

Supreme Court of New Jersey  
Trenton, New Jersey

# Memorial Proceedings

for

HONORABLE  
ROBERT N. WILENTZ

Hughes Justice Complex  
Trenton, New Jersey  
December 3, 1996

**In Attendance:**

CHIEF JUSTICE DEBORAH T. PORITZ

JUSTICE STEWART G. POLLOCK

JUSTICE DANIEL J. O'HERN

JUSTICE MARIE L. GARIBALDI

JUSTICE GARY S. STEIN

JUSTICE JAMES H. COLEMAN, JR.

STEPHEN W. TOWNSEND, Clerk of the Court

**Appearances:**

MORRIS BROWN, ESQ.

HON. ROBERT L. CLIFFORD, Associate Justice

HON. REGINALD L. STANTON

ROBERT D. LIPSCHER, ESQ.

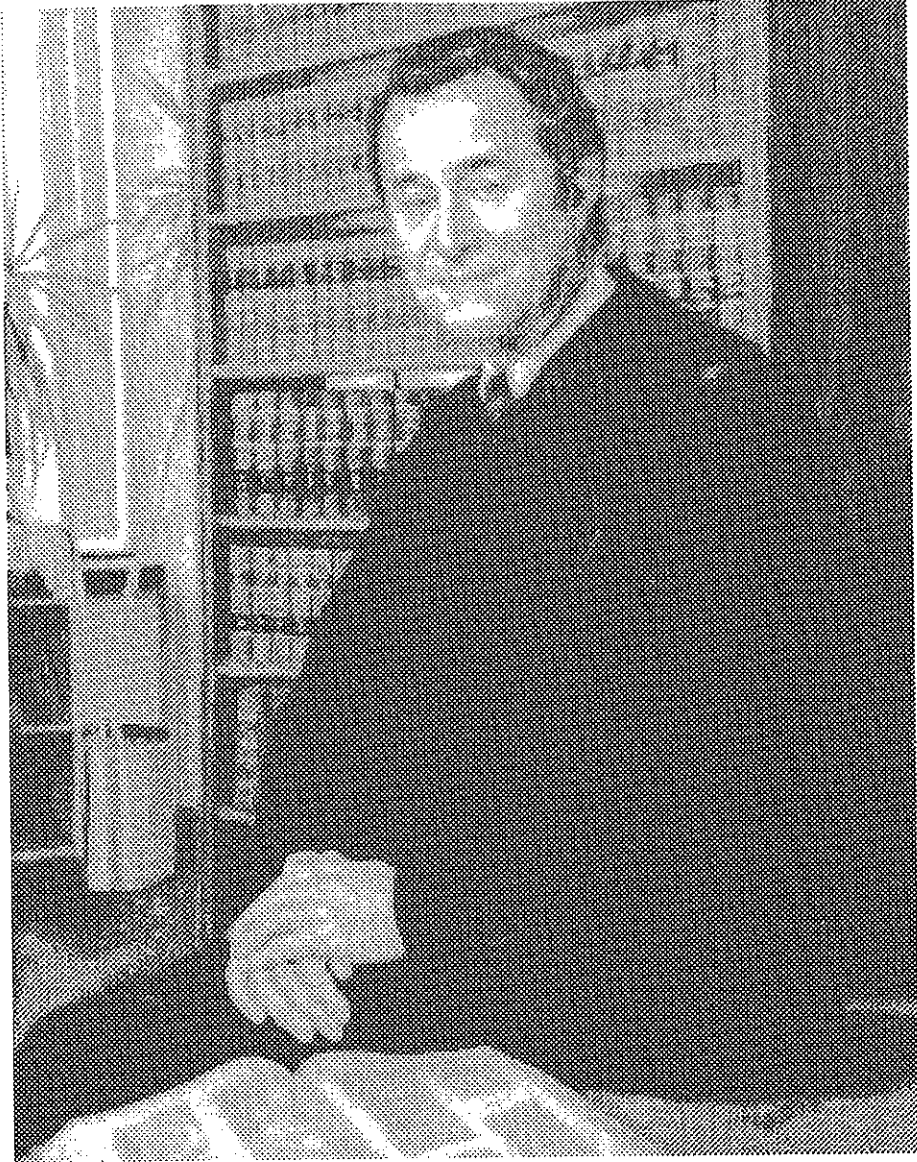
CYNTHIA JACOB, ESQ.

MATTHIAS D. DILEO, ESQ.

WARREN WILENTZ, ESQ.

DR. JAMES WILENTZ

MR. THOMAS WILENTZ



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CHIEF JUSTICE PORITZ: Members of the Wilentz Family and friends, former Justices, former and present Judges, distinguished guests. The Court convenes today to honor and to remember Chief Justice Robert N. Wilentz. He was a colleague, a leader, a friend and to some in this courtroom, most of all, family—a parent, a brother.

We will today talk about this great man. We will share our memories with one another and we will pay tribute to him together.

First, I would like to call on Morris Brown for the presentation of Chief Justice Wilentz's portrait. Mr. Brown?

MR. BROWN: Good afternoon. May it please the Court, Honorable Justices, retired Justices, Honorable Judges, honored guests, and friends. First, I'd like to take the opportunity to introduce the artist, Alan Brown, who is seated back by the cameras. Second, I'd like to introduce to you Alan's mother, Sylvia, my beautiful, wonderful wife.

Alan was born in Perth Amboy and was raised in Edison. He received a degree in fine arts from Skidmore and a master of fine arts from Pratt Institute. Thereafter, he lived and worked in his studio in Carteret. He has recently moved into his new studio and home in Woodbridge.

Take it from an objective observer, he has a marvelous talent, which is ever-evolving and blossoming. He works primarily in oils and watercolors and has spent considerable time working on etchings and zinc plate. His mother and I are extremely, extremely proud of him and his accomplishments.

It is all together appropriate that Alan was asked to do the portrait of Robert Wilentz. The Chief loved him and enjoyed his work. Those of you who visited his chambers, first in Perth Amboy and then in Oakhurst, may remember a large abstract canvas hanging in those chambers. The Chief saw that painting, which Alan had done, admired it, and asked Alan if he could borrow it

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until Alan might want it returned. Of course, Alan agreed and that painting hung in chambers until the Chief's retirement.

Also, several years ago the Chief came to one of Alan's shows. He fell in love with, liked, and bought a watercolor of a beach scene that he often mentioned.

