



JUSTICE BYRON O. HOUSE
FIFTH (FORMERLY FIRST) DISTRICT

MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE
NOVEMBER TERM, 1970, ON THE LIFE,
CHARACTER AND PUBLIC SERVICE
OF THE LATE JUSTICE
BYRON O. HOUSE.

At the hour of two o'clock P.M., on November 12, 1970, other business being suspended, the following proceedings were had:

MR. CHIEF JUSTICE UNDERWOOD:

The court is now convened for the purpose of receiving a memorial to the life and public service of a distinguished former member of this court, Mr. Justice Byron O. House. He served this court and the people of this State with honor and distinction from 1957 until his untimely death in September, 1969.

Present with us this afternoon are Mr. Justice House's widow, Mildred House, of Nashville, his son, James B. House, a practicing lawyer in Nashville, his daughter, Dorothy, his brother, Lawrence, and a number of less closely related individuals and friends, together with our distinguished State officers or their representatives.

The court will now be pleased at this time to hear from President Ogden Brainard of the Illinois State Bar Association.

MR. OGDEN BRAINARD:

May it please the court—While my appearance here is officially as the representative of the Illinois State Bar Association, it is my personal privilege to appear also as a friend of Byron O. House the man, as well as a respectful admirer of Byron O. House, one of the Justices of this court.

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Despite his heavy work load, first as a practicing lawyer and State's Attorney of Washington County, then as a circuit judge and finally as a Supreme Court Justice, he always found time to serve and further the work of the bar associations to which he belonged. He was president of the Washington County Bar Association and was also president of the First District Federation of Local Bar Associations.

His father, H. H. House, also an outstanding lawyer, instilled in him the intrinsic values of a well rounded education and it was no accident that he became interested in schools and school law. He became active in the School Law Section of the Illinois State Bar Association and served as its chairman for two years, as well as serving on the important Committee on Conventions and Meetings which plans and implements the programs and activities at the major meetings of the association.

His love of people and his seemingly unlimited energy led him to volunteer for tasks that to others might seem onerous, but to him were adventures. At his request he performed the house-keeping chores of maintaining and operating the Supreme Court building, which gave him the opportunity to become acquainted and to remain in contact with all of the people who worked there. He also represented the Supreme Court in its negotiations with its neighbors, the Attorney General's office and the Illinois State Bar Association, to obtain a needed parking area.

Besides being, by his own admission, a renowned hunter, he was a farmer of the working type, putting in many hours in assisting in the planting and harvesting of his crops.

Early in life he acquired the nickname of "Shanty" and he wore it proudly like a badge. Long after he became a Justice of this court he made the remark that when any of his friends failed to call him "Shanty" at a social hour he thought they didn't like him anymore.

He had an overpoweringly gracious and outgoing personality and bubbled over with enthusiasm. Upon seeing a friend his face would break into that famous and engaging—almost boyish—grin and a sparkle would come into his eyes and his hand would shoot

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out for that heart-warming handshake for which he was so well known. His manner was so friendly, open and sincere that to meet him for the first time was to feel that you had met an old friend.

He was a regular attendant at the mid-year and annual meetings of the Illinois State Bar Association and immediately attracted groups of people wherever he appeared. He liked people and people liked him because he had a genius for making them feel welcome and for bringing out the best in them.

Sophocles said, "one must wait until the evening to see how splendid the day was; one cannot judge life until death." The sun has set and we may now render judgment: was Byron O. House a good husband and father—yes; was he a productive member of his community—yes; was he an able and conscientious advocate of his chosen profession—yes; was he a staunch friend—yes; was he an entertaining companion—yes; was he a careful, prudent and outstanding jurist—yes.

Byron O. House, "Shanty" House, and Justice House—all the same man—lived his life as a man in all of the good meanings of that word.

These things all being true, and they are, the judgment can only be that Byron O. (Shanty) House lived and enjoyed a splendid life and that those who knew him are the better for having shared a part of that life.

There are many ways to close these remarks and it is difficult to determine the right way, but it seems appropriate to end them with his own definition of this court and his own statement of his purpose as a Justice of this court:

"The Illinois Supreme Court is the State's highest judicial tribunal. It is the final arbiter and protector of the rights—human and property—of the citizens of Illinois.

"I believe that justice is man's most precious possession and that the cornerstone of the American Republic is our system of law and justice.

