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CHARLES ALVIN JONES

By THE HONORABLE BENJAMIN R. JONES*

Upon the retirement of Charles Alvin Jones on July 31, 1961, as the thirty-fifth Chief Justice of the Supreme Court in the history of our Commonwealth, the Honorable Horace Stern, his colleague for a period of eleven years and the thirty-fourth Chief Justice, then said:

"To be sure it will not be an easy task to measure up to the standard set by CHARLES ALVIN JONES and to equal his performance of the duties of Chief Justice, because we all know that no Chief Justice served in that capacity with greater dignity, ability, scholarly attainments, and overall kindness than Chief Justice JONES, thereby winning for himself the profound respect, admiration and affection not only of the members of the bar but for all people of the Commonwealth." Such tribute succinctly and accurately sums up the career of this splendid jurist.

As a lawyer and, later, as a *nisi prius* judge, I, of course, was familiar with the work and opinions of Charles Alvin Jones as a member of the federal and the state appellate judiciaries; unfortunately, until the last decade of his life and after I had become his colleague on the bench, I did not come to know him as a person. As his colleague and later during his retirement, our relationship became so close and intimate that I came to regard him as a "second father". It was my privilege to have seen him in all manner of environment; in illness and in health, as a frequent guest in his home and as a guest in my home, on and off the bench, at legal gatherings and social festivities, on fishing trips and other outdoor ventures. From such a background I gained an insight of him as a jurist, a man and a devoted friend.

In this issue of the *Review*, the opinions of the "Chief"—the term by which I always addressed him and by which I shall refer to him—have been presented, in masterly fashion, by Mr. Laurence H. Eldredge. In the brief space allotted to me I shall attempt to portray the "Chief" simply as I knew him.

Charles Alvin Jones brought to the office of Chief Justice a wealth of legal experience gained by a long and extensive practice of the law in Allegheny County and by having had the unique opportunity of service on both a federal and a state appellate bench. In addition to such experience, he had other rare attributes not the least of which was the faculty of keeping "in tune with the times" and of conditioning his thinking to meet the drastic

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changes in every phase of our lives which are and have been taking place in this exciting century. Mr. Justice Oliver Wendell Holmes once wrote: "A man must share the action and passion of his time at peril of being judged never to have lived at all." The "Chief" did "share the action and passion of his time". The breadth of his interests was almost unbelievable; whether it was the space program or baseball, the foreign or domestic policy of our nation, music or the theatre, current trends in education or governmental activities, the "Chief" was not only keenly interested but he made it his job to know and to understand what was happening. As a result, he displayed a knowledge and comprehension of current events which was truly amazing and, by reason of his knowledge of the history of the past, he was able to bring to the evaluation of today's events a rare perception.

One of the most important functions of a Chief Justice is to preside at the conferences of the Court at which the cases are discussed, the views of the individual judges advanced and dissected and the votes, initially tentative and later finalized, are taken. To preside over these conferences, especially where members of the Court may often have widely divergent views which they vigorously present, requires tact, patience and, at times, great firmness. Of course, the aim of a good Chief Justice is to gain a unanimity in the determination of the causes, a goal not always attained. As "Chief", Charles Alvin Jones performed this function in exemplary fashion. Every member of the Court was given full and adequate opportunity to present his position, the various issues were thoroughly discussed and rediscussed, and, when, finally, the tentative vote was taken at initial conference, the assignments for the preparation of the opinions were made with due consideration of the issues on appeal and the background or particular interest of the various members in the area of the law involved in the appeal. No member of the Court ever received a disproportionate workload and the "Chief" always took more than his fair share of the work. Other than by rational approach and by what he believed logical argument, the "Chief" never attempted to force his views upon his brethren and, while he always strove to secure a unanimity of opinion, once a final vote had been taken the matter was ended. Recalling these conferences one remembers the active interest which he took in the discussion of his colleagues, his reasoning "out loud", his incisive inquiries at points in the discussion and his habit, on many occasions, to interject a story or stories to relieve the tension. Above all, he was ever considerate, solicitous for the welfare of and kind to all his brethren on the Court.

The "Chief" was particularly interested in the field of municipal law, an interest which arose no doubt from his long and varied experience as solicitor for the County of Allegheny. When an appeal was presented which involved some phase of municipal law he brought to the solution of the problem not only a theoretical

but a very practical knowledge. In the field of eminent domain his decisions, although they all antedated the Eminent Domain Code of 1964, constitute and will remain landmarks in the law; they illustrate well his zeal to balance the scale to protect not only the condemnee-property owner but to place no barrier in the way of legitimate municipal improvements. When our Court sat in Pittsburgh, on many occasions, dinner with the "Chief" was followed by a walk; on such walks, time and again, the "Chief" would stop and, pointing out some street or building, would recount, in detail, litigation in which he had been involved in reference to such street or building as a practicing lawyer. He was able to and did contribute much to the development of the law in this Commonwealth in regard to the Commonwealth itself and its various political subdivisions.

