

REMEMBRANCES OF
THE HONORABLE HAROLD R. TYLER, JR.

*Stephen P. Younger**

Judge Harold R. Tyler, Jr. was born in Utica, New York in 1921 and grew up in nearby Waterville. It was on the basketball court playing for Phillips Exeter Academy that Judge Tyler earned the nickname "Ace," which stuck with him for life. After graduating from Princeton in 1943, Judge Tyler enlisted in the U.S. Army and served in World War II rising to the rank of Captain. Upon returning from the war, he attended Columbia Law School in New York City.

Following graduation in 1949, Judge Tyler practiced law in New York City. He thrived on courtroom work and handled cases for corporate clients like GE on which he cut his teeth. From 1953 to 1955, Judge Tyler served as an Assistant United States Attorney for the Southern District of New York where he continued to build his trial experience.

In 1958, Judge Tyler became the head of the Civil Rights Division in the U.S. Department of Justice. In that role, Judge Tyler spearheaded the fight for desegregation in the South. His legal efforts to foster desegregation had a deep impact on many Americans at this changing time in our country's history. For example, his office drafted what became the 1960 Civil Rights Act.

In 1962, President John F. Kennedy appointed Judge Tyler a United States District Judge for the Southern District of New York. During his tenure on the bench, Judge Tyler presided over many well-known cases, including a leading series of class action decisions known as *Eisen v. Carlisle & Jacquelin*, which went up to the appellate courts and back on several occasions.¹

Judge Tyler often remarked that he had been asked to apply for the Second Circuit Court of Appeals but chose not to pursue the

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¹ *E.g.*, *Eisen v. Carlisle & Jacquelin*, 417 U.S. 178 (1974); *Eisen v. Carlisle & Jacquelin*, 479 F.2d 1005 (2d Cir. 1973); *Eisen v. Carlisle & Jacquelin*, 54 F.R.D. 565 (S.D.N.Y. 1971); *Eisen v. Carlisle & Jacquelin*, 370 F.2d 119 (2d Cir. 1966), *cert. denied*, 386 U.S. 1035 (1967); *Eisen v. Carlisle & Jacquelin*, 41 F.R.D. 147 (S.D.N.Y. 1966).

opportunity since it would have been a life sentence to law review. Put differently, Judge Tyler so loved the give-and-take of the courtroom that serving as a trial judge was the only judicial role he ever wanted.

In 1975, Judge Tyler was asked by President Gerald Ford to serve as Deputy Attorney General of the United States. It was a time when the country was still reeling from the effects of Watergate. Judge Tyler's efforts to promote the uniform application of the rule of law were quite profound and helped bring back a high sense of integrity within the Justice Department.

In 1977, following the close of the Ford Administration, Judge Tyler decided to return to New York and practice law. He had his choice of any number of prominent law firms in New York City. He chose Patterson Belknap because he felt it was a place where he could build a top-flight litigation department, but could also engage in various public service projects at the same time. For Judge Tyler, the practice of law was always about public service. He constantly devoted himself not just to paying clients but to any number of projects that benefited the world at large.

Judge Tyler was Chair of the ABA's Judiciary Committee during the 1980s. In this capacity, he reviewed various nominations to the U.S. Supreme Court and other appointments to the federal judiciary. He also made many friends in the ABA throughout the United States. On any number of occasions, I would meet a lawyer in some far-flung part of the country who would ask to say hello to Judge Tyler. It was hard to imagine how anyone could know so many people.

It was January 1985 when I first encountered Judge Tyler upon joining Patterson Belknap as an associate. On my first day at work, a call came in from "the Judge," as he was known at the firm. "Young man," the Judge began, "I hear you have just joined us from clerking on the Court of Appeals. One of our young partners is working on something which is right up your alley." The call, like many, ended with a hearty chuckle and a request to come to his office.

When you entered Judge Tyler's office it had all the trappings befitting his stature as a former District Judge and Deputy Attorney General of the United States. There were the flags, the photos of distinguished luminaries of the bench and bar, and any number of plaques commemorating his various honors. But what struck me most was how down to earth he was. Judge Tyler first wanted to get to know about me and my very short career as a

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lawyer at that point. As was his habit, he then shared stories of his own, which were always engaging.

When I joined the firm, Judge Tyler was at the pinnacle of his legal career. He was representing the Daily News in any number of lawsuits challenging articles that appeared in their tabloid. He was handling a wide variety of high-profile assignments such as investigating the killing of four churchwomen in El Salvador, investigating George Steinbrenner on behalf of the Commissioner of Baseball, conducting internal investigations for the Board of GE, and defending Claus von Bulow in a lawsuit seeking to cut him out of his wife's estate. In short, Judge Tyler had established himself as one of New York City's go-to litigators for high-stakes cases.

After working for Judge Tyler on a couple of interesting matters, I happened to be in his office on one memorable morning. After mentioning that I was between assignments and could take on some additional work, the Judge replied "I have just the case for you." The matter was the investigation of New York City's Cultural Affairs Commissioner, Bess Meyerson, who was a former Miss America. Judge Tyler's report on that case received widespread coverage in the New York papers and ultimately led to Commissioner Meyerson's resignation.

