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Tribute to Sidney S. McMath

Cover Page Footnote
The UALR William H. Bowen School of Law and the UALR Law Review would like to bestow a special debt of gratitude on Governor Sidney S. McMath for his distinguished service to our nation and the State of Arkansas as a military officer, governor, attorney, and icon in the legal community. The essay that follows is one of six in this issue that pays tribute to Governor McMath's accomplished life and illustrates the impact of his legacy. He will be forever remembered in the hearts and minds of those whose lives he touched.

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TRIBUTE TO SIDNEY S. MCMATH

Winslow Drummond*

Sid McMath’s death on October 4, 2003, generated innumerable accolades describing the life and achievements of the man deemed by so many Arkansans to be their most courageous and principled war hero, public servant and trial lawyer.

To attempt now to supplement these tributes would necessarily be redundant. Sid’s words in his autobiography, Promises Kept,1 published almost simultaneously with his passing, tell the whole story in his typically immodest fashion. So with apologies for relying upon personal recollections and perhaps diminishing my “tribute” to the level of the purely anecdotal, here goes.

Within two months of my joining Wright, Harrison, Lindsey & Upton in Little Rock in July of 1957, big trouble broke out at Central High School. The governor of Arkansas had defied the federal government and, in particular, the federal courts. Most, but certainly not all, lawyers were appalled. A bare handful subscribed individually to an ad published in the Arkansas Gazette in which they had the temerity to state that Brown v. Board of Education was “the law of the land.”2 Virtually all of these lawyers were affiliated with four law firms—the Wright, Rose, Spitzberg and McMath firms. Being the rookie in the group, I was dispatched to round up commitments. And that is when I first met Sid, assuming he was simply one more potential subscriber.

We frequently speak today of charisma. Sid’s name should be included in any thesaurus or dictionary under that word. Only after delivering my list of names including Sid, Leland Leatherman and Henry Woods, was I informed that I had met a former governor. I wished then fervently that he was the incumbent governor.

Personal and professional contacts with Sid, Leland and Henry were frequent, sometimes even daily after our respective firms officed in the Tower Building from 1960 until 1963. Over coffee and cigarettes (and Henry’s cigars) in the “Bottom of the Rock” we plotted against Orval and revived Sid, without need of much urging, to take him on again in the Democrat Primary in 1962.

For more than twenty years my professional contacts with Sid were adversarial. Back then, as a defense lawyer, I was often asked to identify the best plaintiff’s lawyer in Arkansas. My response was always the same: “Sid

1. SIDNEY S. MCMATH, PROMISES KEPT (Univ. of Ark. Press, 2003).
2. Orval Faubus.
McMath and Henry Woods is the best.” I learned that in Batesville in 1963 and have not changed my mind to this day.

Carmen Estes, a beautiful Hendrix College student, was returning to school from her home in Calico Rock, seated between the Whitfield brothers in the front of their high performance Chevrolet when one Buddy Rowe, accompanied by his pregnant wife at term, stopped behind them at a traffic light in Batesville. Noting the crossed racing flags on the back of the Chevy, Buddy pursued it across the White River, up Pryor Mountain, and then passed it at the Batesville airport with a challenging gesture. The Whitfields then passed Buddy and gave the Chevy the gas. The chase was on. Two witnesses on horseback later testified that both vehicles went down Highway 167 at an estimated speed of 100 mph with Buddy’s car trailing by a mere 3 feet. Buddy shortly heeded his wife’s pleas and abandoned the race. The Whitfields, however, continued on, leaving the roadway and crashing into a tree. The Whitfields were ejected unhurt; Carmen was killed instantly.

Sid and Henry filed suit for Carmen’s wrongful death in Independence Circuit Court. Representing Buddy and his insurer, I arrived in Batesville on the evening before trial only to learn that Sid had preceded me by twenty-four hours and had walked the streets, greeting everyone as “Buddy” or “Doll,” depending on gender. Checking into the Powell Motel, I was told that “the Governor wants to see you.” So dutifully I went to the Marvin Hotel where I found Sid and Henry in a large second-floor room—Sid rehearsing his opening statement and Henry taking notes in a cloud of cigar smoke. When told that my authority was simply inadequate for a possible settlement separate from the Whitfields, I returned to the Powell.

After a day of trial, the Batesville Guard ran a front-page headline: “FORMER GOVERNOR ARGUES DRAG RACE DEATH.” The courtroom filled up—standing room only with spectators sitting on the window-sills. Henry opened summation for the plaintiff parents with a lot of law and some emotion. The late Bill Arnold, representing the Whitfields, and I had little to say, although I thought Buddy’s abandoning the race was significant. (The jury disagreed.)

Then Sid addressed the jury. Carmen became the daughter of each one in the box. Complete silence except for occasional sobs from the actual and the vicarious parents. And then the peroration: “Let justice roll down from the mountains like a mighty stream into the sea of righteousness.” Bill and I correctly envisioned a stream of green dollars.³

³ The jury awarded $25,000 to each of Carmen’s parents for mental anguish, plus funeral expenses, totaling approximately $54,000. At the time, this was a record jury verdict in Arkansas for the wrongful death of a child. The jury apportioned fault on the basis of forty percent to Rowe and 60% to the Whitfield driver. Rowe’s liability policy limit was $10,000; Whitfield’s carrier paid the balance of the judgment.
The scriptural reference is somewhat akin to Amos 5:24. But perhaps feeling that reliance upon a major prophet would carry more weight with the jury, Sid attributed it to Jeremiah.

Until I experienced my professional epiphany in 1982 and joined The McMath Law Firm, I defended a number of cases opposing Sid and Henry, settling most and even prevailing in the courtroom from time to time. The universal characteristic of these experiences and relationships was total civility. With the exception of discovery depositions, there was no formal discovery. Complete, informal exchanges of pertinent information. No surprises, no sandbagging. And a mutual respect and indeed affection.

"And do as adversaries do in law—Strive mightily, but eat and drink as friends." 4

My first case at the McMath firm was hand delivered by Sid, a typical rear-ender to be worked up for a probable settlement. After some negotiations, I received an offer which I felt to be inadequate, but which the client wanted to accept. Sid’s counsel: “In our firm, we do what’s best for the client.” My reply: “That’s exactly what your next door neighbor, Bob Lindsey, told me 25 years ago.”

My last visit with Sid was on September 14 in his room at UAMS. I was startled by his obvious weight loss. But his blind eyes sparkled when he recognized my voice and told me he was glad to “see” me. “How are you feeling?,” he asked. “Apparently better than you, but you’ve got 21 years on me,” I replied. He smiled and took a few seconds to extricate his right hand from under a light blanket, but his grip was firm, his voice still strong. Our visit ended shortly when Sid’s primary physician, followed by a string of five residents, entered with a greeting, “Hello, Governor.”

Mentally alert, courageous even with the awareness of personal adversity, affectionate and considerate toward all, with an abiding optimism and sense of humor—that’s the Sid McMath impressed indelibly in my memory.
