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A Rich Tradition of Honorable Service Seen Through the Eyes of Judges

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DUKE LAW

Judge James L. Oakes **“Vermont’s Finest”**

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U.S. District Judge, District of Vermont

In 1947, Judge Oakes graduated cum laude from Harvard Law School, and instead of heading off to a major metropolitan law firm, came to Brattleboro, Vermont, to clerk for the Honorable Harrie Brigham Chase, Vermont’s first member of the Second Circuit Court of Appeals. Thereafter, he decided to become a trial lawyer. In an unfinished essay he states: “Harvard Law School taught me absolutely zero about being a trial lawyer . . .” and that he developed his talents by reading compilations of British and American trials.

I had the pleasure of sharing the courthouse in Brattleboro, Vermont, with Judge Oakes for almost 13 years until his passing away in 2007. He was a close friend, mentor and a brilliant and thoughtful jurist.

To say that Jim developed a special bond with Vermont falls far short of describing his relationship with the state and its citizens. For all that Jim drew on our state’s natural beauty for inspiration and insight, for all that he learned from the integrity, resourcefulness, and generosity of generations of Vermonters, and for all the success this small state brought him, Jim gave back and then some. With an intellect matched by his candor, warmth and joie de vivre, Vermonters (and, in time, the country) derived the benefit and blessing of Jim’s passion for the law, this state, and every individual whose life his work touched.

Jim was extremely proud of the cases he tried during his sixteen years in private practice. He loved the intellectual challenge of the legal conflict, the possibility of bettering individual lives, the competitive give and take of the courtroom, and he

also loved to win. Among his successes, he enjoyed recounting the intricacies of a case he called the “Atlanta Synagogue Bombing Defamation Case” (yes, part of the intricacy involved just how it ended up in Vermont!). Speaking with a glimmer in his eyes — sparkling as only Jim’s eyes could and as they did with everything that delighted him in life — he said he entered into the case with “great glee.” He won too, of course.

Following his practical education in the courtroom, Jim turned his prodigious talents to the public sector. After a single term as a state senator, from 1961 to 1965, he became Vermont’s Attorney General. During his stint as A.G., he prosecuted a number of high visibility cases that he handled with great deft and sensitivity, including the so-called Irasburg Affair, an ugly racial incident in one of Vermont’s most secluded towns in which Jim successfully supported the targeted African-American family. In fact, Jim and his wife lived with the family for a period to ensure their well-being. This was not showboating, but a way of life for Jim. As Senator Patrick Leahy said, “he is a man who all of Vermont, regardless of politics or party, should treasure and remember for his brilliance, but most importantly, for his conscience.” A conscience so much on display in Irasburg, but also one that informed every moment of his career.

After an unsuccessful bid for governor, on the recommendation of Senator George Aiken, President Nixon appointed Jim in May of 1970 to be one of Vermont’s two federal district court judges. He was to serve in that capacity only thirteen months before President Nixon elevated him to the Second Circuit.

During his 36 years on the federal bench, Jim, of course, authored many fascinating opinions. Those that “stood out in [his] mind,” however, were *Scenic Hudson Preservation Conference v. FPC*, an extremely complex litigation involving the development of a huge energy plant on the Hudson River and its environmental impact; *North Haven Board of Education v. Hufstедler*, a Title IX of the Education Amendments of 1972 case in which Jim wrote for the majority (and the Supreme Court upheld on appeal) holding that the administration’s sex discrimination in education employment regulations were valid; and, of course, his much celebrated dissent in the Pentagon Papers case — an opinion that the Supreme Court favored in overruling the majority.

Given Jim’s considerable workload, his family responsibilities, and his prolific contributions to legal publications, it is even more remarkable that he found time to enjoy life to its fullest. He loved life at Martha’s Vineyard, at the races, on the

dance floor, in the bustle of New York, and the quiet of a Vermont summer evening. And, in turn, he was much loved. He treated his law clerks as his children, never losing interest in their lives and careers, always beaming with pride at their accomplishments and forever keeping them close to his heart. One of his clerks, Vermont Law School Dean Jeff Shields, remembered Jim “for how much fun he was to work for as a law clerk right out of law school, and his friendship over the years. Judge Oakes had 85 clerks over 36 years on the bench, and he stayed in touch with all of us. His advice to us is still fresh. He would insist that we go home by 5 o’clock, believing that we would think more clearly and do better work if we had a reasonable personal life.”

And Jim was loved by his peers, as much for his brilliance as for his humanity. In his tribute to Judge Oakes in February of 2008, Judge Robert Katzmann recounted his first extended meeting. “He quickly put me at ease, insisting that I call him ‘Jim’ — indeed, after the fifth or sixth time of my calling him ‘Judge’ or ‘Judge Oakes’ he said, ‘if you insist on calling me ‘Judge Oakes,’ I will have to call you Judge Katzmann! Call me Jim so I can call you Bob.’ I was taken by Jim Oakes’ warmth, his enthusiasm, his joy in being a judge, and his pride in the Court, in his colleagues, in his law clerks, in his family.”

I, too, benefitted from my personal and professional relationship with Jim. When I came to Vermont in 1970, there were no formal bar review courses, so Jim lent me his twenty-year-old handwritten notes to use as study aids (I passed the bar exam), and he later supported me in my quest to become a judge. His portrait graces my courtroom, so I will continue to have the benefit of his infectious smile and glimmer in his eye.