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PRESENTATION OF THE PORTRAIT  
of  
SENIOR JUDGE JOSEPH M. McLAUGHLIN  
UNITED STATES CIRCUIT JUDGE  
SECOND CIRCUIT

UNITED STATES DISTRICT JUDGE  
EASTERN DISTRICT OF NEW YORK  
1981- 1990

Thursday, June 27, 2002  
4:30 p.m.  
Ceremonial Courtroom  
Brooklyn Courthouse

Welcoming Remarks:

Chief Judge Edward R. Korman  
Eastern District of New York

Speakers:

Judge I. Leo Glasser  
Senior United States District Judge  
Eastern District of New York

P. Kevin Castel, Esq.  
President, Federal Bar Council

T. Edward Tighe, Esq.  
Former Law Clerk, Judge McLaughlin

Remarks by Judge Joseph M. McLaughlin

1 (In the Ceremonial Courtroom.)

2 CLERK OF THE COURT HEINEMANN: All rise.

3 This special session of the United States District  
4 Court for the Eastern of New York is now open for the  
5 presentation of the portrait of the Honorable Joseph M.  
6 McLaughlin, Senior United States Circuit Judge for the Second  
7 Circuit, and formerly United States District Court Judge for  
8 the Eastern District of New York.

9 Chief Judge Edward R. Korman and the Board of  
10 Judges will preside.

11 CHIEF JUDGE KORMAN: Judge McLaughlin, Chief  
12 Judge Walker, my colleagues on this court, Judges of the  
13 Court of Appeals, members of Judge McLaughlin's family, it is  
14 my pleasure to welcome you here today for the ceremony in  
15 honor of Judge McLaughlin, who served as a judge of our court  
16 for nine years before he was appointed as a judge of the  
17 United States Court of Appeals for the Second Circuit.

18 Judge McLaughlin left us on October 17, just one  
19 day after his certificate of appointment was signed by the  
20 President. Some explanation is necessary for this delay --  
21 that is, this delay in honoring him today.

22 Some seven years ago, after he became Chief Judge,  
23 Tony Sifton inaugurated the tradition of honoring our senior  
24 judges who continue to serve. As most of you know we could  
25 not function without the aid of our senior judges and, of

1 course, since they have the option of retiring at full  
2 salary, the service they render is a gift to the Court and to  
3 the people of the United States.

4 Tony engaged the services of Michael Spano, who  
5 has been described as an artist among photography's greatest  
6 innovators, to do the portraits of our senior judges. The  
7 product of his work adorns the wall to my left of this  
8 ceremonial courtroom.

9 My contribution to this effort was to begin a  
10 project to secure portraits of each of the judges who have  
11 served on our court. Judge McLaughlin is one of the most  
12 ablest and distinguished of our predecessors and the gift of  
13 his continued service on the Second Circuit surely qualifies  
14 him for this place of honor.

15 It is a tribute to those who are involved in  
16 selecting the judges of our court over the last half century  
17 that his photograph is preceded by a group of judges that  
18 includes several of the most able trial judges to have graced  
19 the federal bench in the United States.

20 The reputation of the Court, particularly one as  
21 small as ours, reflects the character, judgment and wisdom of  
22 the men and women who administer justice here every day.

23 Over the last four decades the appointments to our court have  
24 come from three diverse pools of talent and experience:

25 Those who have spent their careers in public

1 service, and whose work has been acknowledged and rewarded by  
2 judicial appointment; those who have combined experience in  
3 the political arena with distinguished careers in public  
4 service. Our late colleague, Gene Nickerson, who is the only  
5 one of that group to actually win elective office, came from  
6 that particular pool of talent.

7 Of course, the third group came from the academic  
8 world. The first such appointment was our senior colleague,  
9 Jack B. Weinstein, who I have often described here as a  
10 "jewel of the federal judiciary." Then came Joseph  
11 McLaughlin, who was the dean of Fordham law school, who we  
12 honor today, and I. Leo Glasser, who was the dean of Brooklyn  
13 Law School, and whose service overlapped almost completely  
14 Joe McLaughlin's service on this court. And last, but of  
15 course not least, David Trager, who was also a former dean of  
16 Brooklyn Law School, who succeeded Leo Glasser in that  
17 position, and who joined us in 1993.

18 The scholarly judicial work of these judges, their  
19 temperament and common sense and their experience in the  
20 world of thought and ideas was both a resource to their  
21 colleagues and a blessing to those who appeared before them.

22 It is fitting then that our first speaker today is  
23 Judge I. Leo Glasser, who served, as I said, with Joe almost  
24 from the date that the two were appointed.

25 Judge Glasser.

1                   JUDGE GLASSER:    I was at an occasion not very  
2                   long ago at which Judge McLaughlin was honored.  After being  
3                   introduced in laudatory terms which were embarrassingly  
4                   exaggerated, he rose in reply and said, "I am reminded of  
5                   Patrick O'Reilly who couldn't swim, fell into a vat of  
6                   Guinness and was heard to intone on his way down, "Lord, I  
7                   pray that my mouth is equal to the task."

