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## Justice John Cornelius Hayes, Jurist, Professor, Scholar, Religionist, Humanitarian, Soldier

Robert J. Downing Honorable

*Presiding Justice, 2nd Division, Appellate Court of Illinois*

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Thomas More Association of America. He served as president of the Archdiocesan Union of Holy Name Societies of Chicago and held the important position of president of the National Council of Catholic Men from 1959 to 1961.

Society does not place monuments in public places to commemorate the service of lawyers and judges. There will be no public monument for John Hayes, but he will not be forgotten by our legal community. Thucydides recorded that Pericles in the magnificent funeral oration spoke of "a record unwritten with no tablet to preserve it, except that of the heart." His memory will be preserved in many hearts.

*Requiescat in pace.*

Justice John Cornelius Hayes, jurist, professor,  
scholar, religionist, humanitarian, soldier.

HONORABLE ROBERT J. DOWNING\*

My first acquaintanceship with Justice Hayes was in 1938 as one of his students at Loyola University night law school. At that time the quality of his character evidenced itself as a professor of law. Following law school, from not too far a distance, I observed his career as a professor, then Dean of the law school, as a Captain in the United States Air Force, and as an active layman in various Catholic lay organizations. He authored numerous articles concerning the law and parochial schools. His writings expressed a deep concern about the controversial subject of obscenity. Throughout his career he always displayed great humility. With this background there is no wonder that in the few years he served on the bench, he displayed an erudite, compassionate, and courageous record as a Justice of the Appellate Court of Illinois.

In October 1972, he was appointed to the Appellate Court of Illinois by our Supreme Court. He served on the Appellate Court until his untimely death in February 1977. He was assigned to the court's Second Division, serving as its presiding judge during the year 1974. We who enjoyed the delightful privilege of being closely associated with John during his years on the court will remember him for his

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\* Presiding Justice of the Second Division, Appellate Court of Illinois, First District. B.S.C., Creighton University, 1937; J.D., Loyola University of Chicago School of Law, 1942.

many brilliant qualities. We share with you, but a few of the distinctive characteristics which stamped him with greatness.

To place any one of his qualities above another would be impossible. At all times he displayed the highest degree of integrity. Whether it was between his colleagues in the court, or between the court and lawyers, he always maintained a genuine state of probity in these mutual dealings.

Although an appellate judge is not compelled to meet the day-to-day adversary proceedings of a *nisi prius* court, John was always a punctual, courteous, compassionate jurist. His questions to counsel were both probing and courteous. At no time did he use his judicial position in a way to embarrass a lawyer before the court, and this was true whether the lawyer was a veteran advocate or a neophyte.

Perhaps one of the greatest pleasures of being associated with John was in a court conference where these same qualities prevailed. Every case, every motion always received the same piercing analysis. If it was on a subject that his experience had not brought him in contact with, his research was thorough, his questions many, and his discussion complete. Only then would he express well-reasoned opinions. He enjoyed the lively exchange of ideas between his colleagues. He was willing to change his mind once he was satisfied that was the right thing to do; likewise, he would maintain his position when he was convinced he was right.

It was perhaps in the writing of opinions, be they his own or in reviewing those of his colleagues, that his truly great skill evidenced itself. He was both a great grammarian and semanticist. He enjoyed developing a subject and using the right word in the communication of his ideas. His opinions bear the hallmark of this wisdom.

Justice Hayes had a particular interest and experience in the law of property and the substantive law of wills and trusts. In these particular subjects his opinions—either majority, concurring, or dissent—were like the finished product of a skilled artist. For example, in property law, see his specially concurring opinions in *Harnois v. Harnois*,<sup>1</sup> *Trice v. Chicago Housing Authority*,<sup>2</sup> *Urban Investment & Development Co. v. Rothschild & Co.*,<sup>3</sup> or *Lageschulte v. Steinbrecher*.<sup>4</sup> In the field of wills, see his majority opinions

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1. 10 Ill. App. 3d 1062, 1068, 295 N.E.2d 511, 515, *cert. denied*, 415 U.S. 948 (1973) (Hayes, J., concurring).

2. 14 Ill. App. 3d 97, 101, 302 N.E.2d 207, 210 (1973) (Hayes, J., concurring).

3. 25 Ill. App. 3d 546, 553, 323 N.E.2d 589, 594 (1975) (Hayes, J., concurring).

4. 36 Ill. App. 3d 909, 915, 344 N.E.2d 750, 755 (1976) (Hayes, J., concurring).

*MacDonald v. Joslyn*<sup>5</sup> and *Toman v. Svoboda*,<sup>6</sup> and a specially concurring opinion in the very interesting case of *In re Estate of Parker*.<sup>7</sup> His thoughtfulness and compassion is best illustrated in such cases as his specially concurring opinion concerning mental disease as an insanity defense in *People v. Lechner*,<sup>8</sup> the divorce case of *Sims v. Sims*,<sup>9</sup> and the child custody case of *Bean v. Bean*.<sup>10</sup> His thoroughness is illustrated in *People v. Parra*.<sup>11</sup>

These cases are but a small sample of the excellent quality of the work of Justice John Cornelius Hayes. They, along with some 147 opinions which he authored, will always be a lasting and shining example of the quality of his contribution in this field of law. In such a small way we are thankful for the opportunity of sharing in the endeavors of this great gentleman.

## John C. Hayes

THOMAS P. SULLIVAN\*

The outstanding attribute of John Hayes for me and for many others of my vintage (Loyola Law School Class of 1952) was the inspiration he gave us to be honorable members of the legal profession. He was our first and foremost model of what a lawyer should be—a person of high moral principles; a clear and concise thinker, speaker and writer; one who seeks to understand underlying issues and to apply rules of law to facts objectively and logically.

We first knew John Hayes as our teacher of the rules of property law—with seemingly endless analyses of the fox running down the beach, the ring lost in the sofa, etc., etc. His pursuit of logic and reason overrode his sense of time, with the result that we spent most of the semester dealing with the first few chapters of the book, in long, complex discussions of alternate and sometimes seemingly contradictory principles. Then, in the waning days of the course came a mad dash through the remaining four-fifths of the book, in

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5. 17 Ill. App. 3d 52, 307 N.E.2d 601 (1974).

6. 39 Ill. App. 3d 394, 349 N.E.2d 668 (1976).

7. 42 Ill. App. 3d 860, 864, 356 N.E.2d 967, 970 (1976)(Hayes, J., concurring).

8. 35 Ill. App. 3d 1033, 1043, 342 N.E.2d 821, 828 (1976)(Hayes, J., concurring).

9. 21 Ill. App. 3d 61, 315 N.E.2d 161 (1974).

10. 31 Ill. App. 899, 335 N.E.2d 72(1975).

11. 35 Ill. App. 2d 240, 340 N.E.2d 636 (1975).

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