

In Memoriam

HONORABLE FREDERICK W. HOUSER

Associate Justice, District Court of Appeal, Second Appellate District, Division One, 1923-1935; Presiding Justice, District Court of Appeal, Second Appellate District, Division One, 1935-1937; Associate Justice of the Supreme Court of the State of California, 1937-1942.

The Supreme Court of California met in special memorial session in its courtroom, State Building, Los Angeles, California, at 1:30 p.m., Tuesday, November 17, 1942, to honor the memory and services of former Associate Justice Frederick W. Houser, who passed away on Monday, October 12, 1942, at Glendale, California.

The services were presided over by the Honorable Phil S. Gibson, Chief Justice, who paid tribute to the life and memory of the late Mr. Justice Houser, as did Frank B. Belcher, President of The State Bar of California, Oscar Lawler, a member of The State Bar, John Perry Wood, President of the Los Angeles Bar Association, and Honorable Jesse W. Curtis, Associate Justice of the Supreme Court of California.

The ceremonies were as follows:

THE CHIEF JUSTICE: We pause a few minutes in our session to honor the memory of Mr. Justice Houser. I have asked Mr. Frank Belcher, President of The State Bar, to speak on behalf of the Bar of this State.

MR. BELCHER: Mr. Chief Justice, Members of the Supreme Court, Ladies and Gentlemen.

On October 12, 1942, the members of the Bench and Bar of the State of California and his thousands of friends were deeply saddened by the passing of one of our senior jurists, Associate Justice of the Supreme Court Frederick W. Houser.

Today we fittingly pause to pay tribute to the life, character, and services of this outstanding citizen, to the end that a permanent record thereof may be incorporated in the proceedings of this Court.

Fortunately for us and for posterity, much of the product of his intellect is preserved in the many decisions of our appellate tribunals in which he participated during the

course of the past two decades. These stand as an enduring monument to his legal ability. The Bar of California honors the memory of Justice Houser for his kindly and considerate spirit, for a life devoted to public service and well lived, for the example of uncompromising integrity, and for the earnest and capable manner in which he discharged the highest duties of citizenship.

It is not my purpose, however, to recount the events or accomplishments of his outstanding public career. That function will be better fulfilled by those who knew him best and who were most intimately associated with him.

May I, therefore, Mr. Chief Justice, present to the Court to speak for the Bar of California, one of its distinguished members, Mr. Oscar Lawler, a long time and intimate friend of Justice Houser?

MR. LAWLER: Mr. Chief Justice, Associate Justices, Ladies and Gentlemen.

It is indeed difficult to suppress emotions welling from a friendship of more than fifty years. Boy, man, lawyer, judge, from the humblest station in life to the most exalted, it has always been "Fred Houser" to me.

Within a stone's throw of where we stand were developed the best traditions and the outstanding personalities of the Bar of this community. Here Mr. Justice Houser had his beginnings with the law. Across the way, in the old Baker block, gone the way of all things material, but of sainted memory, was Henry O'Melveny, whose great legal ability was exceeded only by his magnificence of heart, and the firm of Graves, O'Melveny and Shankland. Down the hall was Charles Monroe, of the firm of Wells, Monroe and Lee, and a block away was John S. Chapman, of whom it may be said that the Bar of California can never be mentioned without recourse to his name, Andrew Glassell and George H. Smith, the last named long a commissioner of this court and of whom, in passing, it may be interesting to say that he was a great uncle of General George Patton, now carrying on the conflict of his country in Africa. Just a block in the other direction was Henry T. Gage, later to become Governor of California, and at the junction of Main and Temple and Spring Streets, on the Main Street side, on the second floor, was Alexander Campbell and the firm of Houghton, Silent and Campbell, who with Walter Van Dyke, long a member of this court, and George K. Proctor, a rancher of the San Fernando

Valley, in his later years did much to keep California from revolting in favor of the Confederacy at the time of the war between the states; and, on the other side of the hallway, Stephen M. White, unexcelled as a lawyer and, as a statesman, without a peer. These were contemporaries, great contemporaries, and they are names to conjure with in any roster of the Bar of California.

Into this atmosphere in the early nineties, as a stenographer in the office of Senator White, Fred Houser came as an employee, charged with the ambition to earn his living and, at the same time, qualify himself for admission to the profession of the law. From the example of the famous lawyer in whose employ he stood, he learned that there was no royal road to learning, no paved highway to success, that each is attainable only by a rough and rugged road, marked by sacrifice and toil. His struggles after admission to the Bar were those common to other young lawyers.