8                   In trying to prepare for this afternoon, I  
9                   casually browsed through several volumes of the Federal  
10                  Reporter, on the spine of which there is sometimes found a  
11                  small black label which reads "Presentation of Portrait" of a  
12                  named judge.  The remarks made on presentations I read were  
13                  invariably filled with praise.  In this District, however,  
14                  experience has been that the occasion lends itself to a  
15                  eulogy or a roast, or a subtle blending of the two.  The  
16                  competing demands of truth and friendship are, for me, too  
17                  difficult to reconcile to be able to do justice to either a  
18                  eulogy or a roast.  And I couldn't effectively play the role  
19                  of devil's advocate either.

20                  The devil's advocate, you may recall, was  
21                  designated by the Roman Catholic Church to subject to the  
22                  most corrosive criticism any proposal to canonize a saint --  
23                  not to destroy the nominee's reputation, but to make certain  
24                  he was worthy of the great honor.

25                  I had some doubts about mentioning this at all.

1           Knowing a little bit about the wit of lawyers when it comes  
2           to talking about judges, I thought about the possibility that  
3           Judge McLaughlin would be referred to after today as "The  
4           Saint," but then I decided that, nah -- nobody would ever  
5           call him that. In any event, a corrosive criticism is not  
6           something that can conceivably be leveled at Joe.

7                         I will also not dwell on Joe's virtues. The  
8           reputation that he rightfully earned -- as a teacher, a  
9           scholar, a judge, and by his service to the profession as a  
10          whole by membership on numerous bar association committees  
11          for which he was recently honored -- is surely known by every  
12          person in this room. I would be remiss, however, if I didn't  
13          acknowledge the devotion and support of his charming wife,  
14          Frances, and of his admiring family, all of whom contributed  
15          to and undoubtedly made his impressive accomplishments  
16          possible.

17                        In thinking about the remarks I would make this  
18          afternoon, I was struck with how similar our lives have been  
19          and how frequently our paths have crossed over the years.

20                        We were both editors-in-chief of law reviews and  
21          spent a good number of years on the full-time faculties of  
22          our respective law schools. I first met Joe approximately 35  
23          or more years ago when we both gave bar review lectures under  
24          the auspices of The Practicing Law Institute. I guess that  
25          over the years we lectured to 50,000 or more lawyers. I used

1 to wonder in those days when the Italian-American  
2 Anti-Defamation League would descend in protest upon Joe's  
3 evidence lecture. He generously sprinkled that lecture with  
4 criminal law hypotheticals in which the defendant was always  
5 named Del Vermo -- never Murphy or Goldberg or Kowalski --  
6 but always Del Vermo.

7 Years went by, Joe was the dean of Fordham Law  
8 School and I was the dean of Brooklyn Law School and our  
9 paths would cross again at meetings of the Association of  
10 American Law Schools or at the ABA Section of Legal  
11 Education.

12 In November of 1981, Joe was appointed to the  
13 bench of this court -- and I was one month later. In 1983,  
14 Joe accepted an application of a young woman who came clear  
15 across the country to Brooklyn Law School from California to  
16 spend the fall semester of her third year as a student intern  
17 in his chambers. My son Jim was at Brooklyn Law School at  
18 the time. The two met at Woolworth's one day, subsequently  
19 married, and are the parents of two of my ten grandchildren.  
20 I don't believe I ever told you that, Joe, that you were the  
21 proximate cause of all that, and I thank you belatedly for  
22 enriching my life in that fortuitous way.

23 When the photos of the rest of us up there were  
24 unveiled, Judge Gleeson made the presentation, which was  
25 priceless. Looking up at them, he said that he understood

1           that the United States Attorney's Office, as part of its  
2           effort to sign up accomplice witnesses, started bringing them  
3           down here and telling them that if they don't cooperate  
4           they'll be indicted. Then, he said, the assistants point to  
5           those photos and tell them if they get indicted, there's a  
6           good chance their case will be assigned to one of those men.  
7           I suspect that what they will do now is tell them if they go  
8           to trial, get convicted, and then appeal, the chances are  
9           good that their case will be heard by that man at the end.

10                         Judge McLaughlin served on this court from 1981 to  
11           1990, when he departed for Foley Square. Having spent nine  
12           years in this, the most collegial of federal courts, having  
13           had the enviable position of being what someone once  
14           described as a shamefully underpaid spectator of the greatest  
15           show on earth, and having been on the Court of Appeals for  
16           some 12 years now, I wondered what Judge McLaughlin's view  
17           would be of what the late Judge Wyzanski was reputed to have  
18           said about being asked to serve on the Supreme Court. He  
19           said it was like being asked to spend a night with Cleopatra.  
20           First, of course, you would accept; second, you would have  
21           some doubts about your ability to perform; and, third, after  
22           you had done it, you would find that it wasn't as much fun as  
23           you thought it would be. We know, Joe, that you have  
24           performed admirably on Foley Square, and we hope that it has  
25           been as much fun for you as you might have thought it would

1 be.

