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Dean John J. Murphy—An Ethical Man

ANDREW J. SIMONS*

It is with a mixture of humility, pride and sadness that I add my words to those of two distinguished jurists—Chief Judge Lawrence H. Cooke of the New York State Court of Appeals and Chief Judge Edward D. Re of the United States Court of International Trade—in memory of my late dear friend and colleague, John J. Murphy. The significance of this task caused me to suggest to the editors that they seek elsewhere for one more qualified and articulate than I to share this honor with Judge Cooke and Judge Re. I will be forever pleased by their refusal to do so.

In fact, I cherish the opportunity to impart upon these pages for the benefit of the generations of lawyers and students to come my reflections on the dignity and integrity of John Murphy. The grief that gripped all of us during the period of John's illness and death has left permanent scars, but the intensity of the pain has been assuaged by the passage of some time from the culmination of the death watch. We are now able to feel less bitter and hurt by his premature passing and can reflect with greater equanimity upon the character and contributions of our deceased colleague. The sadness, now, is more of an intellectual nature, caused by the continual realization of what a congenial and inspiring colleague John Murphy was, how much his presence was an integral part of daily law school life, and how much we miss him.

In the official court reports we have all read memorial tributes to departed members of the bench, and frequently the tribute will include quoted material from the jurist's written opinions reflective of his judicial philosophy. I was looking for a comparable source of material about Dean Murphy when I came across a file of the speeches which he had rendered during his association with the law school from 1961 to 1980. While the Dean's teaching responsibilities focused on Torts and Family Law, a reading of his speeches delivered during the past twenty years indicates an overriding concern with the principles of legal ethics and professional responsibility.

When he delivered the Chief Justice Charles Evans Hughes Annual Memorial Lecture at the New York County Lawyers Asso-

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ciation on March 16, 1978 ("the eve," according to the speaker, "of what is considered by some as the greatest of all feast days in the entire year"), Dean Murphy's theme was "Advocacy, Ethics and Education." He coupled the improvement of advocacy among the members of the bar directly with the inculcation of practicing attorneys with the tenets of legal ethics:

It is incumbent upon the law schools to address the ethics aspect of the advocacy debate with an intensity similar to that which has been devoted to the skills aspect. Just as clinical programs have been developed and refined in the skills area, more effective methods for the teaching of professional responsibility must be developed.

The Dean always scoffed at the argument that legal ethics should not be taught in law school. That argument was based upon the theory that the individual had developed habits of good and evil well before entering law school and that personal morality was not a proper subject for the law school curriculum. According to the Dean, in his Hughes lecture:

Ethics can certainly be taught to any person at any stage of development. The question is not can they be taught but rather will they be learned. A knowledge and understanding of ethics can certainly be conveyed; whether it will be accepted as a norm for action is an entirely different question The ethics of the legal profession are a codified set of rules which apply equally to persons of high, low or no moral character. They are as teachable as any other codification.

Ever since his law student days as a member of the staff of *The Catholic Lawyer* in the mid-1950's, Dean Murphy was noted throughout the legal profession as a catholic legal scholar. And his abiding interest in the principles of ethics clearly antedated his days as a law student. It was grounded in his staunch religious upbringing as a youth and his years of study in the seminary, which he left to pursue his career in law. And it prospered throughout his strongly faith-oriented marriage to his beautiful and heroic widow Ann.

In an address to the members of the judiciary at the Nassau County Bar Association on September 18, 1975, the Dean stated that the major issues confronting legal education dealt with the need to improve law school training in the skills of legal advocacy and the principles of professional responsibility. It was his strong

opinion that legal ethics had to be emphasized in law school and that the two commonly recognized means of instruction in professional responsibility should both be utilized: the formal credit-based curriculum course and the pervasive method— where the ethical considerations are studied in each course as they arise.

Dean Murphy's high moral character and integrity marked him in whatever endeavor he undertook. He was an outstanding professor of Torts partly because he perceived that it was his responsibility to ensure that the students learned, not only the law of Torts, but also the art of legal analysis, the importance of ethical considerations, and the significance of fairness and justice in the composition of the common law.

He was also an excellent administrator, because he continually strived to do that which was right, not merely that which was practical or expedient. He was blessed with another dominant trait: he worked hard at being Dean. As I stated at his funeral Mass, he was as devoted to the work ethic as he was to legal ethics. John possessed infinite patience that would enable him to grapple with a difficult and complex legal, educational or administrative problem until the right solution was achieved. Whether it dealt with the assignment of courses to the faculty, or the scheduling of classes, or the academic plight of a law student, or the employment problem of an alumnus or staff member, John would give it his fullest attention to ensure that a fair, just, sound, reasonable, and right determination was made. He truly led by example, one which we at the law school greatly benefited from. As the youngster said about Pope John Paul II— "he knows how to pope!", John knew how to "dean."

His administrative talents were recognized by both the American Bar Association and the Association of American Law Schools which frequently called upon him to participate in accreditation inspections of other law schools, and he was usually given the most difficult assignments involving new, unaccredited law schools throughout the country. Every such school that John inspected, and there were many, ultimately achieved accreditation, due in great part to his professional diligence in writing a lengthy, constructive critique of their administrative, educational or financial problems. His contributions to legal education in this regard are truly immeasurable.

Dean Murphy was imbued with skill and integrity, two of the principal traits of any learned advocate of the law. In his Charles

Evans Hughes speech Dean Murphy quoted the former Chief Justice as follows:

The highest reward that can come to a lawyer is the esteem of his professional brethren. That esteem is won in unique conditions and proceeds from an impartial judgment of professional rivals. It cannot be purchased. It cannot be artificially created. It cannot be gained by artifice or contrivance. . . . It is not measured by pecuniary gains. . . . It is an esteem commanded solely by integrity of character and by brains and skill in the honorable performance of professional duty. . . .

This is the esteem that Dean Murphy won from all of those who had the privilege of knowing him during his twenty-five years as a member of the bar. It is poignantly fitting that his law school class is this year celebrating its silver jubilee, twenty-five years as members of our learned profession. We are saddened by the fact that Dean Murphy cannot be with us to celebrate this anniversary but know that he is in the peace of God and participating in a much more sublime celebration.

In the conclusion of his speech to the Nassau County judiciary in 1975, the Dean alluded to the need for all members of the profession to address the problems currently facing legal education, including the necessity for emphasizing the principles of legal ethics. He said:

We must all, bench, bar and educators, work together . . . so that we may pass on the profession to our successors hopefully in better condition than that in which we received it.

It is gratifying to observe that most assuredly Dean John J. Murphy succeeded in this self-imposed responsibility. We at St. John's Law School have been greatly enriched by his association with this institution and we will continue to benefit from the example he gave us as a man devoted to the law and dedicated to legal ethics.