Following my becoming a partner at the firm in 1991, Judge Tyler made a pitch to our litigation department at one of our regular meetings. He told us that alternative dispute resolution (ADR) was the future of litigation and that one of us should step up and lead our firm's efforts in this area. As often happens, everyone else stepped back and suddenly I found myself being volunteered for this effort. This started a long collaboration with Judge Tyler in the field of ADR.

At that point, I had already experienced watching Judge Tyler handle an arbitration as counsel in a dispute over liabilities that a corporate client of the firm had assumed in a takeover deal. We had all been taught those fundamental rules of cross examination such as: never answer an open-ended question; and never ask a question to which you do not know the answer. Judge Tyler violated all these rules in his cross-examination of the other side's key witness. Nonetheless, he was extremely successful in drawing out the key points of our case. With his folksy charm, Judge Tyler was able to get the witness to make a number of major admissions that proved helpful to our claim.

Judge Tyler was coming off a widely recognized success as the mediator in the Peach Bottom nuclear dispute. The case involved a

failed nuclear energy project which led to multi-million dollar claims among the development partners. After four years of conventional litigation, Judge Tyler assembled the CEOs of the companies involved, their general counsels and their outside litigators. In Judge Tyler's words, he acted as "sort of a poor man's Cyrus Vance, going from one warring party to another. When it seemed helpful, we would meet together. Toward the end, I needed to talk to all four CEOs so they could understand each other's problems."² Ultimately, he told the CEOs why they really ought to settle the case. This was the skill for which Judge Tyler was most valued during his career: giving straight answers to parties who were desperately in need of sound advice.

Judge Tyler was able to convince the parties in the Peach Bottom case to narrow the dispute and then "played baseball" arbitration. This required the parties to trust Judge Tyler to pick a fair settlement number from their last and best offers. The parties so trusted Judge Tyler at this point that they were willing to enter into a multi-million dollar settlement based on his selection.

The parties' settlement of the Peach Bottom case was written up in many periodicals including the *Wall Street Journal*.³ It was one of the first highly publicized mediations of a major corporate litigation. The settlement that Judge Tyler engineered was reported to have saved the parties millions of dollars in legal fees.

The Peach Bottom mediation was one of many that Judge Tyler handled as a pioneer in the developing field of ADR. He became a leading neutral party for bet-the-company litigations and helped many parties resolve their disputes without going to trial.

One of the joys of spending time with Judge Tyler was hearing his engaging war stories. Whenever you came to his office to have him sign a brief or update him on a case, you always needed to budget time to hear about: the cases on which he was working, an interesting anecdote from his career or simply just stories of his family of whom he was so proud. Judge Tyler loved to regale visitors with stories about his tenure as Deputy Attorney General, his role in the appointment of federal judges, including to the U.S. Supreme Court, his testimony in Congress, and other interesting facets of his life's work.

Judge Tyler was fond of talking about how he hailed from a small town in central New York. These origins undoubtedly gave Judge

² John T. Coughlin, *State Perspective*, IEEE POWER ENGR. REV., Nov. 1995, at 5, 8.

³ Junda Woo & Dave Kansas, *Philidelphia Electric Pays \$131 Million to Settle Nuclear Plant Dispute*, WALL STREET J., April 3, 1992, at B6.

Tyler his down-to-earth qualities and helped shape the character of this giant of the bar.

Judge Tyler was the ultimate mentor. He took so many young attorneys under his wing and gave them the opportunity to thrive as lawyers. At the same time, he knew how and when to give sage advice both on matters of legal practice and on how to carry yourself in the world. It is hard to imagine how a single person could have launched so many amazing careers, including lawyers who went on to be CEOs of Fortune 500 companies, cabinet secretaries, mayors, judges and distinguished members of the bar. There are so many of us who—when we have a difficult career moment—look within and ask, “What would Judge Tyler do in this situation?”

One day during the 1990s Judge Tyler told me that he had an idea to share. He had been thinking about Albany Law School and its unique location in the capital of our State. Judge Tyler recounted how much he wanted to see Albany Law School blossom and grow. In particular, he emphasized how important it was that law and technology were intersecting and that it was critical for today’s law students to benefit from combined studies in law and science.

The Harold R. Tyler, Jr. Chair in Science and Technology at Albany Law School quickly evolved from these discussions. With the inspirational leadership of Richard D. Parsons, Class of 1971, and one of Judge Tyler’s former law clerks Betsy Michel, a committee was assembled to raise funds for this effort. The campaign culminated with the endowment of a chair in Judge Tyler’s name at the school. Surely, Judge Tyler’s roots in upstate New York had a lot to do with his fondness for the school even though he never attended it as a student.

In the early days of the Tyler Chair, Albany Law students had the opportunity to take a seminar taught by Judge Tyler on complex commercial litigation. Although many were scared off by the long reading list that “Professor” Tyler assigned, those who took his course were blessed with wide-ranging insights about how to practice in this important area. Professor Tyler brought interesting speakers to the school who helped enhance the teaching of the class.

Judge Tyler continued to work at the firm right up to the day he passed on. He was the true lawyer’s lawyer who thrived on his love of the law through his last day in the office at age 84. Judge Tyler will be dearly missed by so many people whose lives and careers he touched. It is thus a fitting tribute that the *Albany Law Review* has dedicated this issue to Judge Tyler’s memory.