2 My law clerks tell me that a WestLaw search  
3 revealed 580 published decisions during the nine years that  
4 Judge McLaughlin was here, with an indication that only 15 of  
5 those appear to have been reversed. Now that is a remarkable  
6 record. Those of us who are familiar with his opinions may  
7 wonder whether the 565 that were affirmed were written in  
8 Latin.

9 Many years ago, when I had a more immediate  
10 interest in such things, I read a book by Gilbert Highet,  
11 entitled "The Art of Teaching." Highet was the Anton  
12 Professor of Latin Language and Literature at Columbia. In  
13 that book, he devoted several pages to the powerful force of  
14 tradition. I recalled that book as I thought about the  
15 purpose served by these unveiling ceremonies and those  
16 purposes became apparent. To preserve tradition for an  
17 institution instills a sense of belonging among us and  
18 demands some responsibility for keeping that tradition alive.  
19 The tradition that we observe here today not only instills a  
20 sense of belonging among us, it also serves the purpose of  
21 memorializing for future generations the judges who served  
22 here and of whom it hopefully will be said, they served with  
23 a sensitivity to injustice without regard to the race, color,  
24 creed or gender of the litigants who came before them and  
25 who, through the classrooms that are their courtrooms,

1 transmitted the values of a free and civilized society.

2 I am told that the portrait or photograph of no  
3 former or senior Court of Appeals judge hangs on the walls of  
4 that court and that no or virtually no portrait of a former  
5 or senior judge of the Southern District hangs on the walls  
6 of that court. The reason why that is so is apparently not  
7 known, or may be as obscure as the reason given by the old  
8 farmer who wouldn't tell the "drummer" -- the traveling  
9 salesmen, that is -- what the time of day was.

10 The story is told by Joseph Mitchell of an old  
11 farmer who lived beside a little branch line railroad in  
12 South Jersey, and every so often he'd get on the train and go  
13 to Trenton to buy himself a crock of apple jack directly from  
14 the distillery. He did that one morning, went to Trenton,  
15 bought his crock, and that afternoon got on the train for the  
16 trip home. Just as the train pulled out, he took his gold  
17 pocket watch from his vest, looked at it and put it back. A  
18 drummer sitting across the aisle leaned over and said,  
19 "Friend, what time is it?" The farmer looked at him and said  
20 "Won't tell you." The drummer thought he was hard of hearing  
21 and spoke louder. "Friend, what time is it?" "Won't tell  
22 you," the farmer repeated. The drummer, exasperated, said,  
23 "For Lord's sake, why don't you tell me the time of day?"  
24 "If I was to tell you the time of day," the farmer said,  
25 "we'd get into a conversation, and I got a crock of spirits

1           between my feet and in a minute I'm going to take a drink and  
2           if we were having a conversation, I'd ask you to take a drink  
3           with me -- and you would -- and soon I'd take another and I'd  
4           ask you to do the same -- and you would -- and we'd get to  
5           drinking, and then the train'd would come to the stop where I  
6           get off, and I'd ask you to get off and spend the afternoon  
7           with me -- and you would -- and we'd walk up to my house and  
8           sit on the front porch and drink and sing, and along about  
9           dark my old lady would come out and ask you to take supper  
10          with us -- and you would -- and after supper I'd ask you if  
11          you would care to drink some more -- and you would -- and  
12          it'd get to be real late and I'd ask you to spend the night  
13          in the spare room -- and you would -- and along about two in  
14          the morning I'd get up to go the john, and I'd pass my  
15          daughter's room and there you'd be, in there with my  
16          daughter, and I'd have to turn the bureau upside down and get  
17          out my pistol, and my old lady would have to get dressed and  
18          go down the road to get the preacher, and I don't want no  
19          god-damned son-in-law who don't own a watch."

20                         Joe, we don't care whether you do or don't own a  
21          watch -- but we're very happy to have you hanging in our  
22          courthouse.

23                                 (Applause.)

24                                 CHIEF JUDGE KORMAN:     Our next speaker is Kevin  
25          Castel, the President of the Federal Bar Counsel.

1 MR. CASTEL: Chief Judge Korman, Honorable  
2 Judges, Judge McLaughlin, members of the Judge's Family,  
3 Ladies and Gentlemen:

4 I embarked on the study of law approximately 30  
5 years ago this September, and although I did not have the  
6 benefit of a Fordham education, it was by spring of my first  
7 year that I knew of this giant in the field of New York  
8 practice named Joseph M. McLaughlin.

9 Now, unlike some of my culturally impoverished  
10 classmates, no one needed to tell me that it was not  
11 pronounced "MacLoff-lin."

12 And I learned that, like the writings of St.  
13 Augustine, McLaughlin's Commentaries on the CPLR were not  
14 scripture themselves, but they gave a scholar a more profound  
15 understanding of the sacred text.