Several years ago our firm began discussing the commissioning of a portrait to hang in this Justice Complex. We anticipated and looked forward to the Chief returning to Wilentz, Goldman & Spitzer, where each of us adored, admired, and respected him. Unfortunately for us, that was not to be. Unfortunately also, he was not permitted to sit for his portrait. Nonetheless, we at his firm decided that we wanted to exhibit to the world our pride in him, our deep affection for him, and our understanding of his dedication and his selflessness to the law and to this State. We want all to know of our love and devotion to him, a great lawyer, a wonderful friend, a magnificent partner, and a monumental Chief Justice of this court.

The family of Wilentz, Goldman & Spitzer is pleased and doubly proud to present to the Supreme Court of this State, the portrait of Chief Justice Robert N. Wilentz, which will grace the walls of this Justice Complex, together with his illustrious predecessors. Thank you.

CHIEF JUSTICE PORITZ: Thank you, Mr. Brown.

We will hear now from the Honorable Robert L. Clifford, retired Associate Justice, a colleague and a friend.

JUSTICE CLIFFORD: Chief Justice Poritz and members of the Court. I thank the Court for the opportunity to deliver these remarks in reverential memory of the late Chief Justice Wilentz.

Dr. Jim, Amy, Tom, Araminta Mustafa, our long-time friend Warren, members of the firm of Wilentz, Goldman, Spitzer, members of the Judiciary, other family members of the late Chief Justice, and distinguished guests. When in August of 1979 Robert Wilentz took the oath as this state's Chief Justice—the fifth Chief Justice in the thirty-two years since the adoption of the 1947 constitution—his colleagues on the Court, in addition to myself, were Justices Sullivan, Pashman, Schreiber, Handler, and Pollock. With the retirement of the first three in 1981, 1982, and 1984, respectively, the Court was joined by Justices O'Hern, Garibaldi, and Stein. And then, in December 1994, by my distinguished successor, Justice Coleman.

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If I count correctly, then, ten Associate Justices sat with Chief Justice Wilentz during his sixteen years and ten months in office, the longest term of any of those who have occupied the center chair—a term, I observed, that alas our constitution will not let you, Chief Justice Poritz, surpass. Save for Justices Sullivan and Handler, who cannot be with us, all of those Justices that I mentioned are in the courtroom with us today.

For ten of the Chief Justice's almost seventeen years, the composition of this Court remained unchanged. Justices Handler, Pollock, O'Hern, Garibaldi, Stein, and I served with Robert Wilentz from Gary Stein's arrival in January 1985 until my departure in December 1994. Whatever other effect an unbroken ten-year span might have, it forges enduring relationships, strong and lasting personal bonds among the Justices. It is from the perspective of those years of service in common on this Court that I offer these remarks, leaving to the other speakers, the law-school communities, and the legal scholars the gauging of the long-term influence of Chief Justice Wilentz's jurisprudence and the appraisal of his stewardship as head of one of the three branches of government. I limit my observations to personal musings on Robert Wilentz the man and his style as Chief Justice.

In his dealings with other members of the Court, the Chief resorted to a leadership technique that was essentially low key. That may have been dictated in part by his acute awareness that he was but one among equals when it came to counting the votes; but I suspect as well that he recognized that he was surrounded (three on either side) by people who were confident, maybe supremely confident, in their own abilities. Not prima donnas, mind you, but Justices each of whom felt comfortably secure in his or her place in the scheme of things. And so it behooved the Chief Justice to tread lightly, to persuade by force of logic and precedent, to reason, to debate, to analyze, at all of which, of course, he was superb. Sometimes he succeeded and sometimes he did not. But never, never once, in the course of discussion at the Court's conference did I hear one word spoken in anger, either from or to the Chief Justice. A little frustration now and then, maybe, a touch of disappointment, but never the hostility or ugly backbiting of which we hear occasionally in other high courts. That circumstance was a tribute more to our leader's sensitive management than to the essential civility of the members. Under Robert Wilentz's leadership the members developed not only a

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healthy respect for each other's views, but also an abiding affection for one another—an atmosphere that I am sure will continue under the gentle guidance of his gracious successor.

Which is not to say that our conferences were love fests. Far from it. The consideration of cases, not all of them of cosmic significance, was frequently intense. Some of it made for splendid theater, such as the titanic discussions—and discussions and discussions—between the Chief Justice on the one hand and Justice Stein on the other leading to our decision in *Ran-Daw's Country Kosher, Inc. v. State*, 128 N.J. 141 (1992), holding facially unconstitutional the State's regulations that sought to prevent consumer fraud in the sale of kosher products. The reaction of at least one member to the opposing views ran the gamut from incredulity to thorough exasperation to near-apoplexy. For me, the debate was a learning experience through which was revealed more, far more, about the mysteries of Judaism in general and the dietary laws of "kashrut" in particular than I needed to know to decide the case. As I look back on his efforts to secure a majority for his position, I am struck with the Chief Justice's exercise of exquisite timing, with a parry here and thrust there, and with his call for a halt now and then to permit quiet reflection and regrouping of the contending forces. It is not by sheer coincidence that it took the Court fourteen months to issue its opinions on that appeal. Decision-making is sometimes an opportunity to develop patience.

Other, and probably better, examples abound of the Chief Justice's leadership style, but they will wait another forum. I yield to the temptation, however, to disclose the Chief's role in causing Justice Handler and me to withdraw our minority opinions (mine is reported, but in severely expurgated form) in *State v. Valentine*, 134 N.J. 536 (1994), in which each of us—that is, Justice Handler and I—wrote "against" the other in a style that we both thought was moderately funny—no, the truth of the matter is *we* thought we were hilarious, a view not shared, it would appear, by the rest of the Court. As the opinions were finally made ready for publication, there arrived from Chief's chambers the familiar SINGLE-SPACED MEMO of a shockingly modest four or five pages, counseling against release of our minority opinions (but couched in terms of "do-what-you-want-but-please-think-about-it"), pointing out that the public might be comforted to learn that the members of the Court could laugh at themselves, that they really were human after all, but that in this case the press would end up

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laughing *at* us and not *with* us, a result assiduously to be avoided. Justice Handler and I, having been "taken to the woodshed" (an expression adopted by Justice O'Hern for a private "counselling" session with the Chief), agreed to withdraw our opinions, grudgingly acknowledging that he was probably right.

The Chief's concern for public approval was not, however, always a matter of high priority—nor could it be, given his devotion to principle and his insistence on doing the "right" rather than the "popular" thing. Occasionally his colleagues on the Court would suggest to our Chief Justice that he rethink a course of action that despite its correctness as a matter of pure justice, held the promise of a public relations disaster. Those suggestions produced an enigmatic smile—you know, the portrait so wonderfully captures it, too; you cannot be certain about what the man is thinking, and we all saw it so often—it produced an enigmatic smile but rarely any change of position; so rarely, in fact, that a few years back we presented him at the Judicial College with a skinny little book entitled "My Public Relations Triumphs." It consisted of three blank pages.

