



JUSTICE CHARLES H. DAVIS
SECOND DISTRICT

MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE
NOVEMBER TERM, 1976, ON THE LIFE,
CHARACTER AND PUBLIC SERVICE
OF
CHARLES H. DAVIS

At the hour of 2 p.m., November 9, 1976, other business being suspended, the following proceedings were had:

MR. CHIEF JUSTICE WARD:

The court is now convened for this proceeding to commemorate the life and the distinguished public service of our late colleague, Justice Charles H. Davis. In the courtroom this afternoon are children of Justice Davis, friends from his private and public life, and representatives of the profession he loved and served so well. Among those representatives is Mr. Frederick Kalivoda, the President of the Winnebago County Bar Association, of which Justice Davis was a member. The court is pleased to recognize Mr. Kalivoda.

MR. KALIVODA:

May it please the court, Your Honors, members of the Justice Davis family. This memorial for Charles H. Davis was prepared by Judge John E. Sype, Chief Judge of the 17th Judicial Circuit, and it was presented by him in a memorial service held by the Winnebago County Bar Association on October 12 this year.

Charles Hubbard Davis was born January 7, 1906, at Fairfield, in Wayne County, Illinois. His father owned a hotel on the courthouse square, and he remembered that the circuit judges stayed there when they were in town. He grew up there, went to the University of Illinois intending to study medicine, but upon graduation from college, went to law school at the University of Chicago, where he graduated and was admitted to the bar in 1931. While in school, he worked in the political campaign of a successful candidate for the United States Senate. After graduation he came to

Rockford to engage in the practice of law and met his wife-to-be, Ruth Peugh. They were married in 1935, and she and seven children survive him. He was associated with the late Charles S. Thomas, and later also with Peter C. Kostantacos, in the general practice of law. His specialty was school law. For 20 years he represented the Harlem School District of Winnebago County and for 19 years Rockford District No. 205, and guided many other districts through the era of school consolidations and handled millions of dollars worth of school bond issues throughout northern Illinois. He was a tireless political activist—serving as Winnebago County Republican Chairman for 14 years, and leading local, State, and national campaigns until his elevation to the bench. He joked that “I know more blacktop roads to more places in northern Illinois than anyone—between school business and campaigning I’ve been everywhere!” Then, in 1954, he was nominated for and elected to the Supreme Court of Illinois, and was named by the court its Chief Justice for 1957 and 1958. In 1960, he lost the nomination, then by convention. His departure from the high court, ironically for this politically trained man, involved his opponent’s charge that he had “voted with the judges of the opposing party while on the bench,” to which he replied, “The judicial process should take no cognizance whether the litigant is Republican or Democrat, rich or poor, influential or without influence, or of one race or creed or another.” He returned to private practice until 1964, when he was among the first full-time Appellate Justices elected under the new amendment to the Judicial Article of the Constitution of 1870. He then served as the Presiding Justice of the Second Appellate District at Elgin until 1970, when he returned by election to a 10-year term to the Illinois Supreme Court, and remained there until his retirement, because of ill health, on September 30, 1975. He took the opportunity in the next few months to visit his far-flung family, and having had that great satisfaction, returned to assume a new responsibility referred to him by the Attorney General of Illinois. Before he could do so, Justice Davis died, at his home, on February 22, 1976.

We here memorialize a man of uncommon constancy, to his faith, to his family, and to his profession. In 1971, in an interview for a news “profile” after 40 years in the law, Justice Davis talked about his work in the court, and observed that “Religion, my family, and a little work around the yard keep the law from being my passion.” His faith made him a problem-solver and a good judge. He

said in his own epitaph—"All things are possible to them that believe." His wife and children were a source of great strength and satisfaction to him, responsible for much of his good humor. He enjoyed the mutual affection and esteem of his family and the pleasure of simple family events. I remember once reading his own recipe for Sunday morning pancakes—that was the day it was his turn to treat the family to breakfast.

