



JUSTICE JOSEPH E. DAILY
FIFTH (NOW THIRD) DISTRICT

MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE
MAY TERM, 1966, ON THE LIFE, CHARACTER,
AND PUBLIC SERVICE OF THE LATE
JUSTICE JOSEPH E. DAILY.

At the hour of two o'clock P.M., on May 23, 1966, other business being suspended, the following proceedings were had:

MR. CHIEF JUSTICE KLINGBIEL:

This hour has been set aside for the purpose of receiving a memorial concerning the life and public services of the late Justice Joseph E. Daily. I might say that we are delighted to see so many here today and it, of course, proves the popularity of our late brother and it must be most comforting to the family of Justice Daily who have come from distant parts, California and Florida, to be with us today. The court will be pleased to hear from the representative of the Peoria Bar Association, Mr. Victor P. Michel.

MR. VICTOR P. MICHEL:

May it please your honors—I have come here on a sad mission as far as I am concerned. Joseph Earl Daily, Justice of the Supreme Court of Illinois, died at Columbus Hospital, Chicago, Illinois, on July 1, 1965, where he had been a patient since March 31, 1965.

Justice Joseph Earl Daily was born at Manito, Illinois, on January 22, 1888. He attended grade and high school at Chillicothe, Illinois, and graduated in three years from the latter school at the early age of 16 years, being valedictorian of his class.

He attended the University of Illinois Law School and the Yale University Law School, graduating from said Yale University Law School with *cum laude* honor, and received membership in the Order of the Coif in 1909.

Justice Daily was admitted to the Bar of Illinois in 1909, and started in the practice of law that same year. At the age of 23 years he was elected city attorney of Peoria, Illinois, in 1911, an elective office at that time, and re-elected for a second two-year term being the youngest man ever elected to that office. Thereafter he resumed the practice of law and also served as Law Secretary to Justice Clyde E. Stone.

In June, 1926, Justice Joseph Earl Daily was elected circuit judge of the tenth circuit to fill the vacancy caused by the death of the incumbent judge, and re-elected for four consecutive six-year terms without opposition and with the endorsement of both political parties.

On June 7, 1948, Justice Joseph Earl Daily was elected Justice of the Illinois Supreme Court, Fifth District, to fill the vacancy caused by the death of Justice Clyde E. Stone. He was re-elected for a full term in 1954 and again in 1963, with the endorsement of both political parties, and continued to be a member of the Illinois Supreme Court until his untimely death.

He served as Chief Justice of the Supreme Court of Illinois in 1951 and 1952, and again in 1958 and 1959.

Justice Daily received two honorary Doctor of Law degrees from John Marshall Law School and Bradley University. He also received high honor by being created a 33rd Degree Scottish Rite Mason.

Justice Joseph Earl Daily was a man entirely without guile and pretense. He was a man with great mental capacity and had unusual discernible ability. He was a humble and amiable man and held in high esteem by the bar and members of the circuit and Supreme courts. As a jurist on the circuit and Supreme courts he respected, honored, and loved his fellow members, and respected the fellow members of his profession while a practicing attorney. That was an outstanding characteristic of this great and kindly man. Justice Daily rendered a real service to mankind, and is and

will be missed by his colleagues on the bench and members of the legal profession.

Justice Joseph E. Daily left surviving,—two sons, Joseph W. and James W., and four grand-children. His wife, Audrey, predeceased him in death.

In the night of death hope sees a star, and listening love can hear the rustle of a wing. So to those whom you love and have lost a while,—you can confidently whisper, "I'll see you in the morning".

I move that this memorial be spread upon the records of this court.

MR. CHIEF JUSTICE KLINGBIEL:

The court will be pleased to hear from the Illinois State Bar Association which is represented by its president, Mr. Peter Fitzpatrick.

MR. PETER FITZPATRICK:

May it please the court—Joseph E. Daily devoted 39 years of his life to service of the people of Illinois as a judge. Today with the court's permission I would speak of his service as a trial judge. This, of course, is because my personal knowledge of him was gained in the trial courtroom. Before the new Judicial Article, there was a custom of more than 75 years' duration of downstate judges sitting in the trial courts of Cook County. Indeed, at times approximately half the jury trials in Cook County were presided over by visiting judges, or, as we in Chicago knew them, "Country Judges." In the middle 1930's Justice Daily started to come to Chicago to sit on the trial bench of the circuit court and of the superior court of Cook County. During the next 10 years, through the help of the other judges in the Tenth Judicial Circuit, he devoted almost full time to trial work in Cook County. It was then that I grew to admire him as a trial judge.

In his role as presiding judge in a trial court, he did not undertake to appear a formidable person, but he was at all times the strongest personality in the courtroom. His manner on the bench not only showed interest in the proceedings before him, but he

had a demeanor of concern, almost an appearance of worry about the case. This was the more remarkable because it was in contrast to his easy and friendly deportment off the bench. This attitude of the trial judge, of course, impressed litigants, because the judge's manner mirrored their own feelings about being in court. It influenced, too, the members of the jury; they were bound to be impressed with the fact that the lawsuit was a serious matter. His manner, indeed, created an atmosphere that discouraged any flamboyance on the part of the lawyers or any tendency to depart from a straightforward and expeditious trial of the issues. He was punctual and put in a full day with the jury in the box; he was efficient and moved the case steadily forward.

