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MR. JUSTICE MURPHY — A NOTE OF APPRECIATION

JUSTICE MURPHY would have observed his tenth anniversary on the Supreme Court on February 5, 1950. Just as some of us who were privileged to serve as his law clerks were beginning to think of plans to honor him on that occasion, the news of his death came to stun us. So instead we pay homage to his memory by relating some of the manifold aspects of the character of this most noble man.

The old aphorism that no man can be a hero to his valet has some application to the relationship of law clerk and justice. The last thing Justice Murphy would have wanted was to be a hero to us, for he rejected all pretense and humbug. Instead, by his kindness, simplicity and integrity he secured our respect, friendship and admiration, which he prized. None of us can ever expect a more patient, understanding and stimulating mentor. Formality did not appeal to him. His attitude was that we were to help him in whatever way we could to discharge his judicial duties, just as the junior in any law office does whatever detail work the senior thinks should be done. And, in the best tradition of the profession, he was interested in us, not alone for the service we could be to him, but for the guidance and inspiration he could give to us. No matter how pressed he was, he would always take time to test his ideas on us and to give us the benefit of his broad experience.

The Justice, much as he respected profound legal scholarship, did not claim it for himself. He was intensely proud of his great practical experience in judicial and governmental administration extending over a career of public service, encompassing steadily increasing responsibilities, which few men have equalled. He sincerely believed that his experience, preceded as it was by a solid legal education in this country and abroad, was as dependable a basis for judicial decision as a life devoted to scholarly research in the law. He delighted in testing theory against practicality and none of us will forget the experience of formulating a theoretical argument only to have it shaken, if not demolished, by an anecdote based on his experience.

But he was not content to rest on experience alone. He read both voraciously and selectively in the fields of law, philosophy and religion, with delightful excursions into the realms of nature study. He read as if to catch up for the decade from 1930 to 1940 when the press of his administrative duties, first as Mayor of Detroit, then Governor General and High Commissioner of the Philippines, Governor of Michigan and Attorney General of the United States, left him little time for reading and reflection. One result was that his respect for precedent was tempered by a healthy ability to reconsider earlier decisions in the light of modern economic and social thought. Moreover, in cases in which he wrote opinions he was not satisfied to rest with the briefs and arguments of counsel, adequate though they might seem

on first examination. His law clerks were thus often put to looking up the law on one point or another which he believed to be inadequately covered or to be relevant and not covered at all.

Justice Murphy, of course, had his particular interests among the host of problems coming before the Supreme Court, as justices always have and always will. His particular interests were in the fields of civil rights and labor law, as is well known, and in the field of federal-state economic relationships, as is perhaps less widely appreciated. He also enjoyed problems of constitutional and administrative law. But while he conscientiously participated in the other business of the Court, it would be idle to suppose that he had the same intense interest in the technical problems involved in construing some obscure provision of the tax or bankruptcy laws that he did, for example, in cases calling for the resolution under the Constitution of some of the competing demands of our complex modern society. Yet he was a judicial statesman in the finest sense of that term, ever sensitive of the position of the Supreme Court in the American scheme of government and ever desirous of utilizing to the fullest the Court's recognized power to effectuate equal justice under the law.

He had firm ideas about judicial writing. He believed in simplicity, rejecting both the strained allusion and the cliché. There was a constant insistence upon readability and clarity, for he saw no reason why an opinion could not be literate and understandable to anyone who might read it. He had some of the Brandeis passion for the repeated rewriting of sentences and paragraphs so that they would convey the precise meaning and ring he desired. And wherever possible he would begin an opinion by stating in the first sentence, or at least in the first paragraph, the broad issue at stake. Brevity was also a passion with him, an ideal that could not always be fulfilled where the pertinent facts were many and the issues complicated. He held in great esteem some of the short but matchless gems by Justice Holmes and it was a source of satisfaction to him when he could emulate the great master by confining an opinion to three or four pages.

In his personal relationships the Justice was both the subject and the object of genuine affection. He was warm to all who met him; to those he knew more intimately his consideration and devotion were boundless. It was characteristic of him to exhibit a most friendly interest in the family and personal affairs of his associates and he was a willing and able counselor whenever the need arose. His hands were indeed filled with acts of kindness. He had, moreover, the remarkable ability to earn and enjoy the friendship of innumerable people with startlingly different backgrounds, intellects and political philosophies. His firm convictions were often at war with those held by some of his friends, but that fact never dimmed the intensity or sincerity of the relationships. Early in life he had acquired the capacity to respect

ideas which he could not support. Even those individuals who disagreed most violently with his viewpoints, once they were directly exposed to the Justice's personal sincerity and integrity, came to share in the admiration for him.

His enthusiasm for the large causes which he espoused was truly electric. It was conveyed to us repeatedly in the many hours of conversation with the "Boss" on topics which frequently ranged far afield from the law and the Court. It was an enthusiasm which expressed itself, even in the most casual moments, in language which rang with expressions of nobility and stark conviction. Such language could come only from a man with great depth of character. And it was the type of language which, when spoken in public, could and did bring men to their feet.

All of this he had, and with it a wit that enlivened our longest days. At the same time there was a toughness about him—a toughness born in large part of the rough and tumble of Detroit and Michigan in the turbulent 1920's and 1930's. He was, as a result, a hard and effective fighter, a forceful protagonist, for the principles in which he believed. The influence which he thereby exerted within the corridors of the Court must ever remain untold except to say that it was substantial and effective.

One of the Justice's strongest attachments was to the University of Michigan and its Law School, from which he received his academic training and from which he recruited his law clerks beginning with the October 1940 term of the Supreme Court. He and the late Dean Bates were firm friends, although they did not always see matters in the same light. The Justice depended greatly upon Dean Stason in connection with the selection of law clerks, with full confidence that his trust was well placed. He was very proud of the Law School and the stature it has attained. It was always his fond hope that in some way he could acknowledge the regard he had for the school.

Justice Murphy's career stands as evidence of what a man of ability and integrity can achieve by unselfish service in the public interest. His judicial writings are a monument to his devotion to the highest ideals of the American way of life. His character, his high sense of duty, his fearless and progressive legal philosophy will ever serve to inspire those who knew him. We have a deep sense of personal loss in the passing of our great friend and counselor, but that is transcended by the loss sustained by the nation, which will long continue to benefit from his labors in the vineyards of justice.

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