I very much hope that these reflections have not taken on the color of irreverence; they might better have been delivered at a retirement dinner. Perhaps the tone was dictated by my recollection of Robert Wilentz as a thoroughly human being, one who approached life with a gusto and enthusiasm and great good humor. He was a genuinely funny man. He loved good food, good drink, good music, a thoroughly mediocre football team, stimulating conversation (unlike many great and accomplished people, he was a good listener—his body language reflected that and he would turn to you as he listened), and above all he loved his dear wife, Jacqueline, and his children and grandchildren. His curiosity was boundless. He became fascinated in his later years with such disparate subjects as soccer, the planting and nurturing of tomatoes, the art of creating a compost pile, higher mathematics, and statistical probabilities. And with all of his cosmopolitan interests, the Chief Justice was above all a worker, a *prodigious* worker. He worked us all, but at the same time he *out* worked us all: his colleagues on the Court; the ever-industrious Clerk of the Court, Stephen Townsend; our gifted Administrative Director, Robert Lipscher, whose dedication to the court system and to the cause of the judicial administration knows no bounds; his clerks; and his devoted secretaries—he outworked all of them.



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Some folks are givers, some are takers. Robert Wilentz was a giver, a man of great personal generosity. To a generation of Court grandchildren he provided Hess trucks at Christmas, although as the years progressed and the fecundity of our offspring began to reach alarming proportions, his sources proved to be not quite up to the task. He managed to keep up with Justice Pollock's and my sons' and daughters' prolific output but finally gave up the tradition when Justice O'Hern's and Justice Stein's families began to expand. But he never gave up the tradition, never gave up the life-long habit, of giving of himself. And in the end he gave himself to the people of this State and to the cause of equal justice everywhere.

Those of us who have served on this Court have been given an extraordinary privilege, one that since the 1947 Constitution has been conferred on only twenty-eight men and two women. To have served on a Court presided over by Robert Wilentz is an experience reserved to but ten of us, one that each of us will treasure forever. And to have known and loved this extraordinary man, as everyone in this courtroom did, was to have our lives enriched beyond measure.

CHIEF JUSTICE PORITZ: Thank you, Justice Clifford.

We will hear next from the Honorable Herman Michels, presiding judge for administration of the Appellate Division, on behalf of Appellate Division Judges, past and present.

JUDGE MICHELS: Chief Justice Poritz, Justices and former Justices, fellow jurists, members of the Wilentz family, and distinguished guests. I am honored to be here today to pay tribute to the memory of a great jurist. Chief Justice Wilentz was a distinguished public servant and a remarkable human being. He dedicated a great portion of his life to public service and to the pursuit of justice.

Chief Justice Wilentz came to the court after a distinguished career at the bar and in government as a member of the state legislature. He was highly qualified to carry out the duties of the office of Chief Justice.

Chief Justice Wilentz was a person of uncompromising integrity and rare insight. He had the wisdom and the foresight to recognize the need for change and had the courage to initiate the change where it was needed. His concern for the public and his efforts in improving the administration of civil and criminal justice

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were ceaseless. He achieved enormous results during his seventeen-year career as Chief Justice, including the unification and integration of the Superior Court—exercising statewide original trial jurisdiction over all causes—and later the takeover of the financing of the State Court system by the state government.

I had looked forward to working with the Chief for the remainder of his term in office as my term nears its conclusion. I reflect back on the honor that he conferred on me by naming me Presiding Judge for Administration of the Appellate Division and the opportunity he afforded me to go beyond the normal duties of a sitting Appellate Division Judge. The committee work, the hearings, and the other assignments proved to be exciting and rewarding, and I think the Chief knew that when he made the assignments.

Chief Justice Wilentz followed the tradition of excellence and high judicial standards that had been the keynote of our court system under the late Chief Justices Arthur T. Vanderbilt, Joseph Weintraub, Pierre P. Garvin, and Richard J. Hughes. As a result of the Chief's untiring effort and total dedication, our court system is held in the highest regard and looked on as the leader in judicial administration throughout the country. This is a tribute to Chief Justice Wilentz's leadership.

Among the many administrative and case management innovations instituted in the Appellate Division under the leadership of the Chief Justice were: the creation of the position of Appellate Administrator to oversee the Appellate Division's Clerk's Office, the central research staff, and, later, Court Reporting Services; the development of a modern case management system to monitor appeals through the Appellate Division; the introduction of the automated docketing and management information system that was part of an extensive courtwide master plan to upgrade the court's automation programs; the creation of the civil appeal settlement program; the establishment of the oral argument sentencing calendars; the development of sua sponte summary disposition program in the Appellate Division; and the creation of a special panel of Appellate Division judges to handle Megan's Law appeals.

The success of these programs stand as a monument to the Chief's foresight. His leadership has resulted in many of these

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programs being adopted by other appellate courts throughout the country.

The Chief's concerns for fairness, accessibility, and excellence had been given high priorities during his watch. He, of course, also had to be concerned with efficiency in view of the burgeoning case loads and limited resources in recent years. The need for efficiency, however, was not allowed to obscure the priorities of fairness, accessibility, and excellence.

Moreover the Chief's unqualified support for the Appellate Division has been a major factor in maintaining the Court's standard of excellence and its outstanding national reputation. For example, he increased the number of judges and provided the support staff needed to assure that the work of the court would be accomplished in a timely and proper manner.

In addition to his many qualities, the Chief had a deep and personal concern for the judges on the court. I believe that I speak for all of my Appellate Division colleagues, both past and present, when I say that we are proud to be judges in this outstanding court system under the direction of this exceptional Chief Justice. We are all saddened by the Chief's untimely passing. We shall miss him. He meant a great deal to many and did so much for the judicial system of this state and for its judges. We can be comforted, however, by the belief that the ideals for which he stood and the standard of excellence that he demanded will be continued in the future in the administration of justice in New Jersey.

CHIEF JUSTICE PORITZ: Thank you, Judge Michels.

Now I would like to call on the Honorable Reginald Stanton, Chair of the Conference of Assignment Judges on behalf of the Assignment Judges, Presiding Judges, all judges.

JUDGE STANTON: Chief Justice, honorable members of the Court, family members, friends. I was honored eleven years ago when Chief Justice Wilentz asked me to become one of the fifteen Assignment Judges of this State, because I thought it would give me an opportunity, in addition to doing normal trial work, to have important hands-on experience in the administration of the court system.

