

## TRIBUTE TO JUDGE STEWART F. HANCOCK, JR.

*Richard D. Simons\**

I speak to you this morning as a Judge who worked more than fifteen years with Stewart Hancock in the Appellate Courts of New York and several years following our retirements developing a legal system and establishing a court for the Oneida Indian Nation.

Stewart Hancock was educated at the U.S. Naval Academy and he completed two tours of active duty with the Navy—one after graduation and one in combat during the Korean War. He graduated with honors from Cornell Law School and then he turned to an active legal practice in Syracuse with the law firm Hancock and Estabrook. It was during this time that Stewart made the wisest decision of his life—he married Ruth Pass and they began to raise a family. Eventually, he joined the court system and became one of New York’s most distinguished judges. His remarkable career added luster to a distinguished family history in the law.

Stewart and I sat together on collegial courts. Collegial courts, whether they consist of three judges or nine or some number in between are established with the hope that many heads addressing a problem are better than one. In the best appellate courts the members exercise a synergistic influence on each other which enlarges the ability of the membership of the court as a whole. Stewart was an ideal candidate to sit on a collegial court. He was a judge of superb intellect and great curiosity. He read the briefs, studied the law and then began his questioning, seeking to expand his knowledge and his thinking.

Stewart loved his work, every matter before him received his full attention, and he loved the challenge of a difficult case. An appeal requiring analysis of the Rule against Perpetuities, the worst nightmare for most Judges, was manna from heaven for Stewart. He couldn’t wait to get into those old English law books. He would

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\* Associate Judge, New York State Court of Appeals (1983–1997). Judge Simons was one of Judge Hancock’s very best friends. They served together both on the Appellate Division, 4th Department, and on the Court of Appeals. The following is the eulogy he delivered at Judge Hancock’s funeral.

attack the case with a vengeance.

His “study” continued in court. He challenged counsel during oral arguments to support their statements. His questions to counsel were always prefaced by his very polite request “may I ask you a question?” Over the years other members of the court waited patiently for an attorney who had the temerity to answer “no.” It never happened.

The analysis of the case and the development of the holding went on in chambers until a decision was reached. His guiding principle was always a fair result that was consistent with existing law. The decision must be fair. Indeed, he had a sign in his chambers, though he hardly needed it, reminding him “Be Fair.”

Sometimes the relationship of judges on an appellate court can be heated and debate can become strained. The ability to be respectful of a colleague’s position even if the circumstances call for a rebuttal is crucial. No matter how heated a discussion became, Judge Hancock was always able to set aside any negative feelings when the discussion was over and to continue a harmonious relationship with the other judges. You have heard that Judge Hancock maintained his energy and cheerful disposition by performing handstands in his chambers. I will not comment on this, but I can tell you that during a heated discussion of cases with him (and we had some), I was often tempted to suggest a handstand to get some fresh blood to his brain before we went on.

As I noted, in his search for a good result, Judge Hancock asked several questions of counsel from the bench. And they were always accompanied by hand movements. When his voice started, his hands started and the movements continued as he strove to explain the question as it was asked.

This was a useful approach and presented no unusual problem ordinarily, but one day the lawyer presenting the case before the court was hearing impaired. He could neither hear nor speak. He laid out his contentions by sign language which were then relayed orally to the court by a translator.

Well, Judge Hancock, as was his habit, asked a good many questions during argument. The air around him was filled with hand movements.

When we left the bench and were removing our robes, Stewart turned to me and asked if I thought his questions were unfair. He noted that in response to one question the impaired attorney gave him a dirty look. Before I could answer Judge Titone, who had heard Hancock’s question to me said, “Well why wouldn’t he be

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offended? You called him an insulting name.” That is not a literal report of Judge Titone’s statement, but you get the idea.

So what was it like to work with Judge Hancock? It was a special time on the Court. Besides the experience of working with a competent colleague, he had a fine sense of humor and an even disposition that furthered our relationship. His views, while sometimes not mine, were tenable and fair. Moreover his disagreements never interfered with a decision in an appeal nor a relaxing dinner with judges of the Court afterward. Stewart was a fine athlete and over the years we enjoyed a little friendly competition. I kept up with him on the ski slopes, but he was a titan on the golf course. His skill left me eagerly anticipating the camaraderie of the nineteenth hole.

Stewart Hancock was an esteemed colleague and a valued friend. I shall miss him.