

## JAMES SANFORD DAVENPORT

LAWYER, STATESMAN AND JUDGE

1864-1940

*By Thomas H. Doyle*

To administer and vindicate justice in the last resort, to apply and expound the laws for the advancement of right and the repression of wrong, is a most honorable office, and if a judge has proven worthy, able, faithful, upright and just in his position, his biography should be deemed a part of the history of his country.

As Mr. Webster said: "Justice is the greatest interest of man on earth. Wherever her temple stands, so long as it is duly honored, there is a foundation for social security, general happiness and the improvement and progress of our race. And whoever labors on this edifice with usefulness and distinction . . . connects himself, in name and fame and character, with that which is and must be as durable as the frame of human society."

The life story of Judge James Sanford Davenport, identified with Oklahoma for approximately half a century, is that species of biography which is history. His distinguished career comprehends and exemplifies the spirit and substance of the era which made the evolution of the present day Oklahoma inevitable.

Judge James Sanford Davenport was born near Gaylesville, Cherokee County, Alabama, at the farm home of his parents, William A. J. Davenport and Amanda C. Davenport, September 21, 1864. He was the tenth child in a family of eleven children. In 1880, his parents moved to Faulkner County, Arkansas, and settled on a farm near Conway.

The conditions existing after the Civil War were such that his opportunity for securing an education were necessarily limited. Having completed grades and Highschool and Greenbrier Academy, he for a few years taught a country school in Faulkner County.

Having chosen the law as his profession, and not having the opportunity of a college education, he devoted his spare time while teaching school to the study of law. His chief encouragement came from Col. G. W. Bruce, a lawyer of much learning and ability, and while a student at Greenbrier Academy, he lived at the home of and studied law in the office of Col. Bruce.

James Sanford Davenport was admitted to the practice of law in Arkansas, February 14, 1890. In the fall of the same year he moved to the Indian Territory, stopping first for a few weeks at the little town of Vian, then went on to Muskogee. He was there

admitted to the practice of law before the U. S. Courts of the Indian Territory, and with no adventitious advantages he there entered the practice. Early in 1891 he became a Member of the law firm of Denison, Maxey and Davenport, with offices in both Muskogee and South McAlester. In February, 1893, he removed to Vinita, which city continued to be his legal residence until summoned to his eternal reward, January 3, 1940. He is at rest in the family plot, Fairlawn Cemetery, at Vinita.

In Memorial services of the Bar Association, commemorative of his distinguished career as a citizen, lawyer, statesman and judge, and recording their profound appreciation of his public and judicial services, also stating family history, were proceedings in part as follows:<sup>1</sup>

"On July 12, 1892, James Sanford Davenport was married to Miss Guellelma Ross, a great granddaughter of the noted John Ross, for forty years the Principal Chief of the Cherokee Nation. Of this marriage, a son and two daughters were born. His domestic life was distinguished for the devoted attachment of the members of his family for each other.

"On June 15, 1907—the year of Oklahoma Statehood—, Judge Davenport was united in marriage with Miss Byrd Ironside of Vinita, who is a direct descendant of the famous Shawnee Chief, Tecumseh. No children were born to them. Together with her and the two daughters, Judge Davenport is survived by a charming foster daughter, Gerry Lyles Davenport of Oklahoma City, and his only surviving sister, Mrs. Mattie Arthur of Tulsa, Oklahoma.

"He served as Mayor of Vinita, (1901-1903) and was four years a member of the Cherokee National Council, (1897-1901) which met at Tahlequah, then capitol of the Cherokee Nation, two of which years he was Speaker of the Cherokee House of Representatives. He was the only white man ever to have held this signal honor, having become a citizen by his marriage. By reason of the Constitutional succession to the office of principal Chief of the Cherokee Nation, he was in line and might have attained this high office, although of no Indian blood, of one of the outstanding Tribes of the American Civilized Indians. He was one of the attorneys for the Cherokee Nation in making the Negro Freedman Roll upon which such allotments were made.

"Judge Davenport was a member of the Presbyterian Church of Vinita, a member of the Woodmen of the World, of the Knights of Pythias, the Elks, and the Odd Fellows, Oklahoma Historical Society, and Oklahoma's Hall of Fame.

"He was organizer and Commander of Barrett Camp No. 888, Vinita from 1919 to 1927, of the Sons of Confederate Veterans. In fact his extreme loyalty to the Southern cause led him to an extensive affiliation with the Sons of Confederate Veterans, in which he held high offices, including that of Commander of Army of their Trans-Mississippi Department from 1921 to 1924, and a life member of Headquarters Camp No. 584, of Richmond, Virginia."

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<sup>1</sup> *Memorial Proceedings*, dedicated to the late Honorable James S. Davenport, Judge of the Criminal Court of Appeals, in a meeting of the Oklahoma County Bar Association and signed by the following members of the Committee for the Proceedings: J. Berry King, Chairman, Mary Francis, Welcome D. Pierson, and John Brett. Dated May 24th, 1940.

The Memorial of the Bar Association<sup>2</sup> concludes:

"May this therefore serve to convey fit and appropriate commemoration from all of us who mourn his loss as a citizen, friend, party associate, fellow lawyer, relative and comrade, with the hope that he may be received in the Hereafter with that same degree of high appreciation with which he was held by all of us who have been privileged to love, honor, respect and know him here below."

The "Organic Act" of May 2, 1890, providing a temporary government for the Territory of Oklahoma, and enlarging the jurisdiction of the United States Court in the Indian Territory, as established March 1, 1889, he often said, was in a large measure the cause of his coming to and casting his lot with the people of the Indian Territory. His career in his chosen profession was eminently successful, and full of those honors so much prized by lawyers.