Then when I started going to the monthly meetings of the Assignment Judges and the Administrative Director with the Chief Justice, and I started seeing how the Chief Justice worked

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the administration of the court system, when I saw the simple grandeur of his big concepts for what a justice system should be, and when I saw his sometimes excruciating and occasionally infuriating attention to detail, I was impressed with this man. I was impressed with his concept of public service and with how hard he worked at the delivery of effective public service.

I was also impressed by his openness to all of us. We Assignment Judges did not share an equal load with the Chief Justice. At our monthly meetings of the Chief, the Administrative Director, the Deputy Director and the fifteen of us, there were eighteen voices, but only one vote. But I think all of us felt that our voices were important, that our thoughts were fully considered and indeed the reality is that most of the major administrative decisions that affected the trial courts of the state actually were consensus decisions.

The Chief Justice was extraordinarily sensitive to making all of us feel part of the effort. He was interested, I think, most of all in a user-friendly justice system. Not user-friendly in the sense that the system pleased all of those who came into it with its results, because, of course, we start with the unfortunate proposition that roughly half the people we deal with will not like the result of our decisions. But he wanted the system to be user-friendly in the sense that everybody who walked into one of our courthouses would feel that he or she had been heard by an open-minded judge, that he had been dealt with with unfailing courtesy, and that the result was one which the court tried to make as fair as it possibly could.

And he, I think, largely succeeded in inspiring all of us and through us, all the trial judges of the state, to work hard at creating and operating that kind of a user-friendly justice system.

The Chief Justice was a delight to be with on social occasions. He really did have a feeling for people and a feeling for life that was impressive. And if I may intrude just a bit on the Chief's personal life, I must say I personally was enormously impressed by the dedication and love that he had for his wife and how he loved, honored, and cherished her all the days of her life. He never spoke in great detail of the last years of her life, which I know must have been extraordinarily difficult for her and for him and for the entire Wilentz family, but one could sense his enormous devotion and caring.

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And more importantly, one got the sense that the Chief Justice never felt of this as one of the obligations and one of the burdens of love. But that he viewed his care of his wife in her last years as part of the joy and part of the fulfillment of life.

In simplest terms, all of us who worked with the Chief Justice came to realize that he was a good man. And because he was that and because God is good, I'm sure that now the Chief Justice is experiencing the unending joy and bliss and peace that he so richly deserves.

CHIEF JUSTICE PORITZ: Thank you, Judge Stanton.

We will hear now from Robert Lipscher, former Administrative Director of the Courts, who also has our thanks for his years of devoted service.

MR. LIPSCHER: Thank you, Chief. Chief Justice, Justices, members of the Wilentz family, friends. In all that has been written about Robert Wilentz, particularly in the popular press, little has been noted of his accomplishments in the field of court administration. This is perfectly understandable for two reasons. First, the evolutionary step by step reformation of an existing court system that engaged him does not have the glamour or the drama of work such as Arthur Vanderbilt undertook in building a new system from scratch.

Secondly, in contrast to Chief Justice Vanderbilt who reveled in court administration and left a body of work devoted to the subject, Chief Justice Wilentz was less enthusiastic about his involvement. He wrote little about the administrative side of his responsibility. As a result his administrative contribution has remained somewhat obscure except to court insiders. Yet there was a close relationship between the two Chief Justices in terms of their accomplishments.

In their own ways both transformed the New Jersey courts. In this tribute to Chief Justice Wilentz I'd like to shed a little light on at least one aspect of his administrative work. As a backdrop I start with the proposition that New Jersey has earned a special place in the history of court administration. With the constitution of 1947 New Jersey broke the paradigm of weak and effectual court systems by placing rule-making authority in the Supreme Court and centralizing executive powers in the Chief Justice's administrative head of the courts, the constitution gave birth to

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the modern court system, one capable of self-management in any direction.

By 1979 when Chief Justice Wilentz took office he would need the full powers the constitution conferred because problems were mounting. Case loads had become massive and complex, calendar management systems that worked wonderfully well at lower volumes were now snarled. County funds were drying up and the Supreme Court had to take seriously county executive threats to investigate and perhaps interfere with court operations. Professionalism had begun to decline and the overall court environment had turned fractious.

The Chief Justice clearly saw the need to update and modernize the judiciary. The scope of the challenge was less clear. With hindsight we know that among the major problems he faced were weak vicinage management, poor case processing systems, inadequate technology, and a court culture not in sync with these times.

I've selected these examples to point to because they represent the key multi-year reforms around which he would shape the courts. The first major reform he tackled related to the weakness of the vicinages. This came about because the 1947 reforms essentially stopped at the county lines and left the county row officers and boards of freeholders with far too much say about court support operations. The first Committee on an Efficiency identified these concerns and the threats they posed to judicial independence.

The Chief Justice responded aggressively. He enlarged the Assignment Judges' responsibility and gave them budget and personnel authority. He upgraded the Trial Court Administrator's role, created the visions of court-appointed Presiding Judges and division managers to run them and staffed the divisions with county clerk people. These steps were not as easy as they may sound. In fact, negotiations with the counties often were quite delicate.

Nonetheless, these reforms were accomplished without major confrontations. In the end the judiciary defined its trial court boundaries and succeeded in establishing the vicinages as highly competent administrative units. These events set the stage for the unification of the Courts, which was to come years later.

The second major problem related to the antiquated case processing system that by 1980 no longer could be depended upon to

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expertly process the greatly increased volume of cases coming to the courts. The inadequacies of these systems led to an inordinate backlogs and delays, intolerable mass calendar calls, and explosions of motions directly related to slow disposition of cases. Even when they are not working well it is not easy to reform calendar systems. This is one of the most contentious undertakings in court administration. With a result that case management systems tend to outlive their effectiveness.

The most sensible way to deal with this reality is to initiate pilot projects based upon the best available research in the hope that the new systems will gain enough support through extensive consultation with the bar to be adopted statewide as they demonstrate merit. This is the basic strategy Chief Justice Wilentz employed to introduce the new case management system, the civil differentiated case management system, and the complementary dispute resolution system to the courts.

As a result New Jersey now enjoys some of the most effective calendar systems to be found in the nation. At the heart of these modern systems are individual judge calendars and case management teams. To flourish, they both require a computer technology and a supportive culture in which to operate. It was exactly in these directions that Chief Justice Wilentz led the New Jersey court system.