No less devotion did he give to the law. "The law," he said, "is not and cannot be a changeless absolute." But he insisted that the courts adhere to the letter and the spirit of the Constitution. He championed the Bill of Rights. He was meticulous in his research and persevering in his search for the right answer. He weighed carefully the opinions of others but was not afraid to support principles against the public clamor. He had the satisfaction, as a lone dissenter in an important Illinois case, to see the United States Supreme Court reinstate that lone dissent as their unanimous judgment. He believed the law and its processes called for the highest standards of legal and judicial integrity, and he conducted himself thus. Justice Underwood called Justice Davis "an able and conscientious judge who has earned the respect and affection of bench and bar." Justice Davis would have been proud to hear that said of him, because, in the words of Francis Bacon, whom he read and quoted, "THE PLACE OF JUSTICE IS A HALLOWED PLACE." And if Francis Bacon had known Charles Davis, he would have found him a man worthy of that hallowed place. Thank you.

MR. CHIEF JUSTICE WARD:

Thank you Mr. Kalivoda. The court is very grateful for your articulate remarks. The court now recognizes Francis Householter, the President of the Illinois State Bar Association. Mr. Householter.

MR. FRANCIS HOUSEHOLTER:

May it please the court.

No one has found a way to avoid death, to pass around it. Those who have met it, who have reached the place where death stands waiting, have not pointed out a way to circumvent it.

So again, in exercising the tradition of a memorial service, a tradition of this court since its inception more than 150 years ago, we are gathered here to honor a departed member of this court.

The Illinois State Bar Association is both honored and proud in having been invited to take part in this ceremony. Mr. Justice Charles H. Davis was for 42 years a member of our association.

Many are the laudable attributes of this dedicated and lovable family man, who with his gracious wife, Ruth, became the parents of seven children. His years as a devoted husband and father earned for him a crown which his family shall always cherish.

Justice Davis, a member of the bar of Illinois for 45 years, was a Justice of this court, as I understand, for two distinct periods of time: first, from 1955 to 1960, during which tenure he served as Chief Justice for one year, and then a second period, wherein he served as Justice for an additional five years, from 1970 to his retirement in October of 1975. In between these two five-year tenures on the Supreme Court, he served six years as a Justice of the Appellate Court. Yes, sixteen years of dedicated and devoted judicial service to the legal profession and the citizens of Illinois.

Justice Davis' reputation was that of a hard worker. He was admired not only as a judge, but as a philosopher and a student of politics. Always a deep thinker, he nevertheless was one of the most cheerful men ever to sit on this court.

Justice Davis' scholarship was clearly demonstrated in his lucid opinions. His philosophy of the law cannot be classified. And those who attempted to classify Justice Davis' approach to the law could not agree, for some said he was a "pragmatic constructionist" but others said he was a "moderate liberal." All agree, however, that he was a scholar and realist who carefully and judiciously exercised the craft of opinion writing. It mattered not to him that an opinion was lengthy, so long as it fully and logically explained the reasons which compelled the just resolutions of the issues. His opinions tell us that he was at his best when dealing with constitutional law, taxation, zoning, estates and school law. His opinions, in both the Supreme and Appellate Courts of this State, earned him the respect and affection of the bench and bar of Illinois.

To Ruth Davis and her fine family, remember that when sorrow comes, let us accept it simply as a part of life. Let the heart be open to pain; let it be stretched by it. All the evidence we have says that this is the better way. An open heart never grows bitter. Or if it does, it cannot remain so. In the desolate hour, there is an outcry; a

clenching of the hands upon emptiness; a burning pain of bereavement; a weary ache of loss. But anguish, like ecstasy, is not forever. There comes a gentleness, a returning quietness, a restoring stillness. This, too, is a door to life. Here, also, is a deepening of meaning—and it can lead to dedication; a going forward to the triumph of the soul, the conquering of the wilderness. And in the process will come a deepening inward knowledge that in the final reckoning, all is well.

And so too it is with Justice Davis—all is well! His dedication as a family man, as a lawyer, and finally as a jurist made his life one to be long remembered. He brought honor and distinction to this court, to our association and to the legal profession. The likes of him may well serve as an inspiration to those lawyers of this and future generations.

MR. CHIEF JUSTICE WARD:

Mr. Householter, all of us are grateful for your fine expression. Mr. Justice Walter V. Schaefer was a long-time colleague and a close friend of our departed brother. Mr. Justice Schaefer will respond to the memorials of Mr. Kalivoda and Mr. Householter.

MR. JUSTICE SCHAEFER:

Mr. Chief Justice, I see in the room today many old friends of Justice Davis, and my mind goes back to the memorial service in honor of his predecessor, Justice William J. Fulton. At that time Mr. Owen Rall, who is here today, spoke on behalf of the Illinois State Bar Association, of which he was then president. Mr. Edwin Cooke, our former reporter, was here at that time, as were Mr. Miley, our marshal, and Mr. Lyons, our assistant marshal. On that occasion, Mr. Rall said that he would not speak of Justice Fulton's work as a judge because that was enshrined in the reports of the court. Instead he chose to speak of the man, and I shall try to do that, although it is difficult in the case of Justice Davis, because his work was so closely interwoven, so much a part of his entire life. He came to the court in 1955, to succeed Justice Fulton. He brought a broad experience in private practice, and, as has been mentioned by Mr. Kalivoda, a specialized experience in the affairs of local government. He brought, as has also been indicated, much more than just experience. He brought qualities of simplicity, directness, and, above all, integrity and industry.

He was a hard worker, and I have no doubt that it was that characteristic that contributed largely to his succession of heart attacks—that first one shortly after he took his seat on the court in 1955, and then another in New York when he was attending a seminar at N.Y.U., and then another here at the building. All of us tried, and tried genuinely hard, to get him to conserve his energy and somehow to be less intense about his work. All of us were unsuccessful.

He served on this court during two periods, as again has been mentioned, of about 5 years each. During the interval he returned to private practice after he had unfortunately failed at renomination by his own party, and he was in private practice for almost 5 years, and then served as a judge of the Appellate Court, Second District, for another period of somewhat more than 5 years, and then he was renominated and reelected to this court in 1970.

I suppose it may be the influence of the bicentennial year that has made me think of Justice Davis in conjunction with John Quincy Adams. Adams was defeated for the Presidency, you remember, and then served a long, long time, and was for many years the most distinguished member of the lower house of Congress. Adams wrote in his diary after he had gone back to Massachusetts, not really knowing quite what his fate was going to be. He wrote this sentence: "From indolence and despondency and indiscretion, may I be specially preserved." And indeed he was. I expect that prayer was as unnecessary in his case as a similar prayer would have been in Justice Davis' case. Both men were immune, I think, to indolence, despondency, or indiscretion.

It is very difficult to speak in objective terms of the life of one with whom you were closely associated, had ties of common interest and of strong affection. As has been pointed out, Justice Davis' life was dominated by two loves, it seems to me, the love of his family and the love of the law. You did not have to know him intimately to be aware of the very close ties that existed between Charles and Ruth and their children. And you did not have to serve long with him as a member of this court to be fully sensitive to his love of the law.

Members of the court are, as you probably know, a rather close-knit group. We live together when we are in Springfield in this building, we eat our meals together, we work in the evenings, either

in the library or in our individual quarters. We come to know one another very well, and all of us share in the joys and the sorrows of each of us. The bond is an extremely close one. It is a unique kind of thing, it seems to me. That does not mean that we do not disagree often, strongly. But those disagreements relate to matters of law. And the questions that come to the court are hard or they wouldn't come here. Strong men have strong differences, and so inevitably there are sharp disagreements. The remarkable thing has been, in the court as I have known it, that these disagreements have not carried over into personal relationships. And that was true in the case of Justice Davis, as it has been with all of the judges with whom I have served.

Judge Davis was a religious man, and that has been commented upon. I had not known it by having observed his attendance at church. If you asked me how I knew that he was deeply religious, I couldn't tell you. Certainly, it never came, in my case, from any direct statement of his. It came rather, I think, from an appraisal of his conduct over a long period of years. I think men don't often speak of the mainsprings that give meaning to their lives. Those things have to be observed from the outside, and they are perceived from manifestations that, I think, are not deliberate, not even conscious, but are, therefore, I think, far more meaningful.

In the life of each of us, we always encounter a few people, I would suggest, against whose expectations we measure our own conduct. And if the tie is strong enough, we do not need to be in constant touch with them. Our tie with Justice Davis was a very close one, very strong one. And so it is that his ideals will remain with this court and with its members over the years to come.

MR. CHIEF JUSTICE WARD:

The memorials presented in this proceeding will be forwarded to Mrs. Ruth Davis. Because of illness, Mrs. Davis could not be with us. She certainly needs no memorial to preserve his memory, having known Justice Davis better than anyone. But I trust that the record of this proceeding will convey to her the feeling of solemn pride that all of us have felt on this important occasion, to honor a man whose career touched and profoundly affected the lives of so many.

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