"My constant, unswerving aim and ambition will be to preserve, strengthen and extend this system for all the people of Illinois."

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I move the court that this tribute presented on behalf of the Illinois State Bar Association and of its many members who knew him be received by this court and included in its memorial to Justice Byron O. House.

MR. CHIEF JUSTICE UNDERWOOD:

The court will now be pleased to hear from Mr. Amos Watts, a distinguished representative of The Chicago Bar Association.

MR. AMOS WATTS:

May it please the court—It is a privilege for me to represent The Chicago Bar Association today and to participate in the court's memorial service for Justice Byron House.

Justice House (he was always Byron to me) was an exceptional friend, companion and humanitarian, warmhearted, generous, with a love of the outdoors and a boundless amount of energy.

I do not intend to dwell on his ability as a lawyer and jurist for to most of you this phase of his life is well known, except to say that he was respected by his fellow jurists and the members of the bar for his straight-forward thinking and his ability to apply himself to the principles of law. He expressed them clearly and concisely. The memorial for him presented at the meeting of the Board of Governors of the Illinois State Bar Association in December, 1969, expresses this phase of his career quite succinctly, and I quote: "His opinions reveal a perceptive and a penetrating mind and the ability to pierce the veil of wordiness".

As a man of the outdoors he treasured the time he could get away from legal matters and repair to the farm or go hunting and it was my fortune to share many of his leisure hours on the farm or in hunting. He was always enthusiastic about anything he was involved in. He was always interested in his family and friends. He had the knack of making anyone feel at ease when conferring with him and always had the time and would take time to listen. He never shirked any responsibility, was always a tireless worker, and was always willing to assume some added burden he

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need not have assumed were it not for his generous nature. He made friends very easily and was well known throughout the State.

Justice House's family moved to Nashville in Washington County, Illinois, shortly after he was born and he was intensely proud of his community and the town in which he lived and practiced law until he was appointed to the Circuit Court of the 3rd District. Washington County was created in 1818 and Nashville became the county seat in 1831.

Many of the second and third generations of the older families chose to stay in Nashville rather than leave for other places, and Byron was one of them. He knew well most of the residents of the community and all of them knew him.

He was an exceptional man and will be remembered for a long time. His life was an outstanding one and it reminds me of one of the verses of Longfellow's Poem "A Psalm of Life".

"Lives of great men all remind us
We can make our lives sublime,
And, departing, leave behind us
Footprints in the sands of time."

We will hear of his footprints and him for a long, long time.

In conclusion, I would like to say I shared his love of outdoors and I can remember any number of times when we were hunting in the fall with the dogs, and after tramping the fields on a crisp November day we would occasionally pause and sit down on a log to rest and take in the view, the color in the trees, listen to a combine in the distance harvesting corn and listen to the whistle of a bobwhite or watch a squirrel scamper down an oak tree and grab an acorn; at such a time Byron would look me in the eye and say "Amos, this beats 'Judgin' all to hell".

I move that these remarks be made a part of the memorial service of this court.

MR. CHIEF JUSTICE UNDERWOOD:

Also with us this afternoon is a former County Judge of Washington County, Mr. Justice House's home county. The court will be pleased at this time to hear from Judge

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Porter E. Green, representing the Washington County Bar Association.

JUDGE PORTER E. GREEN:

May it please the court—Throughout the years of the practice of law with his father, H. H. House, in Nashville, Illinois, terminating in 1944 by his father's death, and then continuing his partnership practice with Wilbert J. Hohlt and his son, James B. House, until he was sworn in as one of our circuit judges to take the seat vacated by the Honorable Ralph L. Maxwell upon Judge Maxwell's election to the Illinois Supreme Court, Justice Byron O. House was an active, interested member of the Washington County Bar Association. This interest did not diminish upon his appointment and subsequent election to the Supreme Court of this great State, but continued on during his 12 years of service on this court.

As a member of the Washington County Bar Association, I am grateful for this opportunity to respond, recollect and convey to you a few thoughts concerning this occasion in honor and memory of Justice House.

I suppose our presence here, and the occasion for it, stamps us as being part of the "Establishment" which we read, see and hear so much of today. In my humble opinion, but not without reason, I believe Byron House was proud to be part of the Establishment. I make this assessment, not lightly, but rather on the basis of knowing him for half a century, practicing law in the same rural county as he for years, and living across the street from him and his devoted wife and daughter for approximately 15 years. To Byron, the Establishment was the America he knew as a youth, and the State and Country he was serving at his death. Within this framework, he worked and played with boundless energy, warmth of personality, and great enthusiasm for whatever he was doing—as all who knew him can testify.