16 So, with all due respect, Judge Glasser, I believe  
17 that Judge McLaughlin has a legitimate claim on sainthood in  
18 a very liberal sense.

19 Upon completion of my academic studies, it came  
20 time to study for the New York Bar, and I was one of the  
21 50,000 students who attended the Practicing Law Institute  
22 seminars at the time. But I was a little bit leery of making  
23 the rather uncertain journey from Queens to Manhattan, so I  
24 sat in an empty classroom in front of a reel-to-reel tape  
25 recorder listening to the disembodied voice of a person I had

1 never laid eyes on, one Professor Joseph M. McLaughlin  
2 expounding on the tales of Del Vermo.

3 Now, in my mind, after listening to Professor  
4 McLaughlin for the 37th hour, I decided that he probably  
5 looked like a cross between Mel Allen and Joe Garagiola.

6 I went on to clerk for a Fordhamite by the name of  
7 Judge Kevin Thomas Duffy, who sits on a far and distant  
8 shore, and throughout the clerkship I heard about the  
9 witticisms of Dean McLaughlin. I then moved to Cahill Gordon  
10 & Reindel, and there I heard stories about a former associate  
11 by the name of Joe McLaughlin, who was a hard worker and had  
12 a great sense of humor. I began to wonder how many Joe  
13 McLaughlins there were in this town.

14 And over the years, McLaughlin, the educator, has  
15 made it his mission to shine the light of knowledge in the  
16 dark corners of our society. Let me give you a couple of  
17 examples:

18 A couple of years ago, Judge McLaughlin was  
19 honored by the New York County Lawyers Association with their  
20 highest award, and he came to the dinner in New York County  
21 and proceeded to lecture this proud organization, not about  
22 their own County, but of the virtues of growing up in  
23 Brooklyn. For him, education is an exercise which requires  
24 great courage.

25 Now, in a similarly bold move, Judge McLaughlin

1 was asked to address the Society of the Friendly Sons of  
2 St. Patrick at their anniversary dinner in March of 1987.  
3 Instead of starting off with cheap applause lines --  
4 Judge McLaughlin would have none of that -- he proceeded to  
5 reeducate the audience on Virgil, Homer, Rudyard Kipling.  
6 Only then did he launch into a description of Irish funerary  
7 practices.

8 And with the zeal of a missionary, Judge  
9 McLaughlin has taken the Tales of Del Vermo into the Borough  
10 of Queens by teaching at my alma mater, St. John's, where he  
11 has faithfully served as an adjunct professor from 1992 to  
12 1997.

13 Contrary to what you may have heard, today is not  
14 the public hanging of Judge McLaughlin; that apparently has  
15 already taken place.

16 We honor Judge McLaughlin today for his service to  
17 the citizens of the District and the country and, yes, it's  
18 true, he authored 500 opinions on the District Court, and I  
19 came up with a number of about 268 opinions since leaving the  
20 District Court. So you can see where most of his writings  
21 are placed.

22 His opinions are really like finely cut crystal.  
23 The reasoning is transparent and the logic is clear. He has  
24 instilled respect for our system in untold hundreds of jurors  
25 and citizens who have been sworn in, in this courtroom and

1 elsewhere. As future generations gaze upon this handsome  
2 portrait, I have no doubt that they will agree that Judge  
3 McLaughlin looks nothing like Joe Garagiola or Mel Allen.

4 Judge McLaughlin is bright, wise, and keenly  
5 interested in people. Judge McLaughlin is held in extremely  
6 high regard by the Bar, and on behalf of the 1700 members of  
7 the Federal Bar Council, and all practicing lawyers in this  
8 District and throughout the City of New York and the entire  
9 Second Circuit, I congratulate him on this great honor.

10 (Applause.)

11 CHIEF JUDGE KORMAN: Our next speaker is Judge  
12 McLaughlin's first law clerk, Edward Tighe.

13 MR. TIGHE: Thank you, Judge Korman.

14 I wasn't actually Judge McLaughlin's first law  
15 clerk, perhaps his first law clerk of historical  
16 significance.

17 Speaking ahead of Judge McLaughlin, I feel a  
18 little like Frank Sinatra, Junior, just warming up the crowd  
19 for the Old Man. By the way, no good can possibly come of  
20 this.

21 At any rate, I appear today on behalf of  
22 McLaughlin clerks everywhere -- the long gray line. At last  
23 count we numbered 36, slightly fewer than the College of  
24 Cardinals in Rome, but better instructed by the Judge in  
25 matters of Canon Law.

1                   That's our group photo hanging in the back of the  
2 courtroom.

3                   Well, as did Dickens, let us begin our story at  
4 the beginning. March the 10th, 1982:

5                   "Dear Ed, I am delighted to offer you a position  
6 as my law clerk for the year 1982-83. While this is a  
7 one-year clerkship, I would ask you to give some thought to  
8 making it a two-year clerkship in the event that after your  
9 first year we both agree that this would be a good idea."