His service on the federal and state benches gave him a tremendous opportunity to deal with problems involving both our federal and state Constitutions. His work on our Court reflected his interest in that field. Particularly did such experience fashion him to maintain what he believed to be the intention of the founders of our federal Constitution as to the relationship between the state and the federal judiciary. He always sought to maintain a proper balance between these two judicial systems and to maintain the necessary comity between the federal and the state courts. However, once convinced that an attempt was being made by the federal judiciary to infringe upon the proper area of responsibility of the state judiciary, he was adamant in his opposition to such infringement. In his view, both systems of judicial responsibility could and should coexist in amity provided that each maintained the proper respect for the jurisdiction of the other.

In the construction and interpretation of wills and trust instruments the "Chief" adopted most generally the "arm chair of the testator" rather than the "four corners of the will" approach. A reading of his decisions in this field will indicate that uppermost in his mind was to attain a result most fair and equitable to that class of persons who would normally and ordinarily be the principal objects of the testator's or the settlor's devotion. While, on occasion I differed with the "Chief" in his approach, I could well understand and appreciate the essential fairness and the ingrained equity of his thought in the matter. While such thinking may often lead to an *ad hoc* disposition of an appeal which may cause some uncertainty in this area of the law, yet the "Chief's" sense of the rightness of things often led him to do what he thought the testator should have done rather than what an examination of the "four corners of the will" showed, by way of negative inference, the testator or settlor had not done.

Kindly, compassionate and considerate, nevertheless, on occasion, the "Chief" would become vigorous in his denunciation of any tactics and conduct which he believed wrong. Hypocrisy in any

form was abhorrent to his nature. While he believed, as he wrote in *Levine Contempt Case*, 372 Pa. 612, 625, that: "A conscience-free and judicially untrammelled bar is as essential to the proper function of our judicial system as are judges themselves" and, while he was ever considerate of the members of the profession, yet, when he believed that a member of the bar, or, for that matter, of the judiciary, was not acquainting the Court with the full or accurate factual posture of the litigation, he could be devastating in his challenge. Both from the bench and in his opinions, at times he would castigate those whom he believed the record indicated were guilty of misrepresentation or causing an injustice. While these occasions were rare, nevertheless, the conduct of the "Chief" on these occasions was highly indicative of the quality of the man.

A great attribute of this man was his prodigious memory not only of history and of literature but of past decisions of both appellate and *nisi prius* courts. He was able to recall,—perhaps not the volume or the page—, the names and the rulings of myriads of past decisions. Many times during the course of an argument, he would stop counsel and inquire as to the impact on the appeal of a certain decision; very often, the case was not mentioned in the briefs but, invariably, upon sending for the decision, it would be seen that this recalled decision bore vital relevancy to the issues raised on the appeal. Such recall of past rulings never ceased to be a source of amazement to his brethren on the Court.

Lastly, it is as a warm human being that I shall always cherish his memory. Tall and handsome of bearing, with sparkling eyes and ruddy complexion, he was always a central figure at any gathering. A brilliant conversationalist, thoroughly grounded in the best of literature and in history, a wonderful storyteller, it is small wonder that his presence at social events was demanded. He had a tremendous capacity for friendship and he truly loved people and to be in their company; one had only to meet him to appreciate this. Despite his enjoyment of social festivities, his happiest hours were spent within the circle of his family. Mrs. Jones and he were the greatest "team" I ever knew. She knew his interests and he hers and they each went out of their way to cultivate for one another such interest. Whether listening to classical music or to Shakespearean plays or quietly conversing while the rugs were being "hooked", they presented a scene of domestic happiness beyond description. His children and his grandchildren—to whom he was "Gramps"—furnished him with new interests and activities. During World War II the "Chief" and Mrs. Jones suffered a crushing blow in the death of a son, the namesake of the "Chief"; only great courage and fortitude enabled them to assuage their grief. He kept behind his desk in his office the flag which had lain on the coffin of his son and, upon his retirement, he went to the Phillipines on what he termed to me a "sentimental

journey", there to visit the scene where the plane piloted by his son had crashed. Great as he was as a lawyer and jurist, in my view, Charles Alvin Jones rose to his greatest heights as a husband, a father and a grandfather.

In the more than two centuries of its existence the Court has been fortunate to have had many able jurists grace its bench. It is my considered opinion, that, both as a jurist and as a man, Charles Alvin Jones stands in the front rank. His contribution to the jurisprudence and the life of his times were immeasurable.

Many years ago, Mr. Rufus Choate, speaking of the requisites of a judge said: ". . . In the first place, he [the judge] should be profoundly learned in all the learning of the law, and he must know how to use that learning. In the next place, he must be a man, not merely upright, not merely honest and well-intentioned,—this, of course—, but a man who will not respect persons in judgment. He shall know nothing about the parties, everything about the case. He shall do everything for justice, nothing for himself; nothing for his friend; nothing for his patron. And finally, he must possess the perfect confidence of the community, that he bear not the sword in vain. To be honest, to be no respecter of persons, is not yet enough. He must be believed such. . . . I claim that he be a man towards whom the love and trust and affectionate admiration of the people should flow; not a man perching for a winter and summer in our court-houses, and then gone forever, but one to whose benevolent face, and bland and dignified manners, and firm administration of the whole learning of the law, we become accustomed, whom our eyes anxiously, not in vain, explore when we enter the temple of justice; towards whom our attachment and trust grow even with the growth of his own eminent reputation." In Charles Alvin Jones we found the embodiment of these attributes of a good judge.