote in an opinion of this court, that if a lawyer repeatedly engaged in practices completely contrary to the dictates of those canons, severe discipline was required even though moral turpitude might not have been involved. *In re Veach*, 1 Ill.2d 264.

Harry Hershey was loved and respected by his fellow lawyers in the "old Second District" regardless of their politics, and his advice and counsel was eagerly sought and freely given. After his elevation to this honorable court, he continued with unbroken regularity to attend the fall meetings of the Federation of Local Bar Associations in his district. His addresses on these occasions

highlighted the meeting programs. At the district meeting in Effingham in the fall of 1961 he delivered a strong endorsement of the new Judicial Article and urged the lawyers to support it at the 1962 General Election. There were many lawyers in his district who had misgivings about the proposal and this fact was well known to him. His remarks on this occasion undoubtedly gained support for the article which otherwise would not have been forthcoming.

Yet Justice Hershey realized that the adoption of the new Judicial Article, though important, would not alone cure all the ills in the administration of justice in Illinois.

Speaking on behalf of the court at the dinner of the Illinois State Bar Association and The Chicago Bar Association on January 19, 1962, and in announcing this court's formal endorsement of the Judicial Article, Chief Justice Hershey said:

"I do not want to strike a negative note. But I cannot let this moment pass without mentioning one aspect of the agitation for judicial reform that has disturbed me, as I am sure it has many of you. I refer to the tendency, the common tendency, to think that there are easy solutions to difficult problems—to regard our task as virtually completed when it is really just beginning—to consider the goal as reached when we have only taken a step in the right direction. Unfortunately, there are those who seem to think that the adoption of the new Judicial Article will of itself, in some magical way, automatically clear the crowded court dockets and solve all the problems that beset our present judicial system. Even though we, as lawyers and judges, should know better, the temptation is strong to present the Amendment to the voters in this light. But, if you think that a new Judicial Article will suddenly, and without any further effort on our part, work a solution to all the problems of judicial administration, then you are doomed to disappointment. And if the Amendment is sold to the people by claiming too much for it, then we are likely to be engulfed by a wave of popular resentment and disillusionment if these claims are not immediately realized. The adoption of the new Judicial Article is not in itself the solution to our problems.

It is merely a necessary step toward the solution. The solution will be attained only by continuous and diligent work on the part of all of us, lawyers and judges alike."

How prophetic were these words as today we see how much yet remains to be done!

Harry B. Hershey was a true friend of the organized bar and disciple of the principles upon which the Illinois State Bar Association was founded. It is, therefore, an honor and a privilege to address this court and to present this memorial as an expression of our love and affection for a true friend, a fine lawyer and a distinguished jurist.

MR. CHIEF JUSTICE SOLFISBURG:

It is with gratitude and sincere appreciation that we have listened to the remarks of Honorable Daniel H. Dailey and Mr. Alfred Y. Kirkland. The members of this court have prided themselves as being very close friends of Harry Hershey. Many of us have taken the customary walk with Justice Hershey at ten o'clock in the evening to the Leland Hotel to get our newspapers, and we have shared other fond memories of our friendship through the years, but perhaps Justice Walter V. Schaefer has known Justice Hershey longer and more closely than the rest of us. Remembering this, it is most proper that we now call upon the Honorable Walter V. Schaefer to respond for the court. Justice Schaefer.

MR. JUSTICE SCHAEFER:

Judge Dailey for the Christian County Bar and President Kirkland for the Illinois State Bar Association, have described the public career of our friend and colleague. What remains is to attempt to indicate something of what Justice Hershey meant to the law and the lawyers of Illinois, and to us, his colleagues on the court.

Each generation, I suppose, tends to look upon its own time as the most active and the most significant in the long history of the law. But even when allowance is made for this tendency, it is surely no exaggeration to say that the 55 years of Justice

Hershey's professional life was one of the periods of most active change in all of that long history. Let me suggest the degree and the pace of change by mentioning the adoption of the Workmen's Compensation Act in 1913, the enactment of the Federal income tax law in 1916, the Anti-Trust Acts, zoning legislation, and the economic and social legislation of the depression years. Other changes, at least equally important, will occur to you. We are apt to forget that during much of Justice Hershey's professional life, legal practice and procedure in Illinois was governed by the rules of the old common law. And it was during Justice Hershey's time at the bar that the provisions of the Bill of Rights of the Federal constitution came to govern State criminal procedure, a development that has changed considerably the nature of the work of the bar and of this court.

Although Justice Hershey thus served, in a sense, as a stabilizing link with the past, his views as a member of this court were by no means anachronistic. Indeed, in many opinions he spoke for the court as it moved forward to improve legal procedure and to adapt rules of substantive law to changed conditions. Justice Hershey was conscientious in the performance of his duties. Far more than most judges he met that most significant prerequisite for judicial excellence: *he cared*. He never thought of a legal doctrine without thinking of the impact of that doctrine upon those affected by it. The complete realism and the scrupulous honor that marked his service upon this court, also characterized his service of two Governors of Illinois. There was no pretence, no guile in Mr. Justice Hershey.

Life among the members of this court has a quality of intimacy that is not wholly discernible from the outside. Opportunities for differences are frequent—after all, cases come to this court only when two members of the bar differ as to the applicable facts or the governing legal principles; and often we review cases in which the appellate court has differed with the trial judge and sometimes differing views will have been expressed by the judges of the appellate court. There is thus ample room for controversy,—and there is controversy. Indeed, so run the legends of this court, there have been periods of years during which some members of the court have not spoken to others. That this problem is not a

local one is demonstrated by the reported custom of the justices of the Supreme Court of the United States to shake one another's hands each morning before they go on the bench.

On the Supreme Court of Illinois during Justice Hershey's time, and since, there has been no problem of that sort. And the amiability, the respect, the genuine intimacy—affection, even,—that has prevailed among the members of the court in an atmosphere highly charged with the potential for bitter controversy has been due very largely to Justice Hershey's tolerance and to his own genuine affection for his colleagues.

The image of a court like this one, as the public sees it, centers upon the judges. Sometimes, indeed, the interest of the judges centers upon the judges. Not so with Justice Hershey. He knew that it takes the devoted service of a number of unsung associates to make the court operate smoothly and well. And he did not hide his appreciation for that service. There is no doubt that during his years on the court his genuine courtesy, his unflinching kindness, and above all his unaffected warmth, made him the favorite judge among the law clerks, the members of the staff of the Clerk, the Marshal, the Reporter, the Librarian and the Court Administrator. And, I might add, among his colleagues as well.

What I am saying about Justice Hershey's life inside the court is, of course, no surprise to any of you, for he brought to the court those qualities of love for people and keen interest in them which all of you know so well. Few men have had so many friends. Most of us, as the Chief Justice has mentioned, have had the experience of walking with him along the streets of Springfield. By daylight, you could not walk with him a block but that someone would speak to him, often some old friend. In this interest in people there was no thought of personal advantage—it was a completely real, but completely unassuming interest in his fellow man.

Our grief at losing him is tempered by our gratitude that we had the chance to know him and to serve with him. Illinois is proud of him, and his colleagues share that pride with the members of his family and the citizens of the State.

MR. CHIEF JUSTICE SOLFISBURG:

The remarks made here this morning will be spread upon the records of the court and copies thereof will be transmitted to the family of the late Mr. Justice Harry B. Hershey by the Reporter of Decisions. A tape recording has been made of all that has been said here on this occasion and this tape will be sent to the family also.

Mr. Marshal, the court stands in recess until two o'clock this afternoon.

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