A man's worth is not always in his title. It has been said that a person who treats his fellowman with equity, discharges his obligations with honesty and respects the rights of others is a pleasant person. Justice House was a pleasant person.

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He could hardly ever be considered a neutral, and was not afraid to take a stand. In the summer of the year of his death, 1969, the St. Louis Globe Democrat reported that Justice House had appeared before an association meeting of the Illinois State's Attorneys and spoke out strongly against the open display and sale of "smut" literature on our university campuses under the pretenses of freedom of expression.

This same year and the preceding one, he served on the President's Commission concerning the formulation of a new Criminal Code for America. This assignment was a great challenge to him, as he was a fighter, a sort of happy warrior, if you will, but win, lose or draw, all of us who really knew him, could be confident he would neither rest on his laurels or brood over his defeats.

Our future ability as a people to safeguard for succeeding generations the civil, political and religious liberties we inherited was a prime concern to Justice House in the spring of 1969. I know, because he told me so.

He didn't live to continue the fight for his Establishment, but let it ever be said to his credit that he was ready to accept the challenge of the 70's and be identified with his cause.

I move that these remarks be made a part of the memorial to Justice House.

MR. CHIEF JUSTICE UNDERWOOD, responding for the court:

Motions will be allowed for the presentations here made to be spread upon the records of this court.

The court is sincerely grateful to the members of the bar who have presented these testimonials to our departed friend and colleague. We concur in the sentiments they have expressed, and we once again express our sympathy to the members of the House family who are gathered here today, for we, too, miss him greatly.

The public life and professional career of Mr. Justice House have been spoken of here this afternoon in some detail. They are matters of public record, and I do not propose to repeat the facts that have been stated. Rather, I think, we would prefer that you

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know something of the tremendous amount of service which he performed for this court, and, through it, for the People of this State. There sometimes is a tendency to eulogize a departed colleague so extravagantly that there is little in the way of genuine meaning left in the words. That is not our intent this afternoon. Rather, we would hope, that what we tell you of his work here would simply provide a larger appreciation of his many truly great and fine qualities. As has been said of others, there is no man whose greatness is not mixed with elements of lesser weight in the scale of human values. But in the case of Mr. Justice House I think it is a fair statement to say that mixture was of an exceedingly high quality, and that what alloy there was served only to lend strength and durability to a character which was of genuine fineness.

Byron, as he was known to those of us with the privilege of serving with him, was a truly remarkable individual possessed of a tremendous capacity for work. This quality manifested itself in many ways: He cherished the fact that the court kept current with its caseload. He was disturbed when he, or for that matter, when other members of the court were late in submitting opinions in cases which were assigned to them. He never hesitated to accept responsibility for an extra opinion or two when a colleague was ill or otherwise handicapped in getting out his work. But among the most burdensome of Byron's voluntarily assumed additional duties was his acceptance of responsibility for supervising the budgetary work of the court that has been mentioned earlier, but let me tell you a little more about it. This duty, prior to the advent of the Judicial Article, was of no great consequence and consumed no great amount of time. With the Article's effective date, however, responsibility was vested in this court and its Administrative Office for preparing and submitting to the General Assembly the budget for the operating costs of the entire judicial system of this State. Byron accepted the burden of supervising this task, of presenting to the full court the many policy questions that were involved, with recommended dispositions of those questions. None of us has any real notion of the very substantial amount of time he spent on this project, but from the frequency with which he would call me and other members of the court about budget mat-

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ters, and the frequency with which he came to Springfield to attend meetings of the Budgetary Commission or the General Assembly Committee, we realize that he devoted far more time and effort to this work than was really appreciated.

And, it was in these matters, too, that his genuine concern for people was evident. He was constantly concerned, not with our salaries, but those of our staff members, including the clerks, secretaries, and building and maintenance employees, in whose welfare he was deeply interested. It was with his assistance and supervision, more than that of any other member of the court, that the smoothly functioning fiscal operation of our Administrative Office was created and continually improved.

