

**MEMORIAL OF A
LEADER OF THE BAR**

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Memorial of a leader of the bar by Joseph T. Auerbach

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JOSEPH T. AUERBACH

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JULIEN T. DAVIES

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WHEN asked to prepare a Memorial of Julien T. Davies, I at first thought that our peculiarly intimate association as partners and friends for more than a quarter of a century might cause me to write of him too markedly under the promptings of sentiment, and that, therefore, another selection would be preferable. Nevertheless, conference with friends, and the reflection that not merely activities in Court and office are to be recounted of a Leader of the Bar who drops out of the procession of life, have persuaded me that our comradeship need not interfere with preparation of a tribute fitting to his professional eminence, responsive citizenship and exemplary character.

JULIEN T. DAVIES

In Mr. Davies, Judge Henry E. Davies reared a son who was to add distinction to the name of the father. And by reason of the precept and example of that father—whose memory to him always was a great possession—of his own intellectual equipment and the ennobling traditions of our profession, Mr. Davies united in himself those rare qualities which made him the fearless advocate and the trusted as well as resourceful adviser. Along with an almost clairvoyant insight into complicated questions of law and fact for elucidation of the truth, he had not alone an ardent sense of fidelity to the client, but of honorable obligation to the Court, of which he never failed to remember it was his privilege to be the candid officer. Never did nobleman appraise more jealously the proverbial responsibilities of rank, than did Mr. Davies the compelling ideals of his high calling. To be in doubt as to the propriety of a course of conduct was to be resolved against it; and his whole life was a rebuke of the shallow

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cynicism that the law is what is boldly asserted and plausibly maintained.

That such devotion to his profession was with him a chief article of faith, no better illustration can be given than by a quotation from his address before the Bar Association of the City of New York on the fiftieth anniversary of its existence. On that memorable occasion he was one of the few surviving founders of the Association. And though ex-Senator Root and John Proctor Clarke, the Presiding Justice of our Appellate Division, were the other speakers, the address of Mr. Davies did not suffer by comparison with what they so acceptably said.

It is difficult to conceive what could be taken from or added to this eulogy without detracting from its dignity and fitness.

In dwelling upon the work of this Association during the past fifty years in maintaining the honor and dignity of the profession of the law, naturally there arises before us some mental conception of the characteristics of that honor and dignity. Whether one contemplates a lawyer's life and work

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from the standpoint of over fifty years' experience or a few months' trial, each member of our profession must feel that he has been set apart from the mass of his fellows for a peculiar and distinct career that demands adherence to the highest standard of conduct. It is not essential to claim by comparison any superiority in usefulness or distinction of lawyers in general over those who have chosen other spheres of activities. Fifty or a hundred years ago, such a claim might have been put forth with greater force than now. The greatly increased productivity of the world, due to inventions and use of machinery and vastly greater facilities of communication and transportation, has led to such distributed possession of wealth and to such ease in its acquisition, that the brain-worker, who, if he is to be actually a lawyer, and not a broker in legal business, must pursue thought for thought's sake, and cannot accumulate largely, and in a community where the power of money is held as most desirable and admirable, must necessarily yield in importance. It is enough for us to claim that the peculiar features of our calling give to it all the honor and dignity that human nature requires for complete satisfaction. First and foremost among those characteristics is the attitude of sympathetic helpfulness that the counselor must assume towards him who applies for aid, who is never allowed to depart without receiving some thought that will assist in the disposition of the problem presented. Then comes the intellectual pleasure of the search for truth,

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for the true solution of the difficulty in the light of reason and precedent, and the glow of satisfaction with which a conclusion is reached, that satisfies the searcher and that can be defended with the strength of him who is thrice armed "who has his quarrel just."

Who can be indifferent to the charm of exercising one's persuasive and convincing powers, be they ample or limited, before court or jury, or, as more frequently occurs, upon client, associate or opponent, in the give and take of consultation? Always as a sworn officer of the Court, always, whether in argument, trial of a cause or consultation, engaged as part of the machinery for the administration of justice, always engaged in the furtherance of composition of differences and the avoidance of private warfare, always acting as a helper and a healer, what more honorable and dignified course of life can be pursued than that to which we have fortunately devoted ourselves? In recognition of all this, was this Association formed, has it for fifty years pursued its useful career, and God willing, may it be continued by our successors for the years to come.

From the day almost of his majority and admission to the Bar he was a familiar figure in the Court room, before courts of original jurisdiction and Appellate tribunals, where, not only by profound

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knowledge of legal principles and mastery of the facts, but by a general culture, he was enabled to present the finished as well as lucid argument. Nor should such an attainment be lightly passed over, for no one can justly claim that in respect of literary quality, the oral argument of counsel to-day is, as a rule, on a level with that of the advocates who were Mr. Davies' contemporaries. While he never indulged himself in rhetorical, perfervid utterance, he was truly eloquent in the phrase of vigor, and precision. Understanding full well that the language of formal argument is not wholly appropriate for colloquial interchange of views, he understood, also, that slovenly speech was to be abhorred always, and that one who persisted in a cheap expression in or out of court was likely to voice only cheap thoughts. More than once he and I have discussed the well-nigh scandalous consequences of the prevailing slothfulness in these respects. The *laudator temporis acti* or the panegyrist of *aetas parentum* is prone