

Interview of James F. Davey

Session #6 – September 9, 2008

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewee is James F. Davey. The interviewer is Steven P. Hollman. This interview was conducted by telephone on September 9, 2008, commencing at 3:38 p.m.

Mr. Hollman: Good afternoon, Jim, this is September 9, 2008 at 3:38 pm and this is our 6th session of the Oral History of former Clerk of Court Jim Davey.

Mr. Davey: Hi, Steve.

Mr. Hollman: How are you?

Mr. Davey: I'm good.

Mr. Hollman: I think the most important question is, did you win your softball game?

Mr. Davey: Well, let's put it this way, we are no longer in the tournament. We played sporadically, we killed one team, another team killed us and then we lost in an even battle to another team, but we had fun! But I had something happen that never happened to me in 50 years playing softball, slow pitch.

Mr. Hollman: Well, what was that?

Mr. Davey: Well, one of our guys got up and got called out on strikes. Do you ever play slow pitch? You never get called out on strikes.

Mr. Hollman: I hope he walked away in great embarrassment.

Mr. Davey: He did, and two minutes later I did the same damn thing for the first time in my career. It was a bad call by the ump but not an egregious call, and I should have been swinging. And I'm going through another 50 years without that happening.

Mr. Hollman: Here, here.

Mr. Davey: Okay.

Mr. Hollman: So where we left off was, we were discussing the Taxpayer Relief Act of 2005, which was one of your first legislative initiatives in the State House in Rhode Island.

Mr. Davey: Right, and that was drafted, ninety percent of it, by a supporter of the Mayor of Cranston, Steve Laffey, who is a reformer. He subsequently ran for Senate against Chafee and lost, but he's a potential governor. And that was just a bundle of things that had accumulated through the years that, if we could get them passed, would provide significant relief to taxpayers at the expense of the unions that dominate the legislature.

And it didn't go anywhere, and that was my introduction to politics, not just politics in Rhode Island, but I guess politics anywhere. A freshman of a minority party has no clout. And even though we had hearings on the bill, it didn't go anywhere. As did all the other bills that we submitted.²²

Although I did have legislation pass, but it wasn't under my name. I'll just give you a quick story, and that will tell you a little bit of how things run. I and a Republican colleague introduced a bill that would allow cameras at intersections to catch people going through red lights. And I had quite a bit of background on that because my son lives in Cary, North Carolina, and they had implemented a system like that years ago. And I had all the data about the accidents, and so on. But it was controversial because, you know, invading peoples' privacy, and so on. So we introduced the bill, and then the Democrats entered their own bill, but not with the same language. But the ACLU in looking at our two bills said Davey's bill is better, [Laughter] which rarely happened

²² A Press Release regarding Davey's Open Government bills is attached at Tab 19.

while I was up there. So what happened was, they took language out of my bill and put it in the leadership bill, and when it came to the floor, the sponsor of that bill was surprised after we had the discussion because I stood up in support of it. And actually, I was supporting my own bill. [Laughter]

And the sponsor had no idea what was going on. And he came up to me afterward and thanked me for — he said, you were the strongest supporter of that bill.

I said, well you know, if something's good, I'll support it regardless.

In any event, it was an eye opener to see how the system worked. And if you wanted to get anything done, you had to find a Democratic sponsor. And you know, you got virtually no credit, which isn't important if you can get something done. But it is frustrating. I remember I sat on the Judiciary Committee and attended all the meetings faithfully and me and two of my Republican colleagues had the best attendance record of all the people, and yet we couldn't get a hearing on any of the bills that we introduced that went to Judiciary. That's frustrating, and the lack of — I also sponsored bills that make the legislature more open and accountable, have audits, regular audits, like they require of the executive branch, and that went nowhere. The Democrats, you know I'm an Independent, I ran as a Republican to get their support but the Democrats have been entrenched in power in Rhode Island for a long, long time and so entrenched that they really don't have to listen. And the net result is that the special interests get a better deal, and the ordinary taxpayer isn't the top priority up there. And that's unfortunate, and I hope it's not typical throughout the nation.

Mr. Hollman: How long did you serve in the legislature?

