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TRIBUTE TO JOHN MINOR WISDOM

*Rhesa Hawkins Barksdale**

On 27 May 1999, a memorial service was held for John Minor Wisdom in the Great Hall of our courthouse in New Orleans, the building named so appropriately for him in 1994. Having served on our court for forty-two years, he died on 15 May, just two days shy of his 94th birthday. The crowd numbered almost 500. In addition to his family, there to honor the life he so nobly led were clergy, lawyers, judges, government officials, court personnel, the media, and others. Most especially, his former law clerks were there in large number. A traditional New Orleans funeral jazz band named the Dirty Dozen Brass Band played as the crowd departed; he would have loved that.

The tributes were moving and uplifting. Next to the sympathy I felt for his family that loved him so, what touched me most was the visible and profound sorrow of his many former law clerks, as shown in their eyes after the ceremony was over. They were reddened and moist, bearing moving testament to the clerks' love for him.

Two of those clerks immediately come to mind, because we have been good friends for almost thirty years, having clerked at the Supreme Court during its October 1972 Term. One came from Washington D.C. for the memorial; the other, from New York, having moved there after living most of his life in New Orleans. The former was married in Judge Wisdom's home, and the Wisdoms stayed in his home when in Washington; the latter hosted a beautiful dinner party at his home for Judge Wisdom on the occasion of the building being named for him.

The year before our Supreme Court clerkships, these two former clerks clerked for Judge Wisdom, affectionately known by his clerks and others as "The Judge." They were my introduction to that great man, whom I first met in the spring of 1973 when he came to the Supreme Court for a dinner and stopped by the chambers where I clerked. Thereafter, I saw the Judge on occasion. In 1990, I was appointed to fill the position he had held while on active status with our court. When he took senior status in 1977, the late Judge Alvin Rubin of Louisiana was appointed to his seat. I was appointed from Mississippi to the seat held by Judge Rubin, which he had named the "Wisdom Seat." So, I have the good fortune to hold the "Wisdom Seat."

In high school, we memorized these lines from "A Psalm of Life" by Henry Wadsworth Longfellow: "Lives of great men all remind us; We can make our lives sublime. And, departing, leave behind us; Footprints on the sands of time." John Minor Wisdom was such a person, such a guiding light. Certainly, his record attests to the splendid life he led. It need not be repeated in detail here.

* Judge, United States Court of Appeals for the Fifth Circuit, began service in April 1990; United States Military Academy, 1966; United States Army, including service in Vietnam, 1966-1970; University of Mississippi School of Law, 1972; law clerk to Justice Byron R. White, Supreme Court of the United States, October Term 1972; practice of law, Jackson, Mississippi, 1973-1990.

Suffice it to say that he was described recently as one of the ten most influential New Orleanians of the past century. I will mention only a few of the many highlights.

The Judge was born in New Orleans, Louisiana, on 17 May 1905. He graduated from Washington & Lee in 1925; his father, in 1873. (But, when his father entered the college, it was named just for Washington; Robert E. Lee was serving as its president!) After graduating from Tulane Law School in 1929, the Judge practiced law for almost thirty years. He was married for almost sixty-eight years to Bonnie Stewart Mathews. With that unique twinkle in his eye, joy in his melodious, equally unique voice, and that big smile on his patrician face, he often described his marriage as the cornerstone of his life—over sixty years of joy, with never a moment's peace.

Judge Wisdom served in the Army Air Corps in World War II, rising to the rank of Lieutenant Colonel. Moreover, he helped establish the modern Republican Party in Louisiana and was a central figure in the 1952 Republican national convention and campaign for President Eisenhower. Judge Wisdom was appointed to the Fifth Circuit in 1957. He could have been appointed much earlier, but before he accepted the appointment, the Judge ensured that others who had assisted in the campaign received positions.

As noted, our courthouse is named for him. Among his countless other honors, he was presented with the Presidential Medal of Freedom. When I first met him in 1973, he was already quite famous. But it is not his fame that I most remember and now write about. Instead, it is his basic goodness. That is why he was, and is, so loved.

On meeting the Judge in 1973, I was struck immediately by his bearing, the sparkle in his eye, his kindness, his warmth, his wit, and his sense of humor (he laughed about his office being so much larger than that of Justice White, for whom I clerked). Judge Wisdom was the kind of man you listened to, respected, and liked instantly.

Those feelings were engendered all the more when I joined our court in 1990. Although he was almost eighty-five, forty years my senior, he insisted as he did with every new judge on our court that I call him "John." I was always touched by how often our judges, especially those who lived in Louisiana, insisted, instead, on calling him "Judge."

In 1994, when our courthouse was named for the Judge, his former clerk, with whom I later clerked, said this:

Maybe his most important contribution is one that will live long after him. He has trained, encouraged, and taken a deep interest in dozens of young lawyers, like me, who have served as his law clerks, been students in his classes, attended his lectures, or simply had the opportunity to meet him. For us, Judge Wisdom is everything that a judge should be and everything that a human being can be.

The boundless respect, admiration, and love reflected in that statement was, and is, truly felt by countless others. Why? The reasons are unlimited; they include the Judge's brilliance, his kindness, his warmth, his wit, his thirst for knowledge,

his innate goodness, his modesty, his drive, his pursuit of excellence, his love of truth, his loyalty, his generosity, and his courage. I could continue *ad infinitum*.

All of this shines through in the writing instructions the Judge gave his law clerks at the start of their clerkship (and which I now give to mine). They are titled "Wisdom's Idiosyncrasies." Each is a gem. Let me share just a few:

One word instead of two; two instead of three, five – so on.

No weasel words – *very, quite, rather, somewhat*.

Usually – *no* split infinitive. But remember Churchill's admonition, "Up with this I shall not put;" that is, there are exceptions to every rule.

Proved, not proven – unless you are on a jury in Scotland coming in with a verdict, "Not Proven."

Avoid vogue words. Current examples are *scenario, parameters, and interface*; there are many others.

Beware of metaphors. Try as you may, you will never achieve the bizarre mixture some judges achieve. Forget the dead and dying metaphors. An admiralty case does not call for a reference to the court's "steering its way through the muddy waters." If you use a metaphor, do not drag it through the opinion.

And, of utmost importance, Judge Wisdom instructed: "No puns, no witticisms *at the expense of the litigant*." (Emphasis added.)

John Minor Wisdom was made of strong stuff. He never quit, despite many infirmities that would have long before stopped a lesser man. He kept coming to his chambers, kept working, kept hearing oral argument, kept writing, and kept radiating the many qualities that combined to make him a gentleman and a great man.

Visit our (his) courthouse. Look at his name on it, at his bust that greets you on entering, at his portrait in the library he loved, at his office from his former chambers (that, in his memory, will be used by senior judges in New Orleans for a sitting), and at his magnificent chandelier that he donated several years ago for our refurbished en banc conference room (which, he joked, had been a bequest in his will that he felt he had better present prior to his death, because it appeared he would outlive quite a few of us). You will feel his presence, his force.

As his law clerk predicted, his indomitable spirit lives on.