10                  "I am looking forward to working with you, and I  
11 am confident that you will find it a worthwhile experience.  
12 Please call Georgene at your convenience to start arranging  
13 things for next year. Sincerely, Joseph M. McLaughlin,"  
14 signed, I might add, by the Judge's long-time secretary,  
15 Kathy Keenan, in her finest Catholic school Palmer method,  
16 which, by the way, bears not the slightest resemblance to the  
17 Great Man's own imprimatur.

18                  At any rate, what came into this world as a humble  
19 business record has, with the passage of 20 years, achieved  
20 the exalted status of a ancient document and is among my most  
21 treasured keepsakes.

22                  Where has the time gone, Judge?

23                  In the summer of 1982, when I reported aboard for  
24 duty, the Judge called me into his chambers and offered me  
25 the following advice: "Ed," he said, "you only need two

1 things to work for me: a sense of humor and a sense of  
2 loyalty."

3 I quickly learned that most of the humor would be  
4 at my expense, but I also learned that that is the surest  
5 sign of the Judge's regard and affection.

6 As to the drafting of his opinions, the Judge  
7 instructed me as follows: "If I'm reversed by the Second  
8 Circuit then so be it, but I never want to have an opinion  
9 remanded for lack of clarity."

10 The first opinion that I worked on, an injunction  
11 in a labor dispute, was immediately reversed and remanded --  
12 but, I hasten to add that each of the Second Circuit judges  
13 remarked upon its astonishing clarity. Thankfully, only 14  
14 more of the opinions that I worked on were reversed. I can't  
15 imagine how Judge Glasser's clerks found them all.

16 My two years with the Judge were easily the best  
17 two years of my professional life. During that time, I  
18 learned many valuable lessons, one of which has served me  
19 well to this very day. When a buddy of mine got into hot  
20 water for saying too much to a reporter, I shared with him  
21 Judge McLaughlin's succinct advice on such matters.

22 Shortly after my arrival in chambers, the Judge  
23 began the IRA gun-running case -- a 13-week criminal trial  
24 that sparked a tremendous amount of international interest.

25 At any rate, halfway through the trial, a local

1 news station called to confirm some fact or other, and I went  
2 straightaway to the Judge to ask his policy on dealing with  
3 the press. He looked up from his reading, took a puff from  
4 his cigar and gave me the following instructions: "Give them  
5 nothing, and damn little of that." Since that day I have  
6 governed myself accordingly.

7 I also learned quite a lot about the rules of  
8 evidence while clerking for the Judge, an acknowledged master  
9 of the subject. When one of the IRA defendants took the  
10 stand and began a detailed and colorful recitation of the  
11 history of Ireland's troubles, the government's lawyer sprang  
12 to his feet, objecting on grounds of relevance and moving to  
13 strike.

14 "I'll allow the testimony," said the Judge. "On  
15 what grounds?" protested the lawyer. "It's interesting,"  
16 said the Judge.

17 But the Judge was quite evenhanded in his  
18 treatment of the attorneys in the IRA case. When one of the  
19 defendants called an auxiliary bishop from Brooklyn as a  
20 character witness, it soon became readily apparent that the  
21 bishop had only the foggiest notion of who the defendant was,  
22 such that the government hardly bothered to cross-examine.

23 Taken by surprise, and having no further witnesses  
24 lined up, the defendant's counsel asked the Judge to adjourn  
25 for the day. At sidebar, the Judge inquired pleasantly,

1 "What's the matter, Murphy, Rent-a-Bishop closed?"

2 At another point in the trial, one of the defense  
3 attorneys requested a sidebar to protest one of the Judge's  
4 evidentiary rulings. Running low on patience, the Judge  
5 finally said, "I thought you told me you were a law  
6 professor."

7 "I am, your Honor," said the attorney.

8 "Well it's a good thing you don't teach  
9 evidence," said the Judge.

10 "But I do, your Honor," said the attorney.

11 I also recall that at some point during that  
12 trial, the Judge's secretary at the time, who shall remain  
13 nameless, delivered a note to the Judge on the bench before a  
14 jam-packed courtroom. Intending to leave the courtroom  
15 through the side door, the secretary instead opened the wrong  
16 door and, unbeknownst to the crowd, walked into the lawyers'  
17 tiny little cloakroom, where she remained out of  
18 embarrassment for some 20 minutes until the Judge mercifully  
19 declared a recess and set her free. I can still see her  
20 standing there, blinking her eyes in the bright lights of the  
21 courtroom.

22 Each day when the Judge took the bench, I watched  
23 him greet attorneys with courtesy and respect, ready to  
24 indulge any colorable claim, as they say. A sunny "What can  
25 I do for you?" is invariably the first line of any McLaughlin

1 transcript.

2 Still, he had little patience for incivility or  
3 lack of preparation, and was not above restoring a wayward  
4 lawyer to his proper place, as only the Judge could do. But  
5 I never saw him go overboard in that regard -- reasonable  
6 force under the circumstances was always his rule.