During his early years he lived in East Los Angeles. His neighbors were mostly railroad engineers, trainmen and shopmen, and their families. The sterling quality of these persons, the sincerity and value of their friendship, can only be appreciated by those privileged to live among them. Fred Houser's qualities won for him an abiding place in their esteem. This was mutual and frequently demonstrated throughout his life.

His friend and neighbor, Frank Flint, aspired to the senatorship. Judge Houser espoused his candidacy and, as a member of the Assembly, had the honor of presenting Flint's name to the joint session of the Legislature, which elected him United States Senator from California.

Justice Houser's temperament, his ability, his industry at the Bar, his faithfulness and efficiency as a legislator, earned for him elevation to the superior bench. His long and satisfactory service as a judge of the Superior Court in turn merited elevation to a place on this august tribunal. There thus came to him an honor transcending in importance any other within the gift of the State.

Under our form of government, courts, especially courts of last resort, are clothed with powers unique among the various systems of jurisprudence. The labors of our judges are not only onerous, but they are fraught with the gravest responsibilities. Qualification therefor requires men of no ordinary mold.

In other countries, individual rights, both of person and of property, were wrung piecemeal from reluctant and frightened sovereigns. In our country the sovereign people, by their charter, in advance delegated to the national government the powers to be exercised by it, and the people of the respective states, by like charters, limit the powers of their local governments. Fundamental to each is a judiciary with supervising power and duty to declare void legislative, executive or ministerial action transcending these delegations or limitations. Thus by the Constitution are our courts vested with responsibility for the preservation of American Liberty. Without our courts, the Bill of Rights would be as sounding brass.

Unmoved by friendship or favoritism, unbiased by political or social opinions, unawed either by the hue and cry of the multitude or the peril of executive or legislative displeasure, the American Judiciary has met the full measure of its responsibilities. It has guarded our individual rights and conserved our individual liberties with the shield of fundamental law. In so doing, it has established permanent beacons marking the orderly progress of a government of laws and not of men.

Frederick W. Houser measured up to the highest traditions of that Judiciary, and gave to it the last full measure of devoted and faithful service. True friend, able lawyer, just and upright judge, we join in expressions of grateful appreciation for a life of faithful and efficient public service which will ever remain an inspiration, and an enduring friendship which will abide with us as a benediction.

THE CHIEF JUSTICE: Judge Wood, you have a resolution of the Bar Association of Los Angeles?

JUDGE WOOD: May it please the Court. It is my privilege on behalf of the Los Angeles Bar Association to present a resolution which that Association, through its Board of Trustees, has adopted. No calling is so high, so holy, as the calling of him who is invested by the people with the power to administer justice among them and between them and the sovereign state itself. When the work of that high calling is done with courage, independence, learning, a man who performs that service does the highest work known to man. He performs an essential part of Divinity itself, and so, in honor of Frederick W. Houser, who for so many years in other

courts and this performed so well the duties of his high calling, it is indeed fitting that this Court should sit in his memory and that upon its records should be spread the words which will perpetuate the knowledge that we now have, and, therefore, in behalf of the Los Angeles Bar Association, if the court please, it is my privilege to present and move the court to spread upon its minutes this resolution:

"Frederick W. Houser passed to his reward on the 12th day of October, 1942. It is fitting that the Board of Trustees of the Los Angeles Bar Association record on its minutes the great loss that the Bar has suffered in the death of this distinguished man, who served the cause of justice so well and so long.

"At the time of his death Frederick W. Houser was a Justice of the Supreme Court of the State of California. There he had served for a period of five years. Previously for thirteen years he was a Justice of the District Court of Appeal, for many years being the Presiding Justice thereof. Until his elevation to that bench, and beginning in 1906, he was a Judge of the Superior Court for the County of Los Angeles. Previous to that time he served the State in its Legislature.

"The public service of Frederick W. Houser, as a legislator and a judge, was characterized by an unwavering regard for public duty. In labor he was indefatigable. In his judicial decisions he was courteous, courageous, independent and learned. In his passing the State has lost an outstanding Judge and one of its best citizens.

"THEREFORE, BE IT RESOLVED by the Board of Trustees of the Los Angeles Bar Association:

"1. That the Los Angeles Bar Association express its deep sympathy to the widow and family of Mr. Justice Houser.

"2. That a copy of this resolution be forwarded to the Supreme Court of the State of California, with the request that it be spread upon the minutes of the Court.

"3. That this resolution be spread upon the minutes of the Board of Trustees and that a copy thereof, duly certified, be transmitted to the widow of the deceased."

The resolution, if the court please, is certified by the Secretary of the Association, and I crave the privilege of handing

it to the Clerk of the Court, with the motion that it be spread upon the minutes.