But his extraordinary talents were by no means limited to administration. His broad experience in the practice of law, when coupled with an unusually keen (and this has been mentioned and certainly ought to be appreciated) and perceptive mind served the court well in the disposition of its caseload. The hundreds of opinions which he authored for the court included many of major importance. He wrote the opinions of the court in many of the complex tax and bond issues that came before us. To cite only one of his opinions of major consequence is the opinion which he wrote in *Suada v. White Motor Company*, 32 Ill.2d 612, which has, perhaps, been cited more frequently in recent years than any one other opinion of this court.

He was concerned, too, with the quality of the court's work in addition to his pride in its currency. He was a firm believer in the premise that a judicial opinion should be written as narrowly as possible, using not a single word in excess of those necessary to dispose of the issues presented. He consistently adhered to that principle in the preparation of his own opinions and he did not hesitate to call our attention to this salutary premise when some one of the rest of us strayed. Simplicity and directness of expression were his objective, no matter how intricate and how complicated the problem, and his opinions are models of clarity and they leave no doubt as to the court's position and the reasons therefor. His acutely perceptive mind went directly to the controlling issue in a case, and this was true whether in listening to oral argument

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or preparing an opinion. He firmly believed that a busy court ought not be compelled to listen to oral argument which was less than helpful, and the lawyer whose oral argument was inadequate was quite likely to find himself directed to concentrate on the crucial points in controversy.

Mr. Justice House became increasingly concerned, as are all of us, at the tremendous increase in the volume of criminal litigation, its apparent interminability, and the seeming irrelevance of the defendant's guilt. He believed quite strongly, as do many of us, that the rather delicate balance between the rights of the individual as contrasted with the rights of society to an orderly environment and duly effective enforcement of its rules was being too heavily weighed in favor of the individual. His experience as a busy practitioner, State's Attorney and trial judge had made him keenly aware that few trials are technically perfect, and he saw little value to society in remanding a case, solely because of technical imperfections, where substantial justice had been done or where the guilt of the defendant was obvious. While he derived a good deal of satisfaction from preparing one of his remarkably lucid explanations of the reasons for the decision in a complex civil case, he was totally frustrated when our duty to follow the Federal constitutional interpretations by the United States Supreme Court might compel us to reverse the criminal conviction of a clearly guilty defendant. It is a matter of public record, actually, that he always preferred working on opinions in civil cases to those in criminal matters.

The highest reward a lawyer or a judge can receive, second, I think, only to the approval of his own conscience, is the approving regard of the members of his profession, for there are none so competent to judge him as they. The labors of a member of a reviewing court certainly contain little to arouse the enthusiasm of many people—in fact, I suppose, few among the public understand the workings of this court and fewer read its opinions. But the effect of those opinions certainly cannot be overestimated, for they affect the lives, careers and fortunes of many, many persons. The reputations of the authors result largely from the professional appraisal of their product, and there can not be the slightest doubt

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of the results of that appraisal in the case of Mr. Justice House's work. His professional ability was recognized by the bar before he became a judge by his election as President of the Federation of Local Bar Associations in the former First District, which President Brainard has referred to, and the approval, both professional and public, I think, of his judicial performance is manifest from the fact that, even though a Republican, he was twice elected to this court from a predominantly Democratic district.

Byron was a vigorous man, a man of strong convictions who never hesitated in our conference room deliberations, to make his views and position known. He was, however, always willing to listen, to weigh the arguments of those who doubted or disagreed. He cherished the independence of the judicial branch of our government, recognizing that it is the ultimate guardian of the liberties of the people, and that the constitutional restraints upon governmental power are in large measure dependent for their implementation upon the strength of the judiciary. He firmly opposed attempted encroachments upon the independence or prerogatives of the judiciary but at the same time he urged that the court refrain from intruding into areas of doubtful propriety.

Perhaps the factor which endeared him most to all of us, and to those who knew him, were his generosity, his warm personality, the integrity of his word and the vigor with which he approached any activity he undertook. He made no pretense of being that which he was not. He *was* an individual of remarkable vitality, an unusually able and honest and hardworking judge whose place upon this bench will not be easily filled. The development of the law, the people of the State of Illinois and this court were all well served by his presence here.

As I have indicated, the presentations made here this afternoon will be spread upon the records of this court and copies thereof will be transmitted to Mr. Justice House's family, together with the tape recording of these proceedings. As a further mark of respect for our departed friend and colleague the court will stand adjourned until 9:30 next Monday morning.

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