

Charles S. Desmond, Chief Judge of the New York Court of Appeals: A Tribute

John F. Scileppi

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Whenever and wherever he has appeared in these fifty states or abroad—at the Inns of Court, the universities, the bar associations or judicial conventions—he has left his mark as a wise man, a twentieth century thinker with roots in the past and a view toward the future, a cosmopolitan from Eden. In one of his publications Charles Desmond “makes no claim to profundity, legal learning or felicity of style.”¹ While this adequately illustrates his humility, it inaccurately describes his ability, as is evident from his contribution to this issue of the Law Review. In the near future, with leisure, we hope he will trouble himself to expand this present endeavor so that he may outline in his inimitable way, for the benefit of us who follow him, what went on behind the scenes over the past fifty years.

ADRIAN P. BURKE.*

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It is a delightful privilege for me to pay tribute to my former colleague, Chief Judge Charles S. Desmond, upon his retirement from the Court. This tribute is intended as a personal salute to a man of many talents and achievements with whom I had the privilege of serving on the Court.

On the first day I joined the Court, approximately four years ago, it was the Chief who welcomed me as an associate judge of the Court. The warmth of his greeting and his innate friendliness clearly indicated to me that the newest member of the Court had a friend in its Chief Judge. From the very beginning, his solicitude for all his associates was evident, and this made my transition from the trial bench to the appellate court easier than it might have otherwise been. In addition, I noticed that a spirit

* Associate Judge of the Court of Appeals of the State of New York.

¹ DESMOND, THROUGH THE COURTROOM WINDOW iii (Author's Foreword) (1959).

of mutual respect and regard prevailed among all who served with him, regardless of our general views in certain areas of the law or of our specific views on any given case. Whether we concurred with him or dissented, once the case was decided, the disagreements on legal concepts and conclusions, which often involve strenuous debate, were completely forgotten as he called up the next case for discussion.

Not only was Chief Judge Desmond a great judge, but he was an excellent administrator. His administration of the Court, as well as all the courts of the State as head of the Judicial Conference, was marked with a vigor and dispatch seldom found in executives half his age. His excellent legal talents, his dedication to the law and his devotion to the Court on which he served so well, longer than anyone in its history, made a tremendous contribution to the preeminence which the Court occupies today. Chief Judge Desmond's progressive judicial thinking and his intellectual vigor are reflected in his opinions, many of which have had far reaching effects and are now landmark decisions. Because they have been often cited in other tributes paid to him by other judges and legal scholars, I shall refrain from doing so again. But it is certain that they stand as a monument to his powers of reasoning, his keen perception and his judicial attainments.

Added to this eminent record of judicial service is his contribution to the law in the form of Law Review articles, his lectures and teaching at several law schools and his leadership and direction as Chairman of the Judicial Conference and the Administrative Board. In this latter capacity, he met over the years with Chief Judges of the highest courts of other jurisdictions all over the nation and beyond its borders at seminars and conferences, in which he participated as "judicial ambassador" from our Empire State. He won the respect and admiration of his fellow jurists for his forthright views on the administration of justice and the judicial process, accepting with pardonable pride the accolades given to the legal establishment of this

State (both bench and bar) by jurists from all parts of our Country.

Chief Judge Desmond always had a reverence for the Court and an affection for his associates and for those who practiced before it. He was zealous in preserving its reputation, its accomplishments and its standing.

It was natural that because of these accomplishments, he justly received many honors in recognition of his judicial talents and of his service to the law and the community at large. He has worn these honors with genuine modesty and good grace and with an acknowledged awareness of the part which Divine Providence played in his full life and successful career. It can truly be said of Chief Judge Desmond that "he walked with kings but never lost the common touch." It is no contradiction, in his case, to say that he was a dynamic person of remarkable ability and physical and intellectual vigor and at the same time a man of great humility.

As he laid down the mantle of authority on the Court on January 1, 1967, he did so in the best tradition of the Court, in good spirit and with an eye trained on future accomplishments; and he handed down to us who remain, the torch of judicial progress which burns bright and lights the way for us to follow. His mandatory retirement is not only a great loss to the Court, but to all of his former associates who miss his warmth of friendship, his delightful companionship, his natural Irish wit and sense of humor.

It was an unusual privilege and a high honor to serve on the Court with him and to have had the benefit of his outstanding talents as a judge and the comfort of his genuine friendship. May God continue to bless Charles S. Desmond with continued good health, happiness and contentment in the years that lie ahead.

JOHN F. SCILEPPI.*

* Associate Judge of the Court of Appeals of the State of New York.