Mr. Davey: I just served one term. I was going to run again, and then my wife was diagnosed with Alzheimer's. And I concluded that spending time with my family was more important than spending time with those kooks up there! I would've liked to have continued, but I didn't run the second term. And who knows what would have happened even if I'd run. So I just spent one two-year term.

Mr. Hollman: Have you been able to continue your involvement in Common Cause?

Mr. Davey: I have not down here, Steve. Actually it was Common Cause that got me into the political arena. When I got to Rhode Island, you know, being retired, I was interested in good government issues, and there's lots of them in Rhode Island. And Common Cause was an outfit that I remember when, I don't know if you remember John Gardner started it many years ago, and he was an inspirational figure. And so I hooked up with them and worked on, we were, one of the big projects at the time was separation of powers. The legislature not only was Democratic solidly Democratic, but they had their fingers in the executive branch's business on a whole bunch of boards and commissions that were performing executive functions and led to a very unbalanced system with even more power in the legislature than in most states. So twice there was a voter referendum urging separation of powers. And Common Cause was the group that fought for that, so I got involved with them.

Eventually, three members of the Common Cause board became my three-person Committee when I ran for office. So there's a direct link between Common Cause and my political career. But I've talked to the guy down here in North Carolina. But I'm not in a position to leave home for any extended periods, and so my activist days may be in the past. I still remain interested.

Mr. Hollman: What's your thought about the role of the judiciary and separation of powers issues, now that you have had the opportunity to serve both in the judicial branch and in the legislative branch?

Mr. Davey: Well, you know, I think with all the frustrations that we have with our system of government, that the Founding Fathers did a pretty good job of dividing things up. And properly executed, the three branches, when they stay within their own spheres, offer, you know, a system of checks and balances where one side can't get too far out of control. I think an excellent example of that was *Watergate*. That was a true test of separation of powers, you know, when Judge Sirica subpoenaed the tapes of Nixon, and never before in the history of our government had a president been forced to give up something that he didn't want to give up. Jefferson had been subpoenaed, and he said he didn't have to comply, but he voluntarily complied, but it wasn't a true test.

But when that subpoena went out from Archibald Cox wanting the tapes and then Nixon said ain't gonna do it, that set up a real battle. And if we didn't have a judiciary to resolve it, who knows where we would have ended up? And there was nothing in the Supreme Court opinion that said, Hey, the Executive Privilege comes in second when we're seeking evidence in criminal trial. So I think the judiciary is a very important part of that whole concept of separation of powers. Now you can argue about individual decisions, you know, whether they did the right thing or not, but it's good to have a body that will periodically see whether the legislature is passing constitutional laws or whether the executive is going too far. And so that our tripod system, I think, works well.

Mr. Hollman: Well as a recovering politician, do you have any thoughts on the political landscape today at the presidential level?

Mr. Davey: I think that what McCain did in selecting the Alaska governor as his running mate was a brilliant move politically, but boy, I just — that's — it's scary that somebody that inexperienced — talking about his choice — could be our next president. And I'm concerned on that. And I've been disappointed in the way the — I don't think there's too many people that are real happy with the way our federal government has been responding to overseas crises and domestic crises in the last 6-8 years. And I'm not being partisan on that. I'm just unhappy. Things just don't seem to be going right.

But I have been fortunate that I have been able to travel either during my prior career in the Department of Agriculture or being retired, I've been to 5 continents and over 30 countries and been able to look at a lot of different systems. And we have flaws, and we're not in a good period right now, but we are still the best country — I wouldn't trade it for anything else out there. And I'm hopeful. You know, there are signs of hope.

You know, they did better getting ready for this last hurricane, and I think the move to take over Freddie Mac and Fannie Mae was doing the right thing at the right time. But it's going to be an interesting 60 days, and I just wish that we could get, you know, to the issues and know people or what, you know, where they want the country to go. I'm leaning towards Obama, quite frankly. You know, he's got the youth of the country behind him, and I think we ought to turn it over to the youth. We've screwed it up pretty well. [Laughter]

But I've got an old — I've got a picture of me and my wife and McCain. Actually, it's funny, when we went up to New England, left Virginia in 2000, one of things we did is, we got involved with the Bill Bradley campaign, and we went door to door in New Hampshire for him and my wife was pulling up McCain signs.

