

PROCEEDINGS

In Memory Of

CHIEF JUSTICE JOHN P. DEVANEY

AND

ASSOCIATE JUSTICE ROYAL A. STONE

In the afternoon of February 10, 1943, at two o'clock, the Court being assembled at the courtroom in the State Capitol, Chief Justice Henry M. Gallagher called upon James A. Garrity, President of the Minnesota State Bar Association.

Mr. Garrity then said:

May it please the Court:

The Bar of the State of Minnesota has recently lost by the death of Chief Justice John P. Devaney and Associate Justice Royal A. Stone two of its most distinguished and illustrious members. The State Bar Association, of which I am President and which I am here to represent, has thought fit that there be recorded in this high tribunal some proper and permanent memorial in recognition of the ability and virtues of our departed brothers.

It is truly meet and just that this great tribunal, over which Chief Justice John P. Devaney presided and of which Associate Justice Royal A. Stone was a member for many years, should specially assemble in their honor and Join in tributes paid to their memory.

These men loved their work and I know tried to the best of their ability to discharge the sacred obligations placed upon their shoulders as members of this Court; and now in the words of Kipling it can be said:

"And only the Master shall praise us, and only
the Master shall blame;
And no one shall work for money, and no one shall
work for fame,
But each for the joy of working, and each, in
his separate star,
Shall draw the Thing as he sees It for the God of
Things as They Are!"

This Court has permitted the Minnesota State Bar Association the privilege of presenting these memorials. The Chairman of the Committee who has the memorial to former Chief Justice John P. Devaney in charge for the Association is George B. Leonard, of Minneapolis. The Chairman of the Committee who has the memorial to former Associate Justice Royal A. Stone in charge for the Association is Montreville J. Brown, of St. Paul, and these members of the Bar will, with your gracious permission, direct this service.

CHIEF JUSTICE JOHN P. DEVANEY.

Mr. George B. Leonard then presented the following

MEMORIAL

Chief Justice Devaney, having retired on February 15, 1937, died on Sunday, September 21, 1941, at the age of 59.

John Patrick Devaney, the youngest of eight children, was born in the village of Bristol, Worth County, Iowa, June 30, 1882. His parents, Patrick and Ellen Lavelle Devaney, were natives of Ireland. They came to the United States in their youth, before the Civil War.

His father, apprenticed to blacksmithing, followed his trade almost until his death at the age of 75, first in New York state, later in Louisiana, and lastly in Iowa. While in Louisiana, the elder Devaney joined the Confederate Army, with which he served for four years. In the early '70s, having met and married his wife at Buffalo, New York, he moved to Iowa, and continued his trade as a village blacksmith, most of the time at Bristol. When his son John was eight years of age, the family moved to nearby Lake Mills in Iowa in order to afford the children a high school education.

At the age of 18, John, after graduating from high school, entered the University of Minnesota and completed the four-year course in the Liberal Arts College in 1905 with the B. A. degree. He graduated from the College of Law, with the LL.B. degree, in 1907, and received the LL.M. degree in the year 1908.

Magnetic personality, a quick and alert mind, driving power, and unbounded energy soon made young John a leader on the University campus. For two years he served as editor of the *Minnesota Daily*, and during most of his time at the University he held the lead as a skillful intercollegiate debater. For two years he taught rhetoric.

He began the practice of law in Minneapolis in 1907 in the office of George B. Leonard. Later, he became the junior partner of Stiles & Devaney, which was dissolved in 1916. Between 1920 and 1930, he was senior partner in the firm of Devaney & Edwards, specializing in the law of common carriers. This type of practice brought him in close contact with the chief farming and producing groups of the Northwest, with their needs and problems, and helped to shape the direction of his many later interests and activities.

From 1930 he practiced law by himself until the fall of 1933, when Governor Floyd B. Olson appointed him Chief Justice of the Supreme Court, to fill the vacancy created by the resignation of Chief Justice Samuel B. Wilson. In the general election in 1934 he was elected to the same office. He served from September 4, 1933, until February 15, 1937, when he resigned and returned to private practice. On the Bench, John Devaney proved to be an able judge, with an excellent knowledge of the law, and abundant capacity for sensing essential facts and applying to them the legal principles involved. To him, law was not an end in itself, but a means to render justice. His ability and character as a jurist were deservedly recognized by the Marquette and DePaul Universities, when they conferred upon him the honorary degree of Doctor of Laws in the years 1935 and 1936, respectively.