7 I recall the time a woefully unprepared attorney  
8 attempted to ingratiate himself with the Judge in chambers by  
9 complimenting him effusively on the suit he was wearing. The  
10 Judge responded by saying, "Thank you. I'd like to return  
11 the compliment, but honesty forbids it."

12 On another occasion, a plaintiff's attorney came  
13 before the Judge asking to be removed from his case --  
14 against his client's wishes, I might add. The attorney  
15 actually argued that his client's claim, although  
16 meritorious, was not worth as much as the attorney had first  
17 believed.

18 The Judge responded by saying, "May I remind you,  
19 Sir, that this is a profession. We're not selling ladies'  
20 underwear here."

21 During oral argument of the summary judgment  
22 motion in the Army Chaplaincy case, the plaintiffs, who, to  
23 the best of my recollection, were representing themselves,  
24 argued before a crowded courtroom that the Army Chaplaincy  
25 Program was essentially a superfluous anachronism, an

1           unwarranted drain on the public fisc, and unconstitutional to  
2           the core.

3                         The Judge, a veteran of the Korean War, listened  
4           politely, and when they had finished, said softly, "We found  
5           them mighty comforting at Wee Jon Bu."

6                         The Judge, as you know, is a masterful writer and  
7           a vigilant guardian of the King's English. Once, in an  
8           immigration case, the petitioner's lawyer, who was seeking a  
9           restraining order against his client's imminent deportation,  
10          began his argument by saying excitedly, "Your Honor,  
11          circumstances have literally catapulted me into your  
12          courtroom this morning."

13                        After discretely scrutinizing the ceiling panels  
14          for evidence of damage, the Judge assured the lawyer that,  
15          given his chosen means of conveyance, he looked none the  
16          worse for wear.

17                        On another occasion, an enthusiastic attorney used  
18          the word "all-bite" continually throughout the course of his  
19          argument. Finally, the Judge's curiosity got the best of  
20          him. "Spell the word "all-bite," he demanded.

21                                 "A-L-B-E-I-T" said the attorney.  
22                                 "Do you mean 'all-be-it?'" asked the Judge.

23                                 "I suppose so, your Honor. I've seen the word  
24          before, but I've never actually heard it pronounced."

25                                 Once, in a criminal insurance fraud case, the

1 government's lawyer had skillfully led his cooperating  
2 witness to the punch line of his testimony.

3 "What was the condition of the speed boat when  
4 you last saw it?" asked the lawyer. "It was completely  
5 'mangulated,'" answered the obliging witness.

6 This, of course, prompted several follow-up  
7 questions from the Judge.

8 Given the volume of cases that came through the  
9 court, sometimes even the Judge made a slip of the tongue,  
10 "all-bite" on rare occasions. My favorite was during an  
11 arraignment in which the defendant, who was charged with  
12 criminal tax evasion, had just entered his plea of not  
13 guilty -- emphasis on the "not."

14 The Judge then concluded the proceeding by telling  
15 the defendant, "I want to assure you that nothing will be  
16 done to prejudice your rights until the time of sentencing."

17 I also recall the time that an English barrister  
18 appeared before the Judge and addressed him continually, and  
19 without correction I might add, as "Your Lordship."

20 Subsequently, and for a period of several days, the Judge  
21 adopted the royal "we" in his dealings with his law clerks.  
22 "You there, Clerk. We are most displeased with  
23 our draft."

24 In fact, it was at about this time that I asked  
25 the Judge if a particular attorney was deserving of his

1 reputation as a great lawyer. "Ed," the Judge responded,  
2 "there are only a few great lawyers in this whole city, and  
3 we know who we are."

4 Nor was there ever a dull moment in chambers. One  
5 morning I was sitting at my desk, perusing the New York  
6 Post's engrossing cover story: "Headless Body Found In  
7 Topless Bar." My professional reading period was interrupted,  
8 however, when the Chief Marshal burst into chambers,  
9 demanding to see the Judge immediately.

10 Months earlier, the Judge had sentenced a  
11 gentleman by the name of Sal following his guilty plea. The  
12 marshal was there to alert the Judge that Sal had just  
13 escaped from a federal penitentiary in Florida and might be  
14 headed back to New York.

15 The reported circumstances of Sal's escape defy  
16 belief. Apparently, he was playing left field on the prison  
17 baseball team. When the batter connected, Sal was off with  
18 the crack of the bat, and, not unlike the ball itself, he was  
19 going, going, and ultimately gone -- over the left field  
20 fence and through the adjoining swamp. Did I mention that  
21 this was a minimum security prison?

22 When I asked the Judge if he was concerned about  
23 Sal's possible reappearance, he said, "not in the least."  
24 When I asked him why not, he explained that he had recently  
25 signed an order directing the prison's warden to provide Sal

1 with a new set of false teeth. The Judge seemed to believe  
2 that if Sal were to show up on the Judge's doorstep, it would  
3 only be to say thanks for his dentures.