I said, "Hon, you can't do that."

"Why not?"

And then Bradley lost, so then we shifted to McCain. And then McCain lost, and then we were left with Bush and Gore. That wasn't much of a choice. So that's kind of a rambling answer. I've been very concerned and disappointed with the reaction of the federal government to our basic problems. I hope that whoever wins does start making some basic changes. You know, they've tried to reduce the influence of money, through campaign finance reforms, but then the 527s sprung up. I think you gotta keep fighting. I saw the negative effect on the ordinary folks there up in Rhode Island, when a small select few lobbyist interest groups get entwined with the leadership — the normal average person doesn't get the better end of that deal. And I think the same is true at the national level. I'd like to see both McCain and Obama make some basic changes.

You know, Obama is talking about looking at programs that no longer are useful. I don't know if the Department of Agriculture still has the REA program — or the Rural Electrification Administration — they had it back in the 60s when I was there and they had already served their purpose but they were still booking along. So let's hope that the next 60 days does shed some light on what they're really going to do, and maybe they can get more specific so that when January

rolls around that we do get some change. But there's going to be a slow process, and my big thing would be to try to reduce the influence of money.

Mr. Hollman: Jim, what advice as a student of the administration of justice would you offer to people who are concerned about that issue?

Mr. Davey: The only advice I would give them is that if you're concerned about it, then get involved with it in whatever way you want. I have a nephew whose thinking about it and wants to become a probation officer. And I think that would be great. There's all kinds of aspects to the justice system, and it's our system, and if you're young, there's plenty of different careers, paralegals, probation, a lawyer. I would just say get involved, and there are some very rewarding careers. I know that when I retired, I felt like I had been in a meaningful job that had some impact, hopefully positive, on the system. And so there are many jobs in the system, and there's people to take a look and get involved.

Mr. Hollman: Any last thoughts on your experience as the Clerk of Court?

Mr. Davey: We covered that a little mostly last time, Steve, but I did want to thank you for taking the time to listen and go through this. You know, we started almost three and a half years ago. No, we didn't — we said we were going to start, and then I got involved, and you got involved. See that's — you gotta have hope. We stuck with it.

Mr. Hollman: We did, and I must say that you're recounting of your experiences has been extraordinarily entertaining and also insightful in terms of how things operated before and how they operate now. I've learned a tremendous amount.

Mr. Davey: Well, I don't know how insightful, I'll defer to you on that, but I was fortunate to have a good job, and we were in a climate where change needed to be made. And

I'll put it this way, if either one of these candidates can change their institutions as much as we were able to change ours, change is a-coming. [Laughter]

Mr. Hollman: Well that is one constant in our system of government, I think.

Mr. Davey: Yes, yes. Hey, you got the tape on?

Mr. Hollman: Yes.

Mr. Davey: Last time we talking about the fact that I found a guy that voted fraudulently for two or three guys that weren't present. He pushed their buttons, and the leadership challenged it because the vote went against the leadership.

Mr. Hollman: Right, you said they challenged that one bill, and there were a couple of other bills that day that didn't get challenged.

Mr. Davey: Well, yes, and so when it was over, I went to the Speaker and said, "Well what are you going to about it?"

And he said, "Well, there's no rule against it."

And I said, "Well, you know, you could use the power of your position to at least make a public admonishment of this guy," because it had become public.

Well, he did. And — but just like I say, they never get around to it — but then I did some more writing that the newspapers published, and we now have a new rule. Let me read it to you: "No member may vote for another member nor activate another member's voting machine except by the express direction of that member who was present in the House chamber. No one may occupy the vacant seat of a member." A violation of this rule could result in expulsion. How about that?

Mr. Hollman: Well, that's an honest government reform.

Mr. Davey: It is.

Mr. Hollman: Thank you again so much, Jim, and I'll be in touch, probably by email initially, and then to send you the materials.

Mr. Davey: Thank you so much.

Mr. Hollman: Thank you

Mr. Davey: Bye, bye.

Mr. Hollman: This concludes our session at 4:06 pm. Thanks.

[end of TAPE for 9/9 session]