With no favor of fortune or position his unswerving integrity, untiring industry and natural powers of mind enabled him to become early one of the leaders of the Indian Territory Bar, and for seventeen years, until the advent of Statehood he had an extensive practice in the U. S. Courts of the Indian Territory, district and appellate, and in the courts of the Cherokee Nation.<sup>3</sup>

With the advent of Statehood, and until elected a Judge of the Criminal Court of Appeals, he had a large practice in the United States Supreme Court, and in other Federal and State courts. The late Judge W. H. Kornegay, a member of the Constitutional Convention and a Justice of the Supreme Court; and the late Judge W. M. Thompson, one of the foremost lawyers of the Indian Territory, for several years a Commissioner of the State Supreme Court, and also Judge Wm. T. Rye, of Vinita, were associated with him in the practice.

To review the record of his long and useful life is to see in retrospect the colorful pageant of western pioneer life and romance of the Twin Territories, which he helped to mould into an American commonwealth. The part he played in the civic, executive and legislative history of the Twin Territories was but little less outstanding than his career as a lawyer.

At the election held for the adoption of the State Constitution, and election of the first Federal and State officers, Judge James S. Davenport was elected as a democrat member of the 60th Congress, and was re-elected member of the 62nd, the 63rd and the 64th Congress. While a member of Congress he maintained his law office at his home town, Vinita. It has been well and truly said that "no

<sup>2</sup> *Memorial Proceedings, ibid.*

<sup>3</sup> "James S. Davenport, Esquire, of Vinita, Indian Territory, was on motion . . . duly admitted and qualified as an Attorney and Counsellor of the Supreme Court of the United States on the 28th day of January in the year of our Lord one thousand nine hundred and four and of the Independence of the United States of America the hundred and twenty eighth." (Certificate of Admission.)

man ever served in that body who had more genuine friends in Congress than did Hon. James S. Davenport."<sup>4</sup>

His high sense of duty, his love of justice, truth and honor made him worthy of the confidence and trust which had so often been placed in him by the people of the state. As has been truly said of him: "He betrayed no trust; he deserted no duty; he broke no friendship, he rose on on man's fall, nor raised his own repute by defamation of others.

Judge Davenport was elected judge of the Criminal Court of Appeals at the General Election in 1926, he was twice elected to succeed himself, and the last term to which he was elected would have expired in January, 1945. For nearly half a century he typified and exemplified the highest ideals of the legal profession which, in all ages of civilization has been placed in the forefront, not only in the administration of the law, but also in the making and the execution of the law.

How admirably he discharged his trust in the administration of justice is known to all. As an able lawyer, and a great judge, he has left his character impressed upon our jurisprudence in no faint nor feeble lines. His name and fame are identified as clearly with the judicial history of our state as that, perhaps, of any other lawyer or judge. And no tribute to his exalted character and ability would be fulsome or extravagant when ranking him among the most distinguished of our lawyers and judges.

With a devotion unsurpassed he unswervingly sustained the great principles embodied in the Bill of Rights, both State and Federal, guaranteeing the principles of personal liberty, and especially safeguarding the fundamental principles of our government, freedom of religion, freedom of speech, and of the press, and the protection of personal liberty under the Writ of Habeas Corpus.

Believing, as he did, that justice was the law's highest end and aim, he exemplified Mr. Webster's oft quoted toast: "The law: It has honored us, may we honor it."

He brought to this court a well balanced mind, and performed his judicial services in such a manner as to command the respect and esteem of all of the citizens of Oklahoma. He made and loved and lived the law: "In all an honest man." No judge more conscientious, fearless, upright and just ever sat upon the appellate bench.

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<sup>4</sup> Representative James S. Davenport, Third District, from Oklahoma served on the following committees: 60th Cong., 1st Sess., Expenditures in the War Department and Territories; 60th Cong., 2nd Sess., Expenditures in the War Department and Insular Affairs; 62nd Cong., 1st and 2nd sess., Insular Affairs and Territories; 63rd and 64th Cong., all sess., Roads, Insular Affairs and Territories.

No appellate judge ever had more respect for his associates, and by his associates no judge was ever held in higher esteem. Both as a lawyer and as a judge he always stood for the highest standard of professional ethics.

Judge Davenport's judicial services as a Member and Presiding Judge, as shown by his opinions found in Volumes 36 to 68 inclusive, "Oklahoma Criminal Reports," speak for themselves, in them his strength of judgment and his innate sense of justice appear at their best. They will remain as a living and enduring monument to his memory, which neither time nor the elements can impair.

A great judge has passed on following eminent judges who have kept untainted the high traditions of the judiciary, which department of our government now stands where it must in all future ages stand, as the strong central column in the temple of free government.

Always doing his duty as he saw it and seeking no particular credit, he exhausted himself in service to the State, a martyr in fidelity to duty.

As a Christian he lived up to that command pronounced by the Master in reply to the lawyer's inquiry which furnished the supreme direction for the guidance of human society.

To his family and friends his distinguished career and judicial record is a priceless heritage.

Speaking of him as a man and as a friend, knowing well his worth and the many noble qualities of his heart and mind, the writer would characterize Judges James Sanford Davenport as the ideal gentleman. It would seem that the noted English playwright had in mind just such a character when he wrote these words:

"His life was gentle, and the elements  
So mixed in him, that Nature might stand up,  
And say to all the world, 'This was a man!'"