In 1979 the level of computer sophistication in our courts was primitive at best. As you probably recall in those days we were still jousting with the executive branch about the Judiciary's basic need for a mainframe computer. After the deadlock was broken, Chief Justice Wilentz adopted a ten-year master plan that ultimately gave New Jersey the most comprehensive court computer system in the nation. The value of computers is not only that they process data rapidly, but they also permit information to be widely distributed. This ability to share timely and accurate information has enabled the courts to create a class of knowledge workers who have been responsible for significant quality and productivity improvements.

With the aid of the computers, both individual judges and the case management teams that support them have accessed information for administrative decisions that in previous times only the Assignment Judge had available. This capacity has improved the

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level of service courts can provide and made it far easier to tailor attorney needs to the individual requirements of cases.

So automation—in combination with redesigned systems, staff reorganization, and cultural changes—has been a well-spring of fundamental court reform leading to the goal of a high performance court organization.

Of the four challenges I've mentioned, probably the most serious the Chief Justice faced was presented by the traditional culture of the New Jersey Courts, for it made the process of reform itself more difficult. Our leadership traditions, going back to the founding of the modern court system, have been highly autocratic. Such styles tend to place responsibility in a few key people who try to do everything themselves instead of sharing authority and involving others in a process that helps to make everyone a stakeholder and a problemsolver.

Studies now show that knowledge-based professional organizations such as Courts are more likely to knit together and to flourish more readily under a participative regime than others. Chief Justice Wilentz, even before these studies became available, had already determined that we, as an organization, needed to move in the direction of greater participation and sharing of responsibility. He espoused partnership with the bar, involvement of judges and staff in administrative decision-making and collaboration with labor unions. He encouraged the Assignment Judges to meet regularly with judges and staff and with the bar.

He himself began to share authority with the Assignment Judges to establish a new role model for them. Assignment Judges responded to his urgings and the court system developed a new tone and gained new energy as a result. He also took on the even more deeply entrenched cultural problem of racial, gender, and language bias in the courts. And in the process he set off an equal justice revolution that continues around the nation and in the courts of other countries. To many this is one of his most significant administrative legacies.

Taken together these reforms illustrate the depth and breadth of the transformation that the Chief Justice was able to achieve in taking a badly fragmented and poorly operating 1979 court system and building it into the cohesive and effective organization we have today. State funding was the Chief Justice's ultimate administrative achievement. But it was simply the culmination of



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the process of reform and unification he had begun many years earlier. Although he may not have started out to do so, Chief Justice Wilentz revamped much of the way our courts operate.

He presided over a lengthy and complex process that tied together structure, systems, automation and culture in a new form of court organization under State control. This was a monumental effort crowned with success.

Chief Justice Wilentz often expressed the view that reform was the hallmark of the New Jersey Judiciary. In reading these comprehensive reforms, he personified this standard and in the process preserved New Jersey's heritage as one of the leading court systems in the nation.

Many years ago, Robert Van Fossen, the head of the blue-ribbon Efficiency Committee that surveyed the courts in the 1980's, shook his head in dismay at the confusion and inefficiencies he found and announced his hope that the New Jersey courts would be able to enter the twentieth century before the twenty-first century arrived. If he were here today Robert Van Fossen would be pleased at the progress of our courts and the accomplishments of Chief Justice Wilentz. For surely, the court system he reformed will be able to meet the demands of the twenty-first century.

Robert Wilentz did not consider himself to be an organization builder, but if in his passage above he encounters Arthur Vanderbilt, they will have much to discuss. And one thing is certain, it will be a meeting of peers. He was a great Chief Justice and I am proud to have served him.

CHIEF JUSTICE PORITZ: Thank you, Mr. Lipscher.

I would like to call Cynthia Jacob, President of the New Jersey State Bar Association, who will speak on behalf of the bar association.

MS. JACOB: Friends and family of Chief Justice Wilentz, Chief Justice Poritz, members of the Supreme Court, and friends all in the audience. On behalf of the New Jersey State Bar Association it is a pleasure to be here today to honor the memory of one who will ultimately be remembered as one of the finest Chief Justices in the nation.

Chief Justice Wilentz will also be remembered as a true visionary. He relentlessly pursued his vision of justice in all aspects of

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his professional life, whether they were related to landmark judicial decisions he authored or matters of court administration, which I think he would say by his own admission occupied far too much of his time.

He was a dedicated advocate for the judicial branch and a strong leader whose ideas revitalized and transformed our court system. Chief Justice Wilentz fought to protect the independence of the Judiciary. When necessary he spoke out on behalf of judges and about reforms he believed were needed to maintain the vibrancy of the judicial branch. Only last week the Bar Association had the pleasure of announcing a procedure for helping judges who were being unjustly criticized, which had its genesis in a letter that Chief Justice wrote to me after he had become ill.

At times his approach led to criticism and partisan attacks. It is a measure of his strength that he never backed down. Standing firm in his belief that maintaining the integrity and reputation of the Judiciary were paramount no matter what the personal cost might be.

Chief Justice Wilentz has left his imprint on the future of New Jersey's court system. His seventeen years as Chief Justice were marked by significant growth and change, sustaining the national reputation New Jersey Courts have so long enjoyed. He will be remembered for his many achievements including unifying the State and County Courts, implementing a comprehensive Family Court system for the first time, and creating the nation's first task force on minority concerns and the first task force in the nation on women in the courts.

Chief Justice Wilentz also engineered comprehensive administrative reforms within the Judiciary and supported far reaching changes at the trial court level, intended to improve the efficiency in case management. And we have already heard much of that and it is so true today.

We attorneys will remember Chief Justice Wilentz for establishing a compact with the State Bar Association to promote communications between the Supreme Court, the Administrative Offices of the Courts and the organized bar, as well as for his efforts in formalizing the bar's roles in the rule development process. We also appreciate his support of role in recognizing the New Jersey Lawyers' Assistance Program, which provides much needed assistance to attorneys troubled by drug, alcohol, or gambling prob-

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lems. And in joining in a partnership between the Courts, the bar and New Jersey's law schools to form the New Jersey Commission on Professionalism in the Law, which was started only a year and a half ago.

To honor the Chief Justice we will be presenting to the family on behalf of the bar association a resolution which recognizes the Chief for his innovation and dedication to the Courts. This resolution was passed prior to his death in recognition of his many contributions to our system of justice and his unerring sense of what was right for the people of New Jersey. Thank you.

CHIEF JUSTICE PORITZ: Thank you, Ms. Jacob.

Now we will hear from a long-time friend and former partner of Chief Justice Wilentz at Wilentz, Goldman & Spitzer, Matthias D. Dileo.

MR. DILEO: Chief Justice Poritz, present and former Justices, Judges, distinguished guests, family and friends of Chief Justice Robert Wilentz.

