

## First woman for Court of Appeals

# Rita Davidson reflects on latest 'routine miracle'



Rita Davidson breaks into a smile while receiving a telephone call of congratulations.

By TIMOTHY M. PHELPS

Laughing uproariously, gesturing wildly, thinking quietly, close to tears, Rita Davidson reflected on the "routine miracles" that have reshaped her body and her life.

Her transformations, from immigrant's daughter to politician to judge, from fat to thin, from deathly sick to healthy, climaxed last week when Blair Lee faced down his personal contradictions and decided, some believe, to choose the new Maryland over the old.

It was a symbolic choice for the acting governor, who bridges Maryland's old and new worlds. Would it be Rita Davidson, the reformer, who 20 years ago challenged Blair Lee's and his father's control over the development of Montgomery county?

Or would it be John P. Moore, one of the other candidates for the high court judgeship, who in county elections 20 years ago ran on a ticket with Blair Lee under the patronage of his father? Or another candidate?

Mr. Lee decided last week to make Rita Davidson, a person recently reprieved from death, the first woman on the state's highest court, the Court of Appeals.

Just six months before, she had been told by doctors that there were no more cancer cells in her body, ending a 2½-year

ordeal in which she lost 110 pounds, including 22 pounds of cancerous tissue removed by a doctor's scalpel from her abdomen.

After hearing the news of her appointment, Mrs. Davidson's brother-in-law greeted her on the telephone the day after with, "Hi Rita, what's new?" He told the puzzled judge, "I would like to know what today's routine miracle is."

"I guess he hit the story on the head when he said that," she said.

Rita Davidson was born 50 years ago in Brooklyn, to parents who had fled the Communist revolution in Russia. They had been medical students in Russia, but had to give up their ambitions to stay alive in their new world.

They transferred their ambitions to their two daughters. "We had very permissive parents. They always told us we could be anything we wanted as long as it was a doctor or a lawyer," Mrs. Davidson told a reporter last week. Her sister is a pediatrician.

Mrs. Davidson, with boldly waved shocks of black hair only slightly tinged with gray, sat in the chambers she has occupied in Rockville for the past six years as a judge on the state's second highest court, the Court of Special Appeals.

Across the hall from Mrs. Davidson's

office in the Montgomery County Courthouse, there is another office, vacant two months, with the inscription "Judge Irving A. Levine" on the door. It is Judge Levine's seat on the Court of Appeals that Rita Davidson was chosen to fill after his unexpected death.

In her office, she is surrounded by law books. The floor is covered with a light green shag. Mrs. Davidson, through her directness and informality, seems more the politician than the judge. She explains why.

In 1956, married to a classmate at Yale Law School, she moved to Montgomery county to be near good schools for her children.

"Adlai Stevenson was running for president again. I was a great fan of his." But she could not fulfill the then one-year residency requirement for voting in the state.

"I have a very simple and direct mind. I felt I owed Mr. Stevenson my vote. It was not his fault I couldn't register. So I decided to find somebody else who would not go to the polls and vote but for the fact that I had got them there. In that way I would give Mr. Stevenson back what was his, namely, my vote."

A few phone calls connected her with

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# Going to high court, Rita Davidson reflects on 'routine miracles'

DAVIDSON, from B1

the county Democratic party. She became a block worker, then precinct chairman, and soon succeeded Irving A. Levine as president of a local Democratic club.

Mr. Levine became a political cohort and close friend. Together they challenged the tight grip that E. Brooke Lee, Blair Lee's father, and his friends had on Montgomery county—huge chunks of which were owned by the elder Lee.

In 1966, Mrs. Davidson, frustrated with her behind-the-scenes role as political boss, ran for the County Council and won. Or so everyone thought. A couple of days after she was sworn in, a mistake was discovered, and she was unseated. But her reform group had won control of the County Council.

In 1970, Mrs. Davidson was appointed by Governor Mandel as head of the state Department of Employment and Social Services, making her the first (and so far the only) woman cabinet member in the state.

She was an outspoken and sometimes

controversial advocate of welfare rights and is proud of having established a program to provide lawyers in civil cases to poor people, as well as starting new day care and job programs.

Two years later she gave up the "hurly burly" of the political world, with its day-to-day crises and sense of power, for the loneliness, the "monastic" life of a judge, who must be insulated from the outside world. She betrays a wistful ambivalence about the change.

"There is a kind of excitement in being with people. They are full of foibles that make you smile sometimes. Other times they are full of pathos. I love being among them.

"But there is another piece of my personality which loves to read, which loves to reflect, to figure out problems and to try and figure out how in the long run, in the next 100 years, the world ought to go. The part of me that loves being a scholar, and most of all loves independence, the ability to think what one pleases, and that you have in the judicial role more than anywhere else in the world."

She is quite proud of her first, "almost

laughable," contribution to the law: a modification of the "jerk and jolt" doctrine.

"A black lady in Baltimore was getting on a bus. She had her left foot on the first step, her right foot on the second step, her pocketbook in one hand and a bag of groceries in the other.

"When the bus started she was unable to hold on, and she was thrown to the floor and injured. She sued for her medical expenses and damages.

"The law says that while a common carrier [bus company] owes a duty of care to its passengers, they are aware that there is a risk that the bus may start with a jerk and a jolt and should protect themselves," she said.

Unless the passenger can show it is an unusual jerk and jolt, she cannot collect

damages. And mere adjectives, the law said, are not enough to establish what is unusual. Other people must be thrown to the floor as well.

Mrs. Davidson, who heard the case on the Court of Special Appeals, found some old cases in other states dealing with streetcars that establish the "vestibule rule," referring to the platform at the entrance to a streetcar.

She adopted this rule, which held that the driver must take care that a passenger has both feet firmly planted on the floor of a bus before it starts, and ruled in favor of the injured woman, setting a precedent.

"I opened a door that may prove to open more doors some day, particularly with the coming of mass transit," she said.

Mrs. Davidson, whose political and judicial decisions have tended to side with

the individual against the establishment, may have an opportunity to make considerably more law on the Court of Appeals. Although there are no firm blocs on the court, it has frequently split on important issues.

"It is my observation that the Court of Appeals has moved forward at a rather rapid rate in the last 10 years," she said. "I think it's a court which has grown in stature among state courts. It appears to be moving forward in a progressive fashion, and I really think I'm very lucky to have gotten there at this point in time. I hope I can be part of that forward movement."

Her immigrant background, the memory of the loss of members of her Jewish family in Europe during World War II, growing up in the age of space travel,

computers and nuclear weapons, all shape what she has to contribute to her new court, which she hopes to join January 16, Mr. Lee's last day as acting governor.

"I have a profound recollection," she said, referring to Nazi Germany, "of what happens when governments go wrong and become uncontrolled and begin to impinge on the rights of the individual.

"In the other branches of government you reflect a constituency, but in this branch you reflect yourself. Your colleagues agree or disagree with you, but in the final analysis the view you express is your own."

Mrs. Davidson's friend and predecessor, Judge Levine, not only expressed his own views, often on the side of the individual, but often was persuasive enough to attract a thin majority to his position.