4 Anyone who has ever clerked for Judge McLaughlin  
5 can tell you that he remains available long after the  
6 clerkship to offer his support and advice.

7 In 1994, when I was under consideration for a  
8 position as a labor attorney at the N.F.L., I listed the  
9 Judge as a reference. After my interview with Dennis Curran,  
10 the N.F.L.'s counsel, Dennis called the Judge and expressed  
11 some misgivings about my candidacy.

12 Dennis explained that he was looking for someone  
13 to represent the N.F.L. Clubs in rough-and-tumble  
14 arbitrations against the union, and that I had come across as  
15 a little too "academic" to be successful in such endeavors.  
16 To which the Judge responded in his inimitable style, "Well,  
17 I suppose Tighe could pass himself off as an academic if he  
18 thought there were anything in it for him, but I can assure  
19 you, you really needn't worry on that account." All  
20 lingering doubts about my pedigree having been satisfactorily  
21 resolved by His Honor, I was hired by the N.F.L. that very  
22 day.

23 I began by mentioning the Judge's twin ingredients  
24 for a happy life: humor and loyalty. As to loyalty, lest you  
25 think that the Judge does not abide by the same high

1 standards that he sets for others, I'd like to close by  
2 sharing with you the final line of a letter I recently  
3 received from him. I quote:

4 "I assure you that, as the Irish loved to say, I  
5 will stand at your back till the belly is kicked out of you."

6 When you live your life as Judge McLaughlin lives  
7 his, is it any wonder that good people come together to honor  
8 you and to hang your portrait in a public place?

9 (Applause.)

10 CHIEF JUDGE KORMAN: Now our Honoree, Joe  
11 McLaughlin.

12 JUDGE McLAUGHLIN: Thank you, Ed. It took me  
13 hours to write that. He spoke good.

14 I have been complimented several times in my  
15 lifetime, yet they always embarrass me. I always feel that,  
16 with the exception of Ed Tighe, they don't go on long enough.  
17 I now begin to understand why so many people greeted news of  
18 my hanging with such glee, and I am thankful that an  
19 introduction is not an affidavit.

20 As my eyes swept across these portraits, the  
21 austere countenances of my predecessors stirred up memories  
22 of what great judges this court has attracted. Some were  
23 right out of Dickens. Arguably, the most memorable was Judge  
24 Robert Inch, whom Learned Hand (who had a rather low opinion  
25 of Inch's talents) constantly referred to as Judge

1 Millimeter. He served on this bench from 1923 to '58.

2 No one would have characterized Judge Inch as a  
3 slave of convention. Some of you knew the court when it was  
4 across the street in the post office; the heat there was  
5 unbearable, and on a day like this was simply sweltering.  
6 Judge Inch's solution was to appear on the bench, clad only  
7 in his robe, under which he wore his shorts and a pair of  
8 slippers.

9 He could slip in and out of the court  
10 unobtrusively because the door of his chambers opened  
11 directly onto the bench. This worked well until, one summer  
12 day during World War II, a sudden fire drill was called and  
13 the wardens herded everyone, including Judge Inch, out onto  
14 the sidewalk. There, a vagrant breeze blew his cover.

15 As I look out on the sea of smiling faces, it is  
16 difficult to duck the cascade of memories that well up at  
17 this point. Nostalgia may not be what it used to be, but the  
18 phantom from my career as a district judge flits regularly  
19 before me. Ed Tighe has brought back many of these memories.

20 A few that evaded his recollection: On voir dire,  
21 one of the standard questions is: "What do your children  
22 do?" And I asked that one day of a prospective juror. I  
23 said, "What are your adult children doing now?" There was a  
24 pause and then the juror answers, "Two to six in Otisville."

25 Another standard question is: "Is there anyone,

1 close friend or relative, that you know who works in law or  
2 law enforcement?" I asked the 18 prospective jurors. One by  
3 one, they proudly told us about their cousins who were cops  
4 and friends, who were security guards.

5 One woman was quite shy. "My husband is a  
6 lawyer," she said, in a barely audible voice. "Does he  
7 practice criminal law?" I asked. "Yes. He does real estate  
8 development."

9 The conduct of trials, as Ed has pointed out, is  
10 not without its light moments. It is standard practice in  
11 the criminal practice, at the criminal bar, for a defense  
12 counsel, if he has a client who has a criminal record, to  
13 bring it out on direct. As you know, this takes the sting  
14 out of the anticipated cross-examination.

15 Well, in this particular case, defense counsel  
16 forgot to ask it on direct. On cross-examination by the  
17 Assistant, it went as follows: "Sir, have you ever been  
18 convicted of a crime?" "Yes." "How many times?" "Twice."  
19 "What were they?" "Larceny and assault with a deadly  
20 weapon." "Are those the only two?" "Yes." "Are you sure?"  
21 "Yes, two. This will be my third."

22 I am not the first to observe that the weakest  
23 judge from the District Court appointed to the Circuit Court  
24 often raises the average IQ of both courts. In my case this  
25 was only half true, but I forget which half.