Robert Wilentz's seventeen years of service as Chief Justice of the New Jersey Supreme Court was a fitting climax to a long and distinguished legal career. That career started in Perth Amboy in 1952 when he joined the firm as a partner and practiced at Wilentz, Goldman & Spitzer until his appointment to the bench in 1979.

I, and those of my partners who are in attendance today, had the good fortune of working with him for most of those years. As a result of that experience, we all developed a close professional and personal relationship and got to know, admire, love, and respect him for the truly special person that he was.

Robert was an extremely talented person with unique qualities who made a lasting impression on most everyone he met. And especially the people he worked with.

He was a brilliant lawyer. In fact, I've heard it remarked that he was so smart that it was frightening; I agree wholeheartedly with that statement. He was a complete lawyer. Robert could draft a will, write a contract, write a brief, try a case, argue an appeal. He could do just anything and while he was doing all of that he was managing a very large law office. He was creative, hardworking, and constantly striving for perfection, and, of great

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significance, he had the ability to motivate others—us—to strive to achieve those same qualities.

I know that most of my partners who are here have had the experience of doing what we characterized as an “all-nighter” with Robert. An “all-nighter” was an urgent project that came in where we would spend 24 hours or more without leaving the office. I think on one occasion the 24 went to 72. But nobody could complain. And you couldn’t complain because he was there when you got there and he was there when you left. An unbelievable capacity for work.

And that type of work ethic was not limited to fee-generating matters. Because of the sense of fairness and justice that he had—and his father before him—we undertook a number of pro bono matters and expended significant resources in time and money to assure that the right thing was done or that a wrong was righted.

From a personal perspective, Robert Wilentz was a warm, compassionate, decent, and humane human being. He was extremely devoted to his family—as you’ve heard—and cared about all the people who worked with and for him—from senior partner to janitor. If anyone had a personal problem of any kind, be it health, family, personal tragedy or otherwise, Robert was there to express his concern and to offer assistance as might be required.

I cannot resist a personal anecdote. About a year before Robert was appointed to the bench, I underwent surgery in Cleveland. I was there for ten days with my wife. He called her every day, every night to find out how I was and whether there was anything that she needed.

Practicing with Robert Wilentz was an interesting experience because you were always challenged, but it was also a lot of fun. Because interspersed with every serious complex legal issue were a lot of Robert’s witticisms.

Socially he was one of the most delightful persons to be with. He could relate to all types of people. He was extremely interesting, but more importantly, he was extremely interested in the people that he was with.

In 1979 when Robert told us that he was going to be nominated to the bench, we were absolutely thrilled. We were thrilled for him because this extraordinary talent was being recognized and we were thrilled for the justice system of this state, because Robert Wilentz was the person for this job, a brilliant lawyer with

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And, you know, I think about him very often. I think how strong-willed he was and how strong he was about certain things. He had certain principles that nobody could move him from. In this day of judge bashing he never allowed people from the outside to force him to have an opinion. He had his opinions that he shared with the members of the Court. No public opinion could force him to do something that he didn't think was right. No legislator could make him do something that he didn't think was right. Nobody in the executive department could make him do something that he didn't think was right and was good. He was that kind of a strong man. Because the truth of the matter is, when they wrote that song about, He did it his way, he really did it his way. Didn't have to write about Frank Sinatra. They could have written about Robert Wilentz.

CHIEF JUSTICE PORITZ: Thank you, Mr. Wilentz.

We will hear now from Chief Justice Wilentz' son, Dr. James Wilentz.

DR. WILENTZ: Chief Justice Poritz, Associate Justices, retired Justices, and Judges and everybody else. It's a little awkward to look in both directions at the same time, but I know I'm supposed to look this way so I will.

Thank you for the opportunity to speak today.

As I look at my father's portrait, which is so wonderfully done, I'm struck by the book, not only by his wonderful and somewhat enigmatic smile, but the book reminds me that I should have known at our dinner table—when I was about three or four years old—that he was going to be the Chief Justice. If we used a word—I'm sure my brother and sister would corroborate this—that might have come out with a meaning that was near the correct meaning, but not exactly the right meaning, we would be asked to bring the Webster's Unabridged Dictionary to the table and there would be a session where either my father or my mother would refer to it and get the exact meaning and we'd learn that and take it away with us.

He definitely had a tremendous reverence for detail, for the word, for the opinions that were handed down on paper before him and for the ones he was going to write with his colleagues on the bench. I was struck in some of my discussions with him, as Warren said, that he was tremendously happy in his job. And there were many reasons why he was tremendously happy in his

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job. And I think many of those reasons are here in this courtroom right now. He told me that he felt great privilege that the discussions with the fellow members of the Court were completely free of rancor. And that although they might be as diplomats called them, free and frank discussions, they were never *ad hominem*. They were never tinged with a feeling that someone was not competent or that someone was trying to create a bad situation for someone else.

The other thing that I wanted to share is a great sense of smell and vision coming into the home in New Jersey in Deal at the time when the Assignment Judges had their annual Italian-American festival. The dining room would be hung with flags. I'm not sure exactly which flags they were, but—and there was a great smell in the air of recently grated Parmesan cheese and the pasta dishes would be recounted for us and we'd get some leftovers. And again, this was a testament to the fact that he loved the people he worked with. He just got a great kick out of the collegiality of it, as well as the details, the decision-making and everything else.

When I—the few times that I sat with him to ask for advice about my own profession, he always insisted that the line was to do what was right for people and to not get swayed by any outside influences and to try to keep my own values free of any influence. And I know that that's what he did in his decision-making, too. I'm glad to hear that the decision about the *kashrut* laws were as difficult as the decision in the *Baby M* case. I'm certain that he had a lot of thinking to do on that.

I just wanted to also say that I know when he was sworn in he felt that it was a huge task ahead of him and yet he was very happy about it. At that time he said, "I will speak to you now, not just for myself, but for the Court which I have been asked to lead. Together we will try our best to preserve the traditional quality of New Jersey's judicial system. We will also try to improve it, of course, but if we succeed in preserving that tradition and that quality we will be satisfied and so will those who understand how great that tradition is and how superior that quality."

He said that in 1979. I think everybody looking back at it would say that he did accomplish that and then some. I know that near the end of his life, very near the end of his life, Chief Justice Poritz came to visit him in the hospital and they had a long con-

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ference together and I know that after that conference my father came out and spoke to us later that day and basically he was very, very happy and felt that the Court was going to be in fine hands. And I'm glad to be able to say that.

I really don't have anything further, as one might say from this podium. And I just want to say thank you and—

JUSTICE O'HERN: Do you want to save five minutes for rebuttal?

