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## A TRIBUTE TO JUDGE HENRY WOODS

*Beth Deere\**

To the unprepared lawyer, Judge Henry Woods must have seemed like God's wrath moving east. But to those of us who struggled mightily (if vainly) to keep up with his brilliant mind and indefatigable pace, he was a forgiving teacher and a patient guide through the fascinating world of the law. I was fortunate to work for him, to learn from him, and to serve as his law clerk for sixteen years.

Even if I had not learned an iota of law from the Judge, my time with him would have been well spent. He was a raconteur without equal. In his countless recollections ranging from meeting Albert Einstein to trying cases in county courthouses all over Arkansas, he never cast himself as the hero of the story. Rather, he loved to tell the tales of his heroes—his law partners, Governor Sid McMath, the beautiful orator and champion of the underdog, and the indomitable and loveable Leland Leatherman. The three of them formed their law partnership—McMath Leatherman & Woods—with a handshake. For the thirty years they practiced together, they never had a written contract. Never needed one.

The Judge delighted in his beautiful wife of sixty-plus years, Kathleen. He loved to hear her sing her lilting Irish tunes, and he loved for the rest of us to hear her, too. He freely confessed that she was the sweetest woman he had ever known—with the sweetest voice. She was his muse, and he hers. He was born on St. Patrick's Day, and no matter how old he got, he always wanted friends and family to help celebrate his birthday. And Kathleen would always sing to him—"Danny Boy" and wonderful songs from the likes of Irving Berlin, Richard Rogers, and George and Ira Gershwin.

Henry Woods was a voracious reader. For many years, he participated in a Great Books group with an impressive, eclectic group—priests and rabbis, lawyers and doctors, agnostics and the devoutly faithful, warriors and pacifists, women and men. He once admitted that he always waited until far into the cocktail hour of the yearly planning meeting (when the group made its selections of books to read for the coming year) so that he would have a tactical advantage in choosing the year's reading fare. He was partial to the classics—Plato, Shakespeare, and Dostoyevsky.

Although Henry Woods is, of course, rightly exalted for his legal virtuosity (having written not only a legal treatise, but also countless law review articles), he was equally versed in literature, Latin, history, and almost any other subject imaginable. Whether it was astronomy, mathematics,

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\* Beth Deere was law clerk to Judge Woods from 1986 until his death in 2002. Deere and Judge Woods co-authored the third edition of *Comparative Fault* published in 1996. She is now a trial lawyer in Little Rock, Arkansas, with the firm of Williams & Anderson LLP.

world religions, geography, or politics, Henry Woods was always the most knowledgeable person in the room—and I say that without regard to who was in the room. Yet I do not believe that the Judge ever appreciated the wonder of his vast knowledge. Always dismissive of his own genius, he had no idea how the rest of us scrambled to keep up with the discourse, much less contribute to it. When my daughter went to New York City to study opera, the Judge averred that he knew nothing about opera. Aha! I thought. He went on, though, to comment on the extraordinary beauty of a certain aria in *La Traviata*. And wasn't that Giuseppe Verdi a fascinating, prolific composer? In short, I never found a subject Judge Woods had not read about, become fascinated with, and absorbed into the fabric of his remarkable intellect.

Henry Woods hated bigotry and small minds and greed. He had a tremendous capacity for forgiveness, but not for the recalcitrant and unrepentant. He never got over the small minds that wreaked havoc on his beloved Arkansas during the civil rights struggle and never forgave the scoundrels who stirred racial hatred for their own political gain in the 1950s and 60s—and 70s, 80s, and 90s. His contempt for their ilk was palpable. But for those of goodwill with whom he merely disagreed, he was always open to a spirited debate and a genuine friendship. He counted among his closest friends people from diverse backgrounds and beliefs.

If Henry Woods was your friend, you could ask for no better. Though he always took the laboring oar on any collaborative project, he was quick to give credit to those of us who merely worked in his wake. He shamelessly promoted those of us whom he loved, bragging like a proud father over our accomplishments—however mundane. He once wrote a letter on my behalf to the Administrative Offices of the Courts—in Washington D.C.—insisting that I get a raise in pay because of the two years I had spent as a law student working for then street lawyer Bill Wilson. According to Judge Woods's letter, working for Bill Wilson was not like working for just any lawyer. Rather, that experience ought to really count for something. The raise went through. When lawyer Bill Wilson became Judge Bill Wilson, I thought Judge Woods would burst his buttons.

When Judge Woods took senior status and Jim Moody took his place on the federal bench, the Judge was in a jubilee. He thought it the supreme compliment that the President would fill "his" spot with such a splendid trial lawyer. Being "replaced" by Judge Moody was such a source of pride for the Judge that he always insisted that he was due some of the credit for what a great judge Jim Moody turned out to be. Likewise, he considered Judge Susan Webber Wright one of "his," and took great pride in her selection as a federal district judge, and in her equanimity on the bench.

Henry Woods had the courage of ten men. As a judge, he dived into the most controversial and complex cases with verve. One of the few times I felt the weight of his disapproval was when I opined that perhaps he should

let a high profile criminal case go to trial, instead of granting the defendant's motion to dismiss. As background, I should explain how the Judge worked. Judge Woods was expansive in his determination to understand every fact, every point of law, every point of view, and all the nuances of any issue before him. As the Judge's law clerks, my colleague John Courtway and I were not just free, but obligated to give the Judge our unvarnished opinions. (And by the way, this was a daunting obligation, given the Judge's legal acumen. It was not easy to hold your own in a debate with Henry Woods. It did, however, serve to sharpen the mind and keep a person humble.)

The Judge, John, and I had all reviewed the pleadings in that politically charged case. We had researched the law, and we had all come to our own conclusions about the merits of the defendant's motion to dismiss the indictment. My take on the motion to dismiss was that it was a close call. Wrong! The Judge did not see it as close at all. I made the mistake of commenting, in an aside, that in the political climate of the day, a dismissal would unleash the whirlwind.

He was working from his home that day. I walked in to find him sitting at his dining room table with books, long yellow legal pads, papers and pleadings, and pencils worn to their nubs strewn about the room. He invited me in and told me he had decided to dismiss the indictment. It was then that I mentioned the inevitable unpleasant ramifications of a dismissal and the advantage of letting a jury pass on the merits of the case first. I reckoned that if a jury convicted the defendant of a charge the prosecutor had no authority to bring, the Judge could always grant a judgment of acquittal after the fact. Judge Woods cocked his head to one side, frowned, looked me in the eye, and said (as softly as his booming voice would allow), "I can't do that. I took an oath to uphold the Constitution. I can't consider the political fallout. The chips will just have to fall where they may." He then launched into a lecture on the history of the Bill of Attainder—its origin and misuse, how the English had suffered under its operation. He reminded me that our founding fathers, in Article I, Section 9 of the United States Constitution, specifically prohibited Congress from passing Bills of Attainder, where persons are singled out for punishment without due process.

He did indeed dismiss the indictment. After I read a draft of his powerful opinion in that case, holding that our Constitution requires prosecutors to pursue crimes and not individuals, I was moved to write him a note of apology for ever mentioning politics as a factor to be considered in deciding a case. I still regret my inauspicious suggestion, but I was right about reaping the whirlwind.

For the legal community, the loss of Henry Woods is devastating. His legal acumen, quick analytical mind, irrepressible wit, institutional memory, and innate sense of right and wrong are irreplaceable. For others of us, the loss is even more profound. He was a mentor and a certifiable hero. He was our anchor—the steadfast friend who inspired us to love both justice and mercy.

