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Memories of Justice David N. Eagleson

BY RICK SEITZ

Justice David N. Eagleson passed away on May 23, 2003, at the age of 78. He was a 1950 graduate of the University of Southern California Law School, and served as a judge of the Superior Court of Los Angeles County from 1970 to 1984. George Deukmejian elevated Justice Eagleson to the California Court of Appeal in 1984 and then to the Supreme Court in 1987, where he served until his retirement in 1991.

David Eagleson left an extraordinary legacy in life, in his chosen profession and in California jurisprudence. To each stage and facet of his distinguished career, he brought the remarkable competence, acuity, loyalty, stability, integrity and leadership skills that defined and identified him.

I first met Justice Eagleson when he was elevated to the California Supreme Court in 1987, and I worked as his staff attorney until his departure in 1991. Justice Eagleson arrived at the time of the court's greatest crisis. In November 1986, the voters had declined to retain three of its members. The court's public image was at an all-time low. Those chosen to fill the vacancies created by the election faced the task of guiding the court through the storm-tossed waters and restoring public confidence in its stature.

Californians can be thankful that Justice Eagleson's abilities and temperament amply fitted him for the task. His service, and that of his colleagues on the so-called "Lucas Court," fulfilled the hope that the court would weather the storm. The role these justices played in preserving the health and stability of the California Supreme Court can't be exaggerated. David Eagleson deserves his full share of the credit for that vital contribution.

I was a staff attorney for Joseph Grodin, one of the justices defeated in the November 1986 election. The court relies on a cadre of "permanent" or "car-



eer" staff lawyers, but in fact there is no tenure for legal staff. Lawyers may be dismissed at pleasure. This rarely happens, but it was feared, in the toxic atmosphere of the time, that the replacements for the defeated justices would "clean house," believing they needed new staff with no loyalties to the old regime.

Like his fellow newcomers, Justices Arguelles and Kaufman, Justice Eagleson declined to take that path. Encouraged by Chief Justice Lucas, the new arrivals embraced the longstanding court policy that career staff be retained, if possible, for their legal ability and perspective, and for institutional memory and continuity. Justice Eagleson brought to San Francisco one of his trusted Court of Appeal research attorneys, but he also retained me and every other Supreme Court attorney who wished to stay. We all remained, our loyalty redoubled by his kindness (and good judgment), until his last day at the court in 1991.

His decision to retain staff was consistent with his temperament and philosophy. Though often branded as a no-nonsense conservative, he was, above all, a pragmatist. He distrusted ideology as the enemy of clear and practical thinking. He knew who he was, and he appreciated in others the candor and honesty he himself possessed. As a result, he was comfortable with diversity of views. His Supreme Court staff held wide-ranging legal opinions, which were freely expressed and considered. They could prevail, if persuasive, over his own initial view, but there was never any doubt about who was in charge.

He also believed in order, decency, hard work and good behavior. This led him to support the institutions, public or private, that promoted and enforced these values. His acceptance of institutional values, and his love of efficient administration,

fueled his realization that the court's permanent legal staff would be a help, not a hindrance, in performing his judicial duties.

Pragmatism, decisiveness, efficiency, candor, fair-mindedness and institutional respect are also the hallmarks of his opinions for the court. Certainly he was productive. He wrote fifty-four majority opinions during his four-year tenure, including many time-consuming death penalty cases. All of his opinions are marked by clarity of prose and reasoning, and by an instinct for the crux and realities of a legal issue.

Many of these well-reasoned decisions favored the People in criminal matters, and business interests and defendants in civil matters. But he never swerved from his determination to approach each case on its own merits, apply the law to the facts and let the chips fall where they might. He called them as he saw them, and the results defy simplistic labels.

Thus, in *New York Times Co. v. Superior Court*, 50 Cal.3d 453 (1990), and *Delaney v. Superior Court*, 50 Cal.3d 785 (1990), he confirmed the strong free-press protections contained in California's newsmen's shield law. He sided with environmental interests in such cases as *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal.3d 376 (1988), which tightened the requirements for an environmental impact report under California's Environmental Quality Act, and *Western Oil & Gas Assn. v. Monterey Bay Unified Air Pollution Control Dist.*, 49 Cal.3d 408 (1989), which upheld the authority of the State Air Resources Board to regulate nonvehicular air pollution. In *S. G. Borello & Sons, Inc. v. Department of Industrial Relations*, 48 Cal.3d 341 (1989), he forthrightly concluded that a corporate produce farmer could not avoid worker's compensation coverage for its seasonal farmworkers by requiring them to sign so-called "sharefarmer" agreements designed to make them independent contractors rather than employees.

His relations with his colleagues were unfailingly courteous and collegial. He would stretch to sign other justices' opinions if he could do so without violating his own conscience. This policy marked his respect for his fellow justices, and for their views on matters open to reasonable debate. It also highlighted his unsentimental conviction that, in many cases, any rule was better than no rule, and that the court's ability to speak with one voice whenever possible promoted both efficiency and credibility.

He conveyed these values to his staff. He insisted that our legal analyses be clear, concise and cognizant of the practical interests at stake. Any new

treatise on effective appellate opinion-writing was sure to find its way from the judge's desk to ours. He reminded us time and again that the court's opinions were not for scholars and academics, but for working lawyers and their clients, who must be able to divine and apply the rules we were announcing.

He had an acerbic wit, which he often kept under gentlemanly wraps. But he could reveal his sense of humor in the service of court collegiality. Once, a staff lawyer – known for his polemic talents – submitted a draft dissent couched in passionate hyperbole. Justice Eagleson read the text, smiled ruefully, handed it back, and said, "I think we're going to have to edit this with a fire hose!"

Consistent with his lifelong modesty, he always credited his staff for their contributions, while downplaying his own. He was too self-aware to be self-important. He often insisted that he was on the court only because he had been in the right place at the right time, while we were the real legal brains. It was a gross exaggeration, but we appreciated the compliment.

His adjustment to the court was not entirely smooth. He was not fond of San Francisco's climate, or its ambience, and he missed his beloved Long Beach. When short-sleeved business shirts and plaid golf pants made their appearance, we knew it was an effort to preserve the trappings and comforts of home.

And when he decided it was time to come home, he did not hesitate. He returned to Southern California and began a new career, applying his exceptional talents to become a respected and sought-after private judge. He continued this work, with great success, until very shortly before his death.

He did not, however, forget the relationships he had forged on the court. Whenever he passed through San Francisco on business, or en route to one of the fishing expeditions he loved so much, he made sure to round up his former staff members for lunch and lively reminiscence. Though the years advanced, he remained unchanged – quick and sharp, in command and radiant with glowing health. It is almost impossible to believe he is gone.

But our sadness at his passing is tempered by our understanding that he lived a good and satisfying life – in many ways, the best of lives. He was true to himself, he did everything he wanted to do, and he left a record of public service few can match. What more can anyone ask?

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