

St. John's Law Review

Volume 34
Number 1 *Volume 34, December 1959, Number*
1

Article 5

Albert Conway—Chief Judge of the Court of Appeals: A Tribute

John P. McGrath

Follow this and additional works at: <https://scholarship.law.stjohns.edu/lawreview>

This Article is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact selbyc@stjohns.edu.

standards of professional and judicial conduct—Chief Judge Conway has made a profound and lasting contribution to the advancement of law and justice in our time.

LYNN G. GOODNOUGH.*

* * *

More than three decades ago, a law school graduate, who had never spent a day in a law office, ventured into Court Street looking for a place to serve his clerkship. He there encountered a tall, spare, angular character, slightly reminiscent of a youngish Mr. Tutt and bearing the unmistakable earmarks of an active practicing lawyer. Then a vigorous thirty-seven years of age, Albert Conway had already won attention as an outstanding prosecutor on the District Attorney's staff and as a teacher in the Brooklyn Law School. He had left the District Attorney's office seven years earlier to found a law firm in partnership with a former judge turned banker, and a real estate lawyer and had since been busily engaged in an active general practice. Litigation occupied much of his time, for despite his youth he had already emerged as the chief contender among the younger men for the title of Brooklyn's top trial lawyer.

Surrounded by a half dozen youths, fresh from law school, he went about the business of preparing and trying cases. His field of action was diverse enough to cover stockholders' derivative suits, will contests, matrimonial actions and mechanics' liens. His specialty was as broad as his client's problem. In preparing to try his cases, night work was imperative for only then was it possible to capture without interruption the time necessary for careful study of law and facts.

Month followed crowded month as the young advocate went from case to case, ever widening the circle of professional admirers who noted approvingly the talent, the industry, the intelligence, and the stamina that characterized his work. He was thus occupied in the fateful year of 1928,

* President, Brooklyn Bar Association.

the year the "Happy Warrior" persuaded his friend, Franklin D. Roosevelt, to aid his presidential aspirations by running for Governor of New York. The same slate which bore the names of these distinguished statesmen also carried the name of Albert Conway for Attorney General of New York. The ensuing campaign fostered growing friendship and respect between Roosevelt and Conway, and when Roosevelt took office as Governor on January 1, 1929, the disappointment of the Brooklyn backers of Al Smith and Al Conway was somewhat assuaged by the naming of Conway as Superintendent of Insurance. After a year and a half of distinguished service in this post he accepted appointment as a County Court Judge in Kings County. This launched him on a judicial career which brought him to the Supreme Court as a trial justice, to the Court of Appeals as Associate Judge, and then to the pinnacle of the judiciary of this state as Chief Judge of the Court of Appeals.

Much has been said and written on the subject of the qualifications of judges. On one qualification there appears to be unanimous agreement. That is the desirability that prospective judges have a thorough acquaintance with the courts and court procedure through actual trial experience. When Albert Conway ascended the bench he possessed to a remarkable degree a well rounded experience in both civil and criminal courts as well as the scholarly attainments essential to the teaching of law.

Many pages have also been devoted to the running controversy as to whether election or appointment of judges produces the best results. In the case of Albert Conway, his service in the County Court commenced by appointment and was followed by election. His later election to the Supreme Court was followed by appointment to the Court of Appeals, and finally he was elected both as Associate Judge and Chief Judge of that Court. He was chosen under both systems. Indeed, the issue as between election and appointment fails to touch a judicial aspirant of Conway's ability and talents. His selection would be inevitable under either system so long as he was willing to actively seek a judicial career and pursue the usual methods of furthering his candidacy. The common difficulty, where a really outstanding judicial prospect is con-

cerned, is not so much his ultimate selection; it is the fact that his success at the bar usually deters him from actively seeking judicial office. It becomes a case of the job seeking the man rather than the man seeking the job. This seldom happens under either system since there is never a dearth of men seeking the job.

Albert Conway is this year rounding out 31 consecutive years of public service, almost 30 of them as a judge. As he puts aside his robe of office, he retains the blessings of vigorous health, sharp intellect and vibrant energy. We can be assured that these robust qualities will inevitably be concentrated on some new phase of public usefulness. His zeal for service has been the guiding force of his life.

His career is a case history which reflects credit on the way of life from which he sprung. Brooklyn at the turn of the century; a modest but cultured home—his father a lawyer pursuing a career in the Law Department of the city; Boys High School in the days of George McLaughlin and Gene Colligan when teachers taught with pride and regaled each new class with the fame of its predecessor; the Fordham Law School of John Loughran and Ignatius Wilkinson; the Cathedral Club of Father Mundelein and John Curtin; the Emerald Association of John Dorman and Joseph McNamara; parental guidance, religious training, inspiring teachers, the example of respected leaders, participation in organized charitable activities, were all part of Albert Conway's vocational equipment. His great talent and willingness to work would have assured him great financial success. But his zest for public service outweighed the material advantages of a private career and caused him to subordinate personal gain and forego recurrent opportunities to return to private practice.

His career as a judge has been learned, dignified and productive. He has earned the respect of the bar and the affection of his associates. To be a good judge of the Court of Appeals calls for punctilious regimentation of one's life, with much physical inconvenience and many intrusions on hypothetically budgeted "leisure time." When the Court is in session, adjustment must be made to a traditional schedule of hearing, study and consultation, suggestive of the cloister.

Between sessions, the study of cases and writing of opinions is constant. With court in Albany and home in Brooklyn, this meant that the printed records presented a continuing transportation problem. As his deliberations matured into final judgments, his rangy figure was a familiar sight lugging a heavy bag along Prospect Park West both late at night and early in the morning. To the great honor of being a judge of the state's highest Court, this toting of heavy tomes is one of the unpublicized fringe benefits.

Another fringe benefit is the quite generally accepted axiom that, no matter how swamped with work a Court of Appeals Judge may be, he must be the guest speaker at all bar association functions and must invariably be brilliant, benign, wise and witty, with a prepared speech of just the right length, sprinkled with drolleries suitable to the occasion. This constantly overhanging oratorical sword of Damocles means that the high court judge is always pregnant with a gestating speech, the completion of which must be calculated with a nicety which will assure that it is fully developed when it is brought forth. The constant threat of premature delivery is not conducive to a restful life.

Any appraisal of the contribution of Albert Conway must be made against the background and character of our contemporary life. We are now madly racing through the middle of the 20th century. Masters of mass production, we have created labor saving devices and automatic machinery for virtually every chore in home and factory. Automation and electronics have brought more leisure time for people generally, yet they are too busy pursuing mass produced entertainment or operating mass produced cars over the countryside to pause and reflect. The mid-century tempo allows no time to drink in the grace and beauty of life or to permit communion with things of the spirit. As a consequence, this era of atomic energy, jet power and space travel is an era of materialism where we are preoccupied with the newest created things and the wherewithal to acquire and exploit them.

The majesty of the law and the great traditions which have grown with its gradual development are readily lost sight of in such a climate. The widespread and almost uni-

versal quest for the material has brought with it the tendency to ignore the greatness of the past and to judge men by the crass standard of their private gains. In this rather discouraging view of things as they are today, the life and work, the character and the personality of Albert Conway stand forth as a meaningful reminder that there are deeper values in life and that occasionally, even in these times, we find a man dedicated to them.

JOHN P. MCGRATH.*

* Former Corporation Counsel of the City of New York.