THE CHIEF JUSTICE: The motion is granted. Mr. Justice Curtis, will you speak for the Court?

MR. JUSTICE CURTIS: Within the last decade seven justices of this court, equal in number to its entire membership, have yielded to the stern and final summons of the Grim Reaper. That the loss of these able jurists with their experience and learning has been keenly felt by the surviving associates, as well as by the entire bench and also by the Bar of the State, is evidenced by the frequent comments concerning them made by members of the profession at numerous public gatherings as well as in private conversation. The last of these former associates was Justice Frederick W. Houser, who departed this life on the 12th day of October, 1942, after a lingering and protracted illness, which he bore with courage and fortitude. His thorough knowledge of the fundamental principles of the law, with his experience as a practicing attorney, a legislator, and a jurist, made him a most valuable acquisition to this court.

He was born in a small community, not more than a cross-road settlement, known as Johnson, in Jones County, Iowa, on April 15, 1871, the son of Justus Christian and Martha Rodman Houser. He attended the public school in that vicinity and entered Lenox College, located at Hopkinton, in the adjoining county of Delaware. He came to California in 1886. The Houser family first settled upon a fruit ranch in Pomona, but soon thereafter moved to the city of Los Angeles, which was their home for twenty years, when Judge Houser and his family moved to Alhambra, where they made their home up to the time of his death. His first occupation was that of a clerk in the grocery store of his father in what was then known as East Los Angeles, now a part of the city of Los Angeles proper.

Merchandizing, however, did not appeal to the future justice of this court, and in his leisure hours he began to lay plans for his life work. He was much impressed with the science of medicine, and a life devoted to alleviating the suffering of the human family made a strong appeal to him. Upon investigation, however, the expense of preparing one for that profession he found was beyond the limited resources of his family, although his father assured him they were

willing to provide the necessary funds, if he decided he wanted to pursue that course of study. The son, though grateful to his parents for their generous offer, declined to subject them to the sacrifices which he knew they would be compelled to undergo were he to follow his first preference and become a doctor of medicine. He accordingly declined his parents' offer and, as a preliminary preparation for the future, he entered Woodbury's Business College and took a course in shorthand and typing. Becoming proficient in these two pursuits, he secured a position as clerk in the office of Stephen M. White, then a rising lawyer in Los Angeles and afterwards a United States Senator from California. Just what influence this great man had upon his young law clerk may never be known. The latter was impressed with the ability and industry of his employer. Speaking of Senator White, Judge Houser in later years said, "Senator White was one of the most wonderful men I ever had the privilege of knowing. He worked through the working week and on Sunday mornings. I arrived at his office at eight every morning. I always found him there ahead of me. He never lost any time. He could turn from one matter to another without pausing to ask where he had left off."

While serving as a clerk in Senator White's law office, he decided to study law. At that time there was no law school in Los Angeles. He, with a number of other young men and women who had also taken up the study of the law, organized themselves into a class, and later they formed the Los Angeles Law School, a duly organized corporation under the laws of the State of California. Among the members of this class was Miss Sara Wilde, who later became Mrs. Frederick W. Houser. Each of these was one of the original incorporators of the college. As far as I have been able to ascertain, this was in 1896. The date of their graduation was June, 1898. Judge Houser, long after his graduation, took an active interest in this new law school and served for years, as a member of its faculty. With Judge Gavin W. Craig, he was mainly responsible for its future growth and success. The school was affiliated in 1901 with the University of Southern California and in 1903 was taken over by the University and became the Law School of the University of Southern California, which is now one of the leading law schools of the State.

Judge Houser was admitted to the Bar in 1897 and from that time on his rise was most rapid. In 1902, he was elected a member of the California Assembly from the County of Los Angeles and re-elected in 1904. During his second term in the Legislature, a United States Senator was to be elected. Judge Houser, one of the youngest of its members, was selected to place in nomination for that office, before the joint session of the Senate and Assembly, the Hon. Frank P. Flint. Although the election of Senator Flint was a foregone conclusion even before the Legislature assembled under the law and custom then prevailing in this State, the speech of Assemblyman Houser was regarded as one of the highlights of that legislative session.

Before his term of office expired as an Assemblyman and in 1906, he was elected Superior Judge of the County of Los Angeles. He entered upon the discharge of the duties of that office in January, 1907, and served continuously until January, 1923. That he discharged his official duties most satisfactorily to the people of the County was evidenced by his re-election in 1912, and again in 1918. There came before him while Superior Judge, the question of the right of women to act as jurors under a recently enacted statute. Judge Houser not only sustained the validity of the law, but it is creditably stated he swore in the first woman as a juror in the courts of this State.