1                   An important part of being an effective appellate  
2 judge is the selection of good law clerks. Ed Tighe made  
3 that point rather clear. There is no dearth of applicants;  
4 hundreds of applications come through each year. About a  
5 dozen are brought in for interviews, of whom two are  
6 selected.

7                   You would be amazed at the blunders that occur  
8 during this process. I asked one candidate to give a good  
9 illustration of the organization skills she was boasting  
10 about. She said she was proud of her ability to pack  
11 suitcases real neat. She said she had just graduated cum  
12 laude. She had no idea what cum laude meant. She was,  
13 however, proud of her grade point average -- 2.1.

14                   Letters of recommendation are routinely provided,  
15 though I personally place very little reliance upon them.  
16 Many are living testaments to the conclusion that  
17 proofreading must now be numbered among the lost arts.

18                   I have two that I would like to call your  
19 attention to. One is from a Stanford law school professor,  
20 who is singing the praises of one of his students.

21                   "Her legal research and writing instructor showed  
22 me the first draft of her long research memo as an example of  
23 the best the class could produce. I was dazzled by its  
24 fluency, elegance, and acute analysis. Here is one student  
25 who comes with a full warranty on what a judge needs moist."

1                   Here's a letter from a Duke law professor: "I  
2                   write to recommend X to you for a judicial clerkship. For  
3                   sheer intellect and analytical power, I do think you could do  
4                   much better."

5                   It is very easy in the monastic setting of an  
6                   appellate court to lose touch with the realities of trial  
7                   practice and the day-to-day tribulations of the trial bar.

8                   I am acutely sensitive to the parochialism shown  
9                   by a learned Irish judge sitting in the Central Courts of  
10                  Dublin, who granted a judgment against a defendant, a humble  
11                  turf digger, with the terse holding that, quote: "This is a  
12                  classic application of the ancient common-law rule of *res*  
13                  *ipsa loquitur*."

14                  When the defendant and his counsel stared blankly  
15                  at each other, the eminent jurist pontificated, "Surely you  
16                  and your client are familiar with *res ipsa loquitur*?"  
17                  Responding, the lawyer said, "My Lord, on the windswept,  
18                  bleak and rocky West Coast of Kerry, where my client ekes out  
19                  his modest living, at the close of his daily labor, he and  
20                  his neighbors sit in front of the turf fires in their lonely  
21                  thatched roof cottages and they drink their poteen, are they  
22                  familiar with *res ipsa loquitur*? My Lord, they talk of  
23                  little else."

24                  As Yogi Berra said, "I want to thank everybody  
25                  here who made this occasion necessary." I won't presume to

1 describe today's ceremony as necessary, but it is one that my  
2 family and I shall long remember, and I am profoundly  
3 grateful that you shared this day with us.

4 At the risk of sounding both ungrateful and  
5 immodest -- and I know it's too late now -- but if I had been  
6 consulted earlier, I might have advised Chief Judge Korman,  
7 or the powers that be, how things are done in the University  
8 of London.

9 Jeremy Bentham, though not the founder of  
10 Utilitarianism, is generally regarded as its principal  
11 spokesman. It is a philosophy whose fundamental tenet is  
12 that what will bring the greatest happiness to the greatest  
13 number is the true measure of a good act.

14 The year before he died, Bentham wrote a pamphlet  
15 entitled "Auto Icons, or Further Uses of the Dead to the  
16 Living." In it, he speculated whether any pleasure might be  
17 conferred on a society by a dead man. Bentham answered, Yes.  
18 Aside from their obvious usefulness in anatomical study, he  
19 wrote, corpses of exceptional individuals, whether geniuses  
20 or villains, might be preserved and displayed for the  
21 inspiration of future generations. Implementing this  
22 thought, he left his entire estate to the University of  
23 London on condition that he be dissected, stuffed, posed, as  
24 if deep in thought, and placed in an appropriate receptacle  
25 at University College.

1                   Further, he requested that his Auto Icon be  
2                   present at every board meeting of the University. His last  
3                   wishes have been granted to the letter and the board minutes  
4                   faithfully record his attendance as "present, but not  
5                   voting."

6                   Now, by way of conclusion, I propose to the  
7                   Eastern District Board of Judges that when the time comes for  
8                   me to cross the Great Divide, they retain a taxidermist to  
9                   exercise all of his skills and artistry to perform the  
10                  necessary services, so that not only my spirit but my very  
11                  body may be ensconced in this Ceremonial Courtroom, if not,  
12                  indeed, in the lobby. In this manner, like Bentham, I will  
13                  always inspire the court's deliberations and I will rest  
14                  eternally secure in the knowledge that though I may be  
15                  forgotten, I will never be gone. Thank you.

16                  (Applause.)

17                  CHIEF JUDGE KORMAN: I invite you all to join us  
18                  for a reception in the corridor outside the courtroom. We  
19                  stand adjourned.

20                  (Proceedings concluded.)

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