While on the Bench, Judge Devaney acted as Chairman of the Minnesota Crime Commission, to the work of which he gave much of his time. The adoption by the Legislature of many of the Commission's recommendations is proof of the worth of his untiring efforts to

improve the administration of criminal law in Minnesota.

Being sensitive by nature to the plight of the poor, and being made more so by his early experiences in life, the pleas that came to the Pardon Board, of which he was a member as Chief Justice, by the children, wives, mothers, and friends of the imprisoned, sank deeply into his soul. He labored hard on records presented to the Board, patiently listened to every plea for a pardon, and interviewed applicants for pardon personally in the penal institutions they were confined in. The responsibilities as a member of the Board, coming as they did, in addition to the duties of Chief Justice, bore heavily upon Judge Devaney.

On returning to private life, Judge Devaney was not content to devote himself solely to his practice. Pressing social and economic problems which agitated the public mind during the '80s did not escape him. Urged by a desire to contribute to the improvement of existing conditions, he became one of the prime movers and organizers of the National Lawyers' Guild, which, at a convention held in Washington, D. C. in February 1937, elected him as its first president. Great stress was laid by this organization on the protection and preservation of our Civil Liberties.

The outstanding quality of Chief Justice Devaney was his singular ability to sense the vital issue in any dispute, strip it of all nonessentials, and concentrate upon solving it, if need be, by the give-and-take method. He excelled as a mediator. In his later years he frequently served as the neutral arbitrator in industrial disputes, either by invitation of the employer and employee representatives, or through appointment by public authority. President Roosevelt frequently appointed him mediator in such matters, notably as Chairman of the President's Emergency Board of Settlement of labor disputes in the Chicago, Great Western Railway, Pacific Electric Company, and Northland Greyhound Bus Lines.

He was generous. He was particularly solicitous of young men struggling to obtain an education. Few of them, after proving themselves worthy of help, went away empty-handed. His own experience served to remind him that a lift in time means much to a struggling youth.

He will be remembered for his broad sympathy and concern for the ordinary man whose trials and difficulties to find a rightful place for himself in the ever-changing social structure of his time made a very strong appeal to him.

He had an abiding faith in the integrity of the ordinary man and his loyalty to our institutions. He had the firm conviction that, in teaching the man on the street to look upon the Constitution as his Constitution, and the Bill of Rights as his Bill of Rights, no fear need be entertained for the future of the Nation. He carried his message directly to the people and invariably received good response. That his faith in the common man has been fully justified is demonstrated by the undivided support being given by rich and poor alike to the Nation's effort to win this war, so that a free life under the Constitution may be preserved.

He is survived by his wife, Mrs. Beatrice Langevin Devaney of Minneapolis, to whom he was married in 1919; his son, John Patrick Devaney, now serving with the U. S. Merchant Marine; his daughters, Beatrice and Sheila; a sister, Mrs. Nell Davlin of San Francisco, California; and his brother, Dr. William L. Devaney of Robbinsdale, Minnesota.

GEORGE B. LEONARD, Chairman
MATTHEW M. JOYCE
MICHAEL J. DOHERTY

The Honorable John B. Sanborn, Judge of the United States Circuit Court of Appeals for the Eighth Circuit, then said:

May it please the Court:

The difficulty of portraying accurately in words the character and qualities of a friend who has gone is like the difficulty that an artist must experience in attempting to paint a satisfactory portrait from memory or from some old photograph. While they live we take our friends for granted. We do not stop to analyze their characteristics. We have general impressions about them, but when they have left us and we try to reproduce those impressions in the form of words we find the picture blurred and unsatisfactory.

In paying my inadequate tribute to the memory of John P. Devaney, formerly Chief Justice of this Court, I shall try to avoid exaggeration, knowing, as I do, that he had too keen a sense of humor and too little personal pride to wish anyone to idealize him. My memory of him goes back to the early years of this century, when we were in the same class at the University of Minnesota. There are those here today who knew him more intimately than I did, but I doubt if there is anyone here who knew him longer.