As further evidence that his work on the Superior bench was of an unusually high order was the fact that in 1922 he was elected a Justice of the District Court of Appeal of the Second District, First Division. In this position he served with credit and distinction. When a vacancy occurred in the office of Presiding Justice in that Court, Justice Houser was elevated to that position by appointment of Governor Merriam on October 14, 1935. He did not continue in that position for any great length of time, as he was appointed on September 29, 1937, an Associate Justice of the Supreme Court, and in the following year he was elected to the position for a full term of twelve years.

The occasion of his induction into office as an Associate Justice of this Court was one which will be long remembered by the remaining members, as well as by those others present in Court. On that occasion he was welcomed to his new position by three of his former associates in the California Assembly, Chief Justice William H. Waste, Hon. Frank R.

Devlin, at present a member of the Railroad Commission of the State, and Hon. Edward F. Treadwell, a prominent member of the San Francisco Bar. These former associates of Justice Houser and other prominent members of the State Bar welcomed him to the position on the highest Court of the State in such glowing terms that Justice Houser was so completely overcome by the warmth of their language he was unable to respond audibly to their cordial greetings. As a member of this Court until his health became impaired, he assumed his full share of its work and performed it in a manner that will compare most favorably with that of those eminent judges of former days who laid the foundations of this Court and gave it a reputation of such high standing that its decisions are respected throughout the length of the land. His opinions are in clear and concise language and evidence a thorough knowledge of the law and a complete grasp of the factual situation involved in the matter before him. These are to be found in the last ten bound volumes of the California Reports.

Judge Houser as a young man was exceedingly fond of outdoor sports and his interest in them continued long after he had reached manhood. Tennis was his favorite sport and even when his sons became old enough to engage in this form of recreation, Judge Houser's interest continued for some years thereafter, and he appeared in contest with them in many tournaments, and often the younger members of the family were compelled to concede the palm of victory to their father. Later in life he became an enthusiastic devotee of the game of golf. Judge Houser was also a great lover of the outdoors. He loved the mountains in the near vicinity of his home and for years maintained a summer home first in the San Jacinto Mountains in Riverside County and later in Mill Creek Canyon in San Bernardino County. Here he would spend with his family frequent weekends and his vacations. During these visits he would roam the hills and follow the streams and inhale the pure mountain air, thus refreshing and invigorating himself, thereby enabling him to better perform the arduous requirements of his official duties.

He also had a keen sense of humor and his frequent witty sayings have enlivened many of our Court conferences and on rare occasions he would give expression in Court to some humorous remark that would invoke mirth of both attorneys and members of the Court.

On New Year's Day, 1903, Frederick W. Houser and Miss Sara Wilde were married, just preceding his first term in the Legislature, and Mrs. Houser went to the capital of the State at Sacramento, where she was known during that session as the "bride of the Legislature." Two sons were born to them, Frederick F. Houser, a practicing attorney in Los Angeles, who like his father, began his career as a member of the Assembly and is now completing his third term in the Legislature, and who, at the recent election, was elected Lieutenant Governor of the State, and Rodman W. Houser, a Lieutenant in the Navy, with headquarters at Fairbanks, Alaska. Each of these sons is married and Rodman has two children.

Judge Houser received the degree of LL. B. from the University of Southern California and was an honorary member of the Order of the Coif of the University of Southern California Law School, an honor awarded each year by the local chapter of the order to one person only, in recognition of his outstanding attainments in the profession of law.

This brief account of the achievements of our departed associate is the simple story of a small town boy in this land of free institutions and equal opportunities who, by industriously applying himself to his chosen task, availed himself of the opportunities offered by a beneficent government to all those like minded, and advanced step by step and earned and received honor upon honor, until he reached a position in which he was acknowledged by the members of the Bench and Bar and by those who were capable of judging of his work as one of the foremost members of his profession. He lived a well rounded life. He was revered by the members of his family, respected by his friends and acquaintances, and held in the highest regard and confidence by the citizens of a great state. He was in every essential a true product of our American mode of life and leaves a record of accomplishment which time will not soon erase, but which will endure as long as the memory of those who knew him shall exist.

THE CHIEF JUSTICE: We all loved and admired Judge Houser, and we shall miss him greatly. We shall miss the benefits of his legal learning and sound judgment, supplemented by his keen intellectual honesty and fine sense of justice. Also, we shall miss his companionship, his ready wit, and the many fine qualities that were revealed in close daily association. Knowing his great love for his family, I have felt particularly sad that he could not have remained with

us a few days longer and witnessed the high honor that has recently come to his son Fred, whom he loved so much.

Mr. Clerk, these proceedings will be made a part of the permanent record of this Court.