CHIEF JUDGE JOHN T. LOUGHRAN

Judge Susan Phillips Read*

I have chosen to talk about Judge John Thomas Loughran, who served as an Associate Judge on the Court of Appeals from 1934 to 1945, and as Chief Judge from 1945 until 1953. Many of you may be unfamiliar with Judge Loughran’s life or jurisprudence. I will confess that I was not even certain how to pronounce his name before Judge Rosenblatt suggested Judge Loughran as my subject for today’s presentation. After a little research, however, I recognized—as usual—the wisdom of Judge Rosenblatt’s counsel.

First some biographical details. Judge Loughran was born in Kingston, New York on February 23, 1889. His parents were Irish-American; his father was a successful small businessman. He was educated at local parochial schools, and the Kingston Academy, from which he graduated in 1907. While Judge Loughran was a student, he worked as a reporter for the Kingston Daily Freeman covering the action at the local courthouse. This experience piqued his interest in the law, and so he enrolled at Fordham Law School.

Judge Loughran was an exceptionally gifted student. He possessed a photographic memory, which allowed him to quote and cite cases with ease; his writing, sharpened by his experience as a part-time newspaper reporter, was concise and lucid. Given these natural assets, it is not surprising that Judge Loughran graduated summa cum laude in 1911, or that the law school offered him a post on the faculty at the age of 23. Upon graduation, he also entered into the private practice of law, first as a solo practitioner, and later in partnership. In his 18 years on the faculty at Fordham, Judge Loughran wrote textbooks and law review articles—usual grist for the law school mill—and taught a broad array of courses, including agency, carriers, contracts, criminal law, evidence, New York practice, pleading, quasi-contract, sales, suretyship, and torts.

In 1930, Judge Loughran’s skills and reputation propelled him to nomination and election to Supreme Court in the Third Judicial

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District. He was a stand-out judge. As a result, in 1934, Democratic Governor Herbert Layman appointed him to the Court of Appeals to fill a vacancy created by resignation. Judge Loughran was easily elected to the Court of Appeals in November 1934 after his endorsement by both the Democratic and Republican parties.

In 1945, Republican Governor Thomas E. Dewey appointed Judge Loughran the Chief Judge of the Court of Appeals to fill another vacancy, this one created by the death of Chief Judge Irving Lehman. In November 1946, Judge Loughran, who was again cross-endorsed, was elected Chief Judge. He remained on the bench until his death of a heart attack in 1953 at the age of 64.

Judge Loughran was renowned as a consummate legal craftsman and wordsmith. Indeed, these qualities inspired Francis Bergan to write a book entitled Opinions and Briefs: Lessons from Loughran. In his wonderful recent book, Evolution of the Judicial Opinion: Institutional and Individual Styles, William D. Popkin, Professor Emeritus at the University of Indiana Law School, calls the judicial opinion “the public face of the judiciary,” and explains the ways in which individual style—the voice and the tone employed by a judge to explain an appellate court’s decision—contributes to this public face. For his part, Judge Loughran’s individual style featured, “marked economy and condensation . . . Tell[ing] the reader what the case [stood] for without wasting his time or getting lost in the telling,” enhanced by graceful turns of phrase. Let me give you two examples.

_Hoose v. Drumm_ was an action for personal injuries brought by a minor’s guardian ad litem against the trustees of a school district. Judge Loughran told us all the facts that we need to know in one paragraph as follows:

Plaintiff, ten years old, was a boy pupil in a district school of which the defendants were the trustees. On February 16, 1937, one of his eyes was destroyed by a goldenrod stalk thrown by another pupil when the school was at recess. The casualty happened on a part of the school property that was separated from the playground by a roadway. There was evidence that theretofore the pupils had torn off goldenrod stalks and thrown them at each other and that other boys had been thereby injured. There was evidence that the stalks grew in a ravine and that pupils playing there could

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4 22 N.E.2d 233 (N.Y. 1939).
not be seen from the school house or the playground. There was evidence that the trustees knew the physical situation. There was evidence that no teacher was with the plaintiff and his companions on the occasion in question.\(^5\)

Notice how he presents the facts, not only concisely, but fluidly. The repeated cadence—"There was evidence that," "There was evidence that"—and the varying sentence lengths make the paragraph almost musical.

Next, Judge Loughran sets out the statute specifying the powers and duties of the trustees of a school district: "To establish such rules and regulations concerning the order and discipline of the schools as [the trustees] may deem necessary to secure the best educational results." The sole question left to the jury in this case was, therefore, "[w]hether default of that duty was the proximate cause of the plaintiff's injuries." Judge Loughran concluded that the case was "outside the statutory direction." In particular, by this statute, "the Legislature did not . . . intend to cast upon school trustees or boards of education the burden of an attempt to fashion guides for the safe conduct of pupils in the indulgence of their boundless natural instincts for self-amusement."\(^6\) Nicely put, don't you think? Accordingly, the Court of Appeals upheld Supreme Court's judgment granting the trustees' motion to set aside a verdict in plaintiff's favor and dismiss plaintiff's complaint.

\textit{Landsman v. Landsman}\(^7\) is another incisive gem from Judge Loughran's pen, involving a marital dispute. In the first paragraph, Judge Loughran gives us the gentleman's side of the story as follows:

The parties went through a marriage ceremony at a time when the defendant already had a husband. To be sure, she had previously obtained a decree annulling her earlier marriage but that decree had not yet become final when she tried to marry the plaintiff. On these facts, he here demanded a judgment that would declare his union with her to be a nullity.\(^8\)

Notice the care with which Judge Loughran chose his words, and perhaps deliberately suggested the Court's ultimate conclusion. He says that the parties "went through a marriage ceremony," and the defendant "tried to marry" plaintiff, and that the gentleman sought to

\(^5\) Id.  
\(^6\) Id. at 234.  
\(^7\) 96 N.E.2d 81 (N.Y. 1950).  
\(^8\) Id. at 82.
dissolve not a marriage but a “union.”

In the next paragraph, Judge Loughran put the case for the lady in question, who charged plaintiff with having deceived her by false representations in respect to the effectiveness of her interlocutory decree. On that basis, she demanded a judgment (1) dismissing his complaint in this annulment action; (2) separating her from his bed and board forever, upon the ground of his abandonment of her; (3) awarding her alimony; and (4) permitting her to recover monies which she claimed she had lent him.\(^9\)

The trial court had largely ruled in the lady’s favor, and the Appellate Division agreed. Not so the Court of Appeals. Citing Domestic Relations Law § 6, Judge Loughran explained that

\[\text{[w]ith exceptions that are here without application, the law of this State denounces as void a marriage by a person whose husband or wife by a former marriage is living. Thus, the attempted marriage here in question was wholly without validity from its beginning; it created neither right nor duty; it gave neither scope for recrimination nor room for any counteractive estoppel. Hence, there could be no offense against it and, that being so, the plaintiff was free to bring this annulment action though he did not come to the court with clean hands. Hence, too, the defendant—though she may have acted in good faith—has no right to the judgment of separation that was awarded to her by the courts below. This result, we think, is dictated by the statute for reasons that can be readily seen.}^{10}\]

Again, Judge Loughran disposes of the legal issue in a very few words, almost rhythmically deployed.

There are, of course, many more examples of Judge Loughran’s exemplary style in the 41 volumes of New York Reports in which his writings appear. I would encourage those of you interested in good legal writing—as all of the lawyers and aspiring lawyers in the audience certainly should be—to browse those volumes and read a few of his many opinions at random.