John Devaney was always a companionable, lovable person with all of the qualities which are attractive. He had an agile and alert mind, a delightful sense of humor, a genial, kindly, and gentle disposition, the ability to talk interestingly, and the capacity to do well whatever he undertook. To these qualities, coupled with industry and sound legal judgment, may be attributed his early and remarkable success as a lawyer. Perhaps his outstanding characteristic was his talent for dealing with highly controversial matters without creating antagonisms. His opponents in the trial of lawsuits showed the utmost confidence in his fairness and treated him more as a friend with whom they had a slight difference of opinion than as an antagonist. No matter how much those who knew him might disagree with his beliefs as to the law or as to politics or philosophy, their regard for him, and his regard for them, remained the same. He was intensely loyal to his friends, and would, with no hope of reward, do anything to help them, without making them feel that they were under the slightest obligation to him. He had that rare faculty of knowing what he could do that would be of the greatest assistance; of doing it with effectiveness, and of quietly effacing himself after it was done.

John Devaney demonstrated what can be achieved in this country by those who are worthy. Starting without influence and with little aside from education, industry, and his own native ability, he had great success in his profession, occupied the highest judicial office in the State, and acquired a position of nationwide prominence. As Chief Justice, he used his powers to maintain the high standing and reputation of this Court. He believed that only lawyers and judges of demonstrated fitness should occupy judicial position, and that the efficient and impartial administration of justice is a matter of the most vital concern to every citizen.

For the meritorious service which he rendered to his chosen profession, to this Court, and to the people of this State, the name of John P. Devaney should be held in cherished memory.

Mr. Clinton Edwards then said:

May it please the Court:

If the only purpose of our being here were to give some measure of comfort to members of families, there would be little occasion for me to speak. Members of Judge Devaney's family well know of our close friendship in his lifetime, and I am sure they know too how deeply I

cherish an affectionate regard for his memory. But it is a privilege to be included among those who may on this occasion express their sentiments for your records.

Perhaps I knew Judge Devaney as well or better than anyone did, except his family. He had been practicing law about seven years when I first came to know him at the University during the college year of 1912-1913. That was when he presided at moot court sessions which we were expected to attend during my senior year in the Law School. When he was considering accepting appointment to this Court he reminded me rather drolly that that was his only previous judicial experience and he was doubtful whether it would be of much help.

The day after graduation I began the practice of law with a firm of which he was the junior partner. That firm had a large practice in the law of common carriers. He was then trying many cases. I recalled to one of the committee a few days ago an occurrence of that fall of 1913, and he suggested that I might appropriately relate it here. At the first jury term one of the cases on my office calendar was set for trial. I announced that fact to Mr. Devaney with some considerable trepidation and inquired of him what we were to do about it. "Well," he said, "you go down and try it, unless you think we ought to look for some young lawyer with more courage to try it for you." With passing years, I have remembered that conversation with a growing sense of grateful appreciation, though I must confess that that was not my reaction at the time.

To at once begin trying cases under his stimulating direction and watchful guidance was an opportunity indeed, because in that field and in negotiations he was at his very best. He had all the essential qualifications of the good trial lawyer and negotiator. Especially, he possessed a talent for yielding quickly and a discriminating capacity for yielding the unimportant but never the substantial rights of his client.

He withdrew from his firm in 1916 to open his own law office. Later, we formed a partnership which continued for ten years, beginning in the fall of 1920. Those earlier years of working for his firm and of our partnership association gave me the opportunity to know him very well.

Though he early acquired a fine reputation, he never acquired smugness. It is to his credit that he felt there was no need for any high-grade reputable lawyer to explain or apologize for his representation of men injured in industry. He represented many, particularly in the railroad industry—always resourcefully, competently, and effectively. Lawyers of high grade representing industry have never asked more nor expected less than that from their adversaries. Among those whom he most frequently opposed in such matters were some of his closest personal friends.

He believed strongly in more thorough prelegal education for those who would become lawyers. It seemed to him that many who knew and understood accepted legal principles lacked the capacity properly to apply them. Greater ability to think, to reason, to rationalize he felt might have been attained had they been required extensively to pursue cultural, social, and economic studies. He thought too that lawyers so equipped obtain more enjoyment and profit out of their practice and the public greater benefits. Apart from that, he believed in cultural education for itself, for a greater enjoyment of life, and a better understanding of its problems. He put that theory into practice, and it was a source of great pride and satisfaction for him to note the progress and achievements of a number of young men whom he had assisted—young men preparing for law, for other professions, and for business.