I say this with respect. If Judge Daily had been a baseball umpire, he would have encouraged the pitcher to keep the ball over the center of the plate. In matters of evidence and argument, he discouraged any adventure into the extremes of what might be permissible. He ruled promptly and firmly on objections. He was not interested in fine-spun or hair-splitting distinctions. He pressed both sides to tender a minimum number of jury instructions. If his purpose was to have a poor instruction withdrawn, he accomplished it by expressing his concern that the fine effort expended in presenting or defending the case might be defeated by this unintended over-reaching of the other side. He warned against over-zealousness in the advocate. His obvious fairness and interest in both sides constrained the lawyers to act with propriety and cooperation.

As a consequence of his manner of conducting a trial, there was very little to pass on at the hearing on the motion for a new trial. Accordingly, Judge Daily seldom granted a new trial. The volumes of the opinions of the Appellate Court and of this court during the 22 years he served as a trial judge testify that few of his cases were appealed, and, of those, very few were remanded for a new trial.

Chief Judge John S. Boyle of Cook County has asked me to make a record, in this proceeding, of the gratitude of the Cook County judges for Judge Daily's service in their courts and of their affection for him.

Another matter should be remarked. In 1925-26, Justice Daily served both as President of the Peoria Bar Association and as President of the Federation of Local Bar Associations of the Fifth Supreme Court District. Thereafter, he participated actively in the affairs of the Fifth District. He was also a long-time member of the Illinois State Bar Association, at the time of his death, a patron member. He regularly attended the annual and mid-winter meetings of the Association. His friendliness and modesty endeared him, not only to the lawyers in attendance at these meetings, but to the members of their families as well. He had a genius for being a friendly man.

I move the court that this tribute, presented on behalf of the Illinois State Bar Association, to the late Justice Joseph E. Daily be received by the court and included in its memorial to him.

MR. CHIEF JUSTICE KLINGBIEL:

The motions made this afternoon are allowed.

The members of this court desire to express their appreciation to the members of the bar for the fine testimonials presented this day in memory of Justice Joseph E. Daily. They have been presented with great affection and understanding. And because they are to become a permanent record of his standing in his beloved profession, as well as a lasting memorial to his memory, they are of particular significance to the court. We all share in your sentiments.

Judge Daily was first elected to this court in June, 1948, and served for seventeen years until his untimely death in July, 1965. It was my privilege and pleasure to serve with him for twelve of those years. During those years of close association and intimate contact with him in the same work, I came to know and to respect and admire him both as an individual and a jurist. Particularly impressive were his loyalty to the court, his sense of responsibility and his steadfast purpose to make the law and the court effective instruments of the administration of justice in each particular case.

Little need be said of the some two hundred opinions he authored as a member of the court. They stand in the printed reports for all to see, and reveal his great service to the court and to

the legal profession. Simplicity and directness of exposition was his aim, no matter how intricate and complicated the problem, and thus it is that his opinions stand as a model of clarity leaving not the slightest doubt as to where he stood and why. For example, his terse admonishment to an applicant for admission to the bar, who refused to state whether or not he was a member of the Communist Party, was that if the applicant did not choose to abide by the conditions imposed for the granting of a license, he was "free to retain his beliefs and go elsewhere."¹

But Justice Daily's greatest service to the court is unrecorded anywhere, save in the minds of those who worked with him. The most important part of our labors, by far, being the facet of our work which brings the most intimate associations, is that done in the conference room in the debates that precede ultimate decisions. Judge Daily brought to that conference room twenty-two years of judicial experience and a wealth of wisdom concerning the practical and everyday aspects of litigation. In addition he was possessed of a retentive and almost encyclopedic mind, whether the problem was one of substantive law, procedure or precedent, a faculty which lessened our work and led us to rely upon him. As was the case in all of his associations and endeavors, he was always courteous and respectful of the views of his colleagues, but firm and faithful in his own.

Thus far I have spoken of "Justice Joseph E. Daily," words which do not easily come to the lips or mind. For to us, most respectfully and affectionately, he was either "Joe" or "Uncle Joe," and will thus be remembered in our hearts. Even the briefest of biographical sketches must underscore the warmth of his personality. Friendship was natural to one of his capacity for understanding personal values, and the sagacity to make allowances for human frailties. He was always within the reach of people—the important and unimportant, the high and the small. Here was dignity, but not coldness, compassion without false sentimentality, scholarship, but not snobbery. To mention his name stimulates an immediate feeling of affectionate regard not only in his colleagues on the bench, but in every person with whom he came in contact

¹ *In re Anastapolo*, 3 Ill.2d 471, 482.

during his long years of service in this building. We miss his anecdotes, his unflinching good humor and his buoyant spirit that enriched our leisure hours.

One could not be associated with Joe for long without becoming aware of his love and devotion for his wife, Audrey, who preceded him in death, and of his justifiable pride in the persons and accomplishments of his sons and grandchildren. His passing has brought grief and sadness to them, as it has to us. Consolation will come, however, as it must, from the assurance that he was an example among men for wisdom, justice and right, and from the knowledge that he left a record and a memory of a useful and honorable life which will not be forgotten.

The remarks made here today will be spread upon the records of the court and copies thereof will be transmitted to the family of the late Mr. Justice Daily by the Reporter of Decisions. As a further mark of respect the court will stand adjourned for the remainder of the day.

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CONTAINING CASES IN WHICH OPINIONS WERE FILED IN NOVEMBER,
1965, AND MAY, JUNE, AUGUST, SEPTEMBER, OCTOBER, NOVEMBER,
AND DECEMBER, 1966, AND CASES WHEREIN REHEARINGS
WERE DENIED IN SEPTEMBER AND OCTOBER, 1966, AND
JANUARY, 1967. ALSO TABLE OF CASES ON LEAVE
TO APPEAL AT THE JANUARY AND MARCH,
1967, TERMS.

EDWIN HILL COOKE
REPORTER OF DECISIONS.

BLOOMINGTON, ILL.
1967

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