

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

In Memory of

THE HONORABLE WALTER A. HUXMAN

Judge of the United States Court of Appeals,

Tenth Circuit
1939-1972

January 10, 1973
Wichita, Kansas

In Memoriam

JUDGE HILL: While we are standing, I will ask Father Frederic Raasch, Rector Emeritus, St. John's Episcopal Church, here in Wichita, to give the invocation.

I might say, Father Raasch knew Judge Huxman quite well way back in 1936 and 1937 when the Judge was a candidate for governor and was governor of our state. That was one of the reasons I asked Father Raasch to be with us today.

FATHER RAASCH: As we are assembled here at this fitting memorial service for the Honorable Walter Huxman, it would be well for us not to emphasize that he has died; but rather gratefully to recall that he had lived. And it is to this end that we ask you humbly and reverently to bow your heads in a prayer of thanksgiving.

O God of all the living, we pause publicly to thank Thee for the blessed memory of Thy faithful servant, Walter, who has been called out of this transitory life into the eternal joy of your presence. Thine he was upon the earth, even as we are Thine; and Thine are he and we in differing experience still. Tho our eyes can no longer see him, and our ears are deaf to his remembered voice, we bless Thee that he is never absent from Thy loving care and concern.

We thