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## Henry Woods: A Great Lawyer, Judge, and Friend

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*Sid McMath*<sup>†</sup>

I appreciate having the opportunity to say a few words about my friend and my law partner, Judge Henry Woods. Henry and I both were from Hot Springs. I was about four years older than he was, so I didn't get to know him in high school. His mother and my mother were very dear friends, though. I went to the University of Arkansas and was in law school when Henry was an undergraduate. I got to know him better then. He and Elsjane Roy, Judge Roy, were very active in student politics. They organized a group of students into what was a political party and were pretty well in control of student elections there for two or three years. Of course, I was always interested in student elections, and even in law school, I had a curiosity about them because I had organized a political group as a sophomore and then ran for president of the student body in my senior year.

When the war came along, Henry went into the FBI. He was the youngest FBI agent in the service. His principal job was to search for and ferret out cells of Nazi sympathizers and communists. The FBI training was great for Henry.

When the war was over, I was president of the Young Democrats, a very active young Democratic party—more active than the senior party. I served my term as the young Democratic president, was elected prosecuting attorney in Hot Springs, and began getting ready to run for governor. At that time, Henry was president of the Young Democrats. I called Henry who was practicing law in Texarkana and asked him if he could visit with me. I had him in mind for my campaign manager. He came to Hot Springs, and we visited. I finally asked him, "Henry, can you manage my campaign if I run for governor?" He said, "Well, how much money do you have?" (Henry had a faculty of getting right to the meat and the coconuts, you know, right down to the core of the question.) "Well," I said, "I have \$1500 in cash and \$1500 pledged." He grinned, took my hand, and said, "I'll take the job; I think we can win!" So, we both started work on building an organization across the state. Our principal support came from veterans. I had led the GI movement in Hot Springs. We got the GIs as they came back from the war

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\* Sid McMath graciously agreed to speak with the editors of the *UALR Law Review* about his relationship with Judge Henry Woods. This piece is an edited transcription of that conversation.

† Sid McMath served as governor of Arkansas from 1949 until 1953. He was a major general in the United States Marine Corps Reserve, a decorated World War II veteran earning a battlefield promotion to lieutenant colonel, and served as president of the Third Marine Division Association and the Marine Corps Reserve Officers' Association. Also a distinguished trial lawyer, McMath established a law firm now known as McMath Woods, P.A., where he remains of counsel.

and organized a group of GIs in Garland County through the old McLaughlin machine. (But that's another story.)

We had a tough campaign. That year President Truman was running for president, and the Dixiecrats were trying to beat President Truman, forming the Dixiecrat Party in 1948. Strom Thurmond and Fielding Wright were the Dixiecrat candidates. Henry and I were for President Truman and the civil rights program. We believed in the repeal of the poll tax and in having African-Americans vote and participate in the election process. So we supported President Truman, and he carried Arkansas and Texas.

After I was elected governor, Henry became my executive secretary. Our programs included building roads to get us out of the mud and dust, getting electrification to the rural areas that didn't have any electricity (half of the rural areas—eighty percent of our people lived in rural areas—didn't have any electricity), and building a medical school and a medical center. Henry was very helpful to me in all of these areas. He was a good organizer and was acquainted with the members of the Legislature and people over the state who had political influence. Therefore, we were able to get our programs passed without much opposition.

On our electricity program, half of Arkansans had no electricity, and power companies refused to furnish it because they didn't think it was profitable. The rural areas throughout the country weren't getting electricity. So in order to get electricity to rural areas, President Roosevelt organized a rural electrification program, which made it possible for farmers to join together in co-ops to borrow money from the government at a very low rate of interest and build their own steam-generating plant or the generating facilities and transmission lines. Henry helped me tremendously in that battle and fought the private power companies for three years before it finally became a reality. We had the steam-generating plant built in Ozark. The Ozark Steam Generating Plant was the first co-op generating plant and opened the door for other generating systems to be built to get electrical power to all rural areas. The old black wash pot in the back that women used for the laundry is not even in the memories of the rural women now. That was one of the great services we did.

In 1950 at the state Democratic convention, I offered a change in the rules of the Democratic Party so that African-Americans could become members. In 1948 there was a one party system, just the Democrats. Victory in the Democratic primary was tantamount to elections. So, we wanted to give the African-Americans an opportunity to participate in the elections, and there were some Democrats who agreed with me. The Democratic Party was an all-white party, so Henry, Joe Martin, and I drafted a resolution eliminating "white" from the requirements to be a Democrat. Henry led the fight on the floor of the convention, had a tough battle, but got it passed. Other Southern states, in due course, followed suit.

When I was defeated for a third term, Henry, Leland Leatherman, and I organized a law firm. Henry had been a good student. He was an A-student in high school and an A-student in college. In 1936 or 1937, the dean of the law school, Dean Waterman, said he could tell what law students were going to be when they got out and started practicing law from their grades. He said the A-students will be professors, the B-students will be corporate lawyers, the C-students will be criminal lawyers, and the D-students will be politicians. He didn't mention anything about plaintiffs' lawyers or personal injury lawyers. A personal injury trial lawyer at that time wasn't very high in the public esteem or in the esteem of the bar. He was looked on as an ambulance chaser. Our firm, though, represented personal injury plaintiffs. Of course, coming out of politics, we had to establish to lawyers and to the people that a politician could become a lawyer. We had to get known as lawyers. Henry and I joined all the bar associations and the American Trial Lawyers Association, alternately serving on the board of the American Trial Lawyers Association. We were selected as members of the Inner Circle of Trial Lawyers, which is limited to one hundred trial lawyers in the United States, and to the International Academy of Trial Lawyers, which consists of five hundred lawyers from around the world, and of which I became president. We had a convention in Little Rock while I was president, and the members marveled at the hospitality, the program, the reception they received, and the progress we were making in Arkansas—they had heard different things about Arkansas.

Henry and I tried cases together and were a pretty good team. One of our opponents was the Wright, Lindsey & Jennings law firm. They represented insurance companies, the people we were usually suing. The principal trial lawyer that we ran up against from the Wright firm was Alston Jennings. We fought in the courtroom, but ate and drank as friends. We were always friends. Ed Wright, who was president of the American Bar Association at the time, asked Alston one day, "By the way, what kind of lawyers are Henry and Sid?" Alston said, "Well, both of them together make a pretty good lawyer."

Henry was a student of the law and had a tremendous memory. He could talk to you about any subject. He was also a student of the Greek philosophers. He read the Roman writers on the subject of law and on the Latin law. He was familiar with the English common law and was versed in the English language. He learned about the lives of the people who wrote the Constitution of the United States and the Declaration of Independence and understood what they were talking about when they wrote in the preamble of the Constitution "We the people of the United States, in order to form a more perfect union, establish justice . . ." He understood this phrase because Henry devoted his life to the pursuit of justice in the courtroom. We shared a feeling that justice had a spiritual quality and that justice was really a mandate from on high. We represented a lot of people who didn't have

any money to hire a lawyer or to advance costs. We used the contingent fee. People seeking tort reform want to eliminate contingent fees and punitive damages. What they are really talking about is eliminating the right to trial by jury. I mean, the pursuit of justice, justice under the laws—there is no higher calling and no greater reward. Henry shared that philosophy. In reference to the jury system, he believed in it, and despite human failing, it's the best system that we have for deciding controversies between citizens and between the citizen and the bureaucratic government.

Henry and I remained partners until he went on the court. He was named by Senator Dale Bumpers as a United States district judge. His name was submitted to President Carter who submitted it to the Senate Judiciary Committee for confirmation. The Judiciary Subcommittee conducted hearings on it, which I attended with Henry. Senator Howell Heflin of Alabama was chairman of the subcommittee that conducted the hearings, and he had been in my platoon at officers' candidate class when he was striking for a commission at Quantico, Virginia. I was his platoon commander and admired him greatly. They conducted an extensive hearing. Henry's nomination was approved unanimously by the subcommittee and then by the full committee. He became a United States district judge on March 21, 1981.

He made a great judge. He was a great trial judge because he was a great trial lawyer. Some day I think it will be a requirement, even if it's not written, it would be practiced, that before a judge is appointed as a trial judge that he have been a trial lawyer at least some of the time, that he have tried cases in a courtroom, and that he have listened to the jury's knock on the door. Judges understand trial practice better if they have been a trial lawyer.

As a judge, Henry was a hard worker. He would take any case that came his way—he did not bow out of any of them. He took on the integration cases in Pulaski County, handling them for about ten years. He entered an order consolidating the schools in Pulaski County, which was a visionary, far-reaching order. His order would have saved a lot of money and would have facilitated the integration procedure, but was reversed by the United States Court of Appeals for the Eighth Circuit. Judge Wilson recently defended Judge Woods's action in consolidating the schools in Pulaski County in an opinion. Some day it will be done.

Henry also worked on his cases. He processed them even up to the time of his last illness. When he died all of his cases, even the American Airline cases that were scheduled for trial, had been processed, and all the people that had a case in his court at the time of his death had an opportunity to present their case in court. That is how conscientious Henry was.

He was a poet too. As a trial lawyer, he would come up with quotes from poetry that would be appropriate at the time. We had tried the first maritime case heard in Arkansas: *Brinegar v. San Ore Construction Co.* Brinegar was injured on a boat while working on a coffee dam on the Ar-

kansas River near Pine Bluff. Whether or not it was an admiralty case or a workers' compensation case was an issue. The lawyer for the insurance company said in his opening statement that if this were an admiralty case, one couldn't get enough money in the courtroom to compensate. The judge directed the jury that at the time of his injury Brinegar was in a boat, was working on the river on a project, and was a member of the crew of a vessel. So that brought the case under maritime jurisdiction. The lawyer who finally tried the case for the insurance company became the president of the American Bar Association and later went around the country talking about how he had lost a multi-million dollar case in Arkansas. He took a little liberty in making it a good story. He said, "Henry Woods and McMath were trying the case. When the judge came to a tough question of law, he'd turn to Henry Woods and say, 'Mr. Woods, what's the law in that case, what's the law on that.'" He went on to say that when McMath was making the final rebuttal (Henry would make the opening and I would make the closing argument), "I had occasion to object to his argument three times. I thought he was maybe getting a little far afield, it wasn't relevant, or it was prejudicial or something. The third time I objected, Judge Oren Harris leaned over on his elbows on the bench, peered over his glasses, and said, 'Mr. Sheppard, don't interrupt the Governor when he's talking.'"

While trying the Brinegar case, Pat Brinegar was our last witness to testify. He made a great witness, paralyzed from the waist down, barely not a child, just a youngster at twenty-two years of age. He didn't make any pitch for sympathy or anything. The last question I asked was "Pat, if you could do anything in this world you wanted to do, what would you do?" He said, "I'd get me a car; I'd outfit it so I could enter the stock car races; and I'd enter every stock car race in the United States." During a recess we anticipated that the defendants would make us an offer because Pat's testimony was the close of our case. We had brought Pat over from the rehabilitation center in Hot Springs and asked him to wait in the ambulance as we might have some questions to ask him, get his advice on something, and that they might make us an offer. He had testified from a wheelchair, and when they rolled him out in the hallway to put him back in a stretcher to take him down to the ambulance, they dropped him. The jurors saw, and three of them got down and lifted him up, put him on the stretcher, helped carry him down, and put him in the ambulance. Henry and I didn't know about this, and we went down and told Pat that they had made us an offer. It was a big offer for back then—a lot of money. We told him that twelve jurors had to agree on the verdict, that sometimes it's hard to get twelve people to agree on anything, and that this money would help him pay his debts and take care of him and his wife. After we finished talking to him, we said, "What do you want to do Pat? Let us know. It's up to you." He smiled an Irish grin and said, "Let the jury decide." See, he knew something we didn't know about his relationship with the jurors. He felt that he had made good contact

with them, that he had related to them when he was testifying, and that they helped him get back to the ambulance. So, we let the jury decide, and they decided for Brinegar with a great verdict. In Henry's poetic closing statement, I remember he quoted from *Invictus*, saying, "Out of the night that covers me black as a pit from pole to pole I thank whatever gods may be for my unconquerable soul. In the fell clutch of circumstance, I have not winched, nor cried aloud. Under the bludgeonings of chance, my head is bloody but unbowed."<sup>1</sup> He finished by saying that's the way it is with Pat Brinegar and sat down. The jury was quiet and came in with a great verdict for that boy, a record at the time. And so, that was Henry.

Henry also had a wonderful family. He has a daughter, Eileen, and a son-in-law, Paul Harrison, the immediate past president of the Arkansas Trial Lawyers Association. The law practice is also continuing, and Henry had a great influence on it. The boys have a great tradition, a wonderful law firm, and are still representing people who need their help. They get a case and clients that don't have any money and they take them on a contingent fee, usually a third of any award. The firm advances the costs, and if the case is not won, it absorbs the costs. The firm's philosophy when interviewing and determining whether or not it's going to take the case is to answer two questions: (1) has this person been wronged and injured by that wrong; and (2) can we help him. That's the philosophy that Henry and I had as we tried these cases, entered in the courtroom, fought the battle, and listened for the knock on the door, and that's the philosophy that the boys have today. They are doing fine.

Henry did more than anybody else that I know of to improve the professional image of the plaintiff's bar, the plaintiff's trial lawyer. He was always interested in young lawyers and would give lectures to young lawyers. He would also participate in and conduct seminars. Henry would go to Hastings College in California and teach two weeks out of the year to instruct young lawyers. He wrote *Comparative Fault*<sup>2</sup> with Beth Deere. It is an authority in all the courts of the United States, and I don't know of any other treatise that's equal to it. In addition, he wrote a lot of articles for the bar journals.

He was a tremendous judge and a good friend, and I miss him. A lot of times when there was something on my mind about a case, something that happened back when we were together in politics, or trying cases, I'd just call Henry. I forget that he's gone. A great lawyer in the courtroom, lawyer of the court, and a writer of the law. Judge Bill Wilson said that "Judge Woods was a giant." He was a giant, as a lawyer and as a judge. He will be

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1. William Ernest Henley, *Invictus*, in *MODERN BRITISH POETRY* 234 (Louis Untermeyer ed., 1920).

2. HENRY WOODS & BETH DEERE, *COMPARATIVE FAULT* (3d ed. 1996).

remembered in the history of Arkansas as one of our great lawyers and great judges.