DR. WILENTZ: Yes.

CHIEF JUSTICE PORITZ: Thank you, Dr. Wilentz.

We will hear now from Chief Justice Wilentz' son, Thomas Wilentz.

MR. THOMAS WILENTZ: Chief Justice Poritz, Justices, Judges and Justices, retired Judges and Justices, friends and family. I still have a hard time accepting the fact that my father is no longer living. For as long as I can remember, he was the embodiment of fairness, intelligence, and honesty, and he was as warm and supportive a father as anyone could hope to have. On this occasion I would just like to mention some of the things that made him so special.

One thing that comes to mind when I think about my father is the great love he had for life. Whether it was music, politics, travel, art, athletics or food, he took a keen interest in it. Music and tennis were, I think, his other great talents besides the law. He was an excellent pianist who enjoyed playing pieces by Bartok, Gershwin, and Cole Porter, among others. He also composed his own music, which my brother and sister and I loved to hear him play. He had a fine singing voice, and he could play a little bit of guitar. He liked to listen to all types of jazz, blues and classical music and he got a kick out of old recordings of Yiddish music. He loved the Gypsy Kings, and he even liked the Beatles when he would happen by chance to hear one of their songs, although he would complain that they did not enunciate clearly enough.

He was a gifted tennis player who won championships in his hometown of Perth Amboy and, if my memory serves me, at more than one country club on the Jersey Shore. He was always trying to improve his game right through his seventh decade of life. He enjoyed playing with any member of his family, including in-laws, and he liked to get out onto the court bright and early.

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When it came to food he was something of a gourmet. He loved Italian, French, Asian, Russian, and even English food. Blinis were among his favorites. He was a great fan of pasta and, as my brother mentioned, liked nothing better than the Italian dinners that some of the Assignment Judges would cook every so often, which as he described them, sounded like magnificent feasts.

His affection for pickled herring was of historic proportions. And he delighted in the Colombian specialty of caldo and arepas, which is chicken soup and cornbread muffins that Araminta would make for him, always making sure to comment on the weight of the arepas, which he regarded as a bit heavy. He could make a perfect omelet, and was rightly proud of it. Although he claimed not to like meat, he could cook a delicious steak and eat it without difficulty. He enjoyed a corned beef or pastrami sandwich now and then, especially if it was served with a sour tomato. But he got a special kick out of a sweet ear of Jersey corn or a red, ripe Jersey tomato grown in his own back yard. I believe I got him started on that tomato-growing craze. I began growing them a few years ago and once he found this out, whenever we would talk during the summer months he would always ask about the state of my tomato crop. Needless to say, as soon as he started growing them his tomatoes far surpassed my own, both in quality and quantity. It seemed that no matter what he did he excelled at it.

Despite a fear of flying, he loved to travel. Any vacation that he took, whether with our mother, their friends the Witkins or the Jakobsons or with Araminta, was a welcome respite when he would be forced to abandon his work for a brief period. His perennial favorite destinations were Paris and London, but he found something special in every place that he visited.

While on vacation he liked to bring a book or two and do his best to relax and read, which was one of his greatest pleasures. In his last year he traveled to Israel for the first time in order to see my sister, who has been living in Jerusalem, and to meet his youngest grandson. I am sure he got a big thrill out of being there.

He had a great sense of humor. He could do wonderful impersonations in which both his facial expressions and voice would be combined for hilarious effects. He could not resist an opportunity to make a pun, even a bad one. His comic dances were a family tradition during the holiday season when he would twirl and leap



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through the air, much to the delight of his children. Part of what made him so lovable was his ability to be lighthearted and even silly, if his mood and the occasion warranted it.

He had a gift for a clear understanding of politics, yet throughout his career he refused to do things because they were politically expedient. During his time as an assemblyman and later as Chief Justice, pleasing people, whether the average taxpaying voter or the Governor, was never his priority. His goal in all matters was to do the right thing, the just and fair thing.

During much of his tenure as Chief Justice he was subjected to a constant barrage of criticism from all sides. Sometimes it seemed as if the old adage, "You can't please all the people all of the time," as it applied to him, should have been, "You can't please any of the people any of the time." But even those who disagreed with him could never question his motivation or sincerity. In his public life, as well as in his private life, he followed his heart and unflinchingly did what was fair and correct.

Amy and Jim and I were very fortunate to have been blessed with such a man as our father. Whenever any of us had a problem or needed some good advice he was always there, as solid as a rock, ready to help in any way he could. He was a great man in every sense of the word and we loved him deeply for all of his many wonderful qualities. The example that he set will always be there to guide us through the labyrinth of choices we face every day, and the joy and love he brought into our lives can never be taken away.

CHIEF JUSTICE PORTIZ: Thank you very much, Mr. Wilentz.

We will hear now from the Honorable Daniel O'Hern, Associate Justice of our Court who will speak for the Court.

JUSTICE O'HERN: Chief Justice Poritz, members of the Court, retired, present, friends of the Wilentz family. These words of response would have been better spoken by our Senior Justices, Justice Handler or Justice Pollock. Justice Handler had hoped to be with us today, but his own illness has occasioned him to call on one of us to deliver the response. And in Justice Pollock's absence over the long weekend, he contacted me.

As I sat here I thought of how Robert would have reacted to some of these remarks. We heard that he became a partner in the firm at a very early age. And I remembered a discussion we once

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had about nepotism on the Court. Members of the Judiciary may not hire their relatives to work. He said, "I'm very familiar with nepotism. As soon as I passed the bar they made me a member of the firm."

And the tennis, Tom, we heard about his tennis exploits. And Justice Clifford's rejoinder to that was he was the only person in Perth Amboy with a tennis racket. So he would have reacted in that way to some of what we've heard.

But my words, like an opinion of the Court, are intended to express the views of each member of the Court. As Warren said, he did love it here. He loved it very much in this courtroom. If memory serves me correctly he and Jackie had helped to design some of the features of this courtroom, particularly the etched-glass walls.

For each one of us, there was an overwhelming moment of grief when Robert, with a characteristic sense of protocol, called us in order of seniority on June 13th, 1996, to inform us that he could no longer carry on and that he would have to retire.

Over time our grief has been tempered by the realization that we had been privileged to share in an extraordinary life. Today has been a day to rejoice in that life, and many speakers have remarked about what a pleasure it was to share in his life. Each has related to us some of the gifts that they received from that life shared together, whether in the firm or whether at the bar or whether in the Court itself.

For us the gifts were many.

There was the wisdom that he brought to our deliberations. I was always amazed by the ease with which he addressed constitutional problems. He spoke of the constitution with the ease with which one would describe a familiar landscape. His style was not burdened by the laborious citations that disrupt the flow of analysis by other judges.

In *New Jersey Coalition against War*,<sup>1</sup> he used that style to balance the free speech and property rights of mall owners and leaflet distributors. He said simply, "The private property owners in this case, the operators of regional community malls, have intentionally transformed their property into a public square or mar-

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<sup>1</sup> *New Jersey Coalition Against War v. J.M.B. Realty*, 138 N.J. 326, 363-64 (1994).

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ket, a public gathering place, a downtown business district, a community. . . .”

He was aided in his analysis by a clear vision of the role of the judiciary in our society. He did not regard courts as spectators of public events, detached from the constitutional guarantees that they must enforce. He would not allow the courts to become a tool to suppress society’s less privileged. The Chief had the resolve to enforce the constitution when its guarantees were ignored. He summed up this vision in a *Mt. Laurel* opinion when he wrote, “We may not build houses, but we do enforce the constitution.”<sup>2</sup>

He gave us understanding—understanding of the relationship of law to the community around us. In a speech to the Middlesex County Ins. of Court, he urged the young lawyers:

Get to know as many people as you can possibly get to know—all kinds of people. Talk to them, eat with them, drink with them if you are so inclined. Just get to know as many people as there are. In that way you will understand more about people and more about life, more about things that people think, and you will be a much more capable lawyer.

And I might say, a more capable judge. A capable judge could also be a compassionate judge.

In his 1991 address to the graduates of the Rutgers University School of Law, he reflected on the divisions in our society. He described what he saw as a collection of islands separated by race, ethnicity, and poverty—a situation that he yearned to end or at least to better.

He said to the students:

The problem is deep, severe, crippling to a good society. And we are a good society. My concern is the possibility that we may accept this reality. My concern is that we may accept this condition as something we are willing to live with permanently. My concern is that when you see something, no matter how horrible, when you see it long enough and often enough you stop seeing how horrible it is. The separateness of our society *is* horrible, its disparate wealth and education *is* horrible, and it is not getting better. We must not become blind to it. We must see it and we must deal with it. Not in order to become rich,

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<sup>2</sup> *Southern Burlington County N.A.A.C.P. v. Township of Mt. Laurel*, 92 N.J. 158, 212 (1983).

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not in order to become safe, not even to be fair—although all of that—but to be a happy society, at home with each other, at ease with each other, friends and neighbors, not enemies; not at arm's length, but hand in hand.

The causes are complex, but at this point in history we don't need to *fix blame*. There is enough to go around for all of us. We need to fix society.

Friendship—as we heard—with him was a gift to be treasured. When I think of our parting, I recall once having read Justice Douglas's farewell to the members of the United States Supreme Court. Justice Douglas responded to a letter that they had sent to him. He said:

I am reminded of many canoe trips I have taken in my lifetime. Those who start down a water course may be strangers at the beginning but almost invariably are close friends at the end. There were strong head winds to overcome and there were rainy as well as sun-drenched days to travel. The portages were long and many and some very strenuous. But there was always a pleasant camp at nightfall. Inevitably, there came the last campfire, the last breakfast cooked over the last night's fire and the parting was always sad. And yet, in fact, there was no parting because each happy memory of the choice parts of the journey and of the whole journey was of a harmonious, united effort, filled with fulfilling and beautiful hours as well as dull and dreary ones. The greatest such journey [Justice Douglas wrote to his colleagues] I have made has been with you my brethren, who were strangers at the start but warm and fast friends at the end.

Friendship with Robert Wilentz flowed from respect. A member of our Court echoed Justice Clifford's remarks recalling that in his ten and a half years on the Court, he had never heard a single harsh word spoken at a conference. This Court's collegiality was unique. Chief Justice Wilentz respected all with whom he came in contact—particularly in this courtroom. He was invariably courteous to every lawyer who appeared in our courtroom.

He sought always to instill this same respect in our court system. As we have heard, his was the first judiciary to face the problems of gender bias in the courts and to study the problems of minorities in the courts.

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Leadership, of course, was his greatest gift to us. He had the natural and acquired qualities of leadership, the gift of a great mind, and the acquired virtue of absolute and uncompromising honesty. We often joked about his experiences in the Navy. But as Chief Justice, he had set his course on a distant star by which he led us always. In *In re Randolph*,<sup>3</sup> the Court summed up that ideal, quoting a report from a United States Senate Committee:

We would rather have an independent Court, a fearless Court, a Court that will dare to announce its honest opinions in what it believes to be the defense of liberties of the people, than a Court that, out of fear or sense of obligation to the appointing power, or factional passion approves any measure we may enact.

The Chief Justice's last written words, in his statement on June 13, 1996, were of concern for the judiciary. He wrote,

We have a fine court system, still supported by the people of New Jersey in the somewhat difficult times. That support is one of our most important sources of strength. The ultimate source of our strength and integrity remains our own commitment to judicial independence, total and uncompromising.

So Jim, Amy, and Tom, we will miss hearing about your lives. Araminta, we'll miss hearing about your life. We'll even miss hearing about his mother-in-law. But we have his excellent memories and we thank the firm for the portrait, which we'll hang in our conference room.

Chief Justice Poritz and the members of the Court, thank each of you who has come here today, especially those who have spoken, for your kind tribute to our colleague.

CHIEF JUSTICE PORITZ: Thank you very much, Justice O'Hern. Let me echo Justice O'Hern's thanks to you, everyone, today, for sharing with us your thoughts and your feelings. Unlike most of you in this room I did not know Chief Justice Wilentz well. I do remember well the difficult questions he put to me when I appeared before this Court about shelter for the homeless and about Megan's Law.

Always his deep concern for the people of New Jersey infused his sense of the law and gave it meaning. I also remember his

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<sup>3</sup> 101 N.J. 425 (1986) (Quoting from S.Rep. No. 711, 75th Cong., 1st Sess. 14 (1937) (rejecting the 1937 court-packing plan.))

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concern for the children of this state when as Attorney General I spoke to him about rehabilitative programs for juveniles in trouble with the law. And I do remember his kindness when he found precious time to counsel me upon my nomination to this position.

The more I learn about the Judiciary, the more I stand in awe of the man we honor today. He led the Court. He led our judicial system for seventeen years. He set high standards for us all to follow. But it was his vision, his love for this system of justice, his love for the idea and the fulfillment of justice that has shaped us. We will all miss him.

We now conclude these ceremonies in honor of the memory of Robert Wilentz. The Court invites you to join us in the Supreme Court conference room, if you can stay for a while. Thank you, everyone.

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