But I should like to refer more particularly to those personal qualities that endeared him to his friends and associates. He was never opinionated nor self-sufficient. He did not regulate every proceeding by the standard of his own sole judgment. He sought counsel and thoughtfully

gave consideration to the views of his associates or others with whom he consulted. In considering the views of others, he was always deferential, if not always in agreement with them.

He had a genuinely sympathetic approach in moments of grief or sorrow. His were not the detached utterances of conventional platitudes, but rather the happy faculty of saying or doing the things that make lighter one's burden; of making one feel and deeply appreciate his sympathetic understanding. He knew how to be helpful and comforting.

The mean, petty things of life were no part of his make-up. He "was always one to emphasize the good qualities in others, never to accentuate the bad, nor to publish their faults and vices. Commenting one time about a mutual friend whose wit was often rather caustic and barbed, and still smarting from it, I had observed that it required a brilliant mind to think and say the things this chap could say in the trial of a lawsuit. Devaney agreed, but added that it required a better mind to think them and not say them.

He was good company. He had a fine sense of humor and a rare wit. One might wish that this were the time and place to recall incidents that occurred during our association when his fine mind and keen wit had play, the latter always in that kindly way so characteristic of him. It is pleasant to recall that there never passed between us an unkind word. Those were years of delightful association and now of pleasant, lasting memory. For his many fine personal qualities, I shall best remember him.

Of humble origin, here was one who was instinctively a gentleman.

Chief Justice Gallagher then called upon Justice Andrew Holt, a former Associate Justice of this Court.

Justice Holt then said:

May it please the Court:

I have had the rare privilege of serving with and under five different Chief Justices of this Court. They have been men of outstanding ability as lawyers and all gentlemen possessed of the utmost kindness, which has been exhibited to their associates at all times.

I was a district judge when Judge Devaney began to practice law. My courtroom was at the corner of Fourth avenue and Fifth street in Minneapolis. He tried, or was interested in, several cases at which I presided, but I remember one occasion distinctly when he came into the courtroom to try a case against a railway company for damage to some fruit in transportation. He was associated with Mr. George C. Stiles, the attorney for the plaintiff, who took a seat at the counsel table. Mr. Devaney came in with a lot of books on his hip and sat down beside him. I was attracted to his neat appearance, his kindly smile and personality, and of course he won the case. I was impressed with him as a trial lawyer, and I would refer to him as a person somewhat similar to such men as W. W. McNair, E. M. Wilson, Nat Whelen, and J. O. Wheelwright. I realize that he did not enjoy the exacting duties of this Court. He was looking for something more active, and it did not surprise me when he resigned. I agree fully with what has been said of him by the gentlemen of the Bar Association committee, by Judge Sanborn, and by Mr. Edwards.

Chief Justice Gallagher then called upon Justice Loring to speak for the Court on behalf of Chief Justice John P. Devaney.

Justice Charles Loring then said:

Gentlemen of the Bar:

Your Memorial is a just and merited acknowledgment of the distinguished service rendered to this State by John P. Devaney as Chief Justice. He came to this court to fill the place vacated by the resignation of Chief Justice Samuel B. Wilson.

In the light cast by the exceptional services rendered by his distinguished predecessors, it was not an easy place to fill. However, Chief Justice Devaney's magnetic personality, his patience, his tolerance, and his perfect courtesy on all occasions to his associates and to the bar soon endeared him to bench and bar alike. To these fine qualities he added a mind so keen and alert as to instantly grasp the application of legal principles to a state of facts. He brought with him a wide experience at the bar, an experience which gave him that quality so necessary in a judge, the ability to apply the principles of jurisprudence to the problems presented—a faculty that can be acquired only by long experience at the bar. Well versed as he was in legal principles, his warm heart and deep human sympathy kept him always within the spirit of the law as distinguished from a legalistic view of it.

He had many friends whom he loved and who loved him, but when they came through the doors of the courtroom they presented only a problem in the administration of justice—not a problem in friendship or politics. Always his first loyalty was to the Court as an institution. He was jealous of its reputation and ready to make personal sacrifice to insure its high standing among the tribunals of the Nation.

He left us all with the warmest affection for him personally and with great admiration for his many fine qualities. To those of us who served with him the memory of that association will always be one of the pleasantest of our service on this Court.

Chief Justice Gallagher then said:

In response to the suggestion of the President of the Bar Association, it is ordered that these Memorials be filed and become a part of the records of this Court and that they be printed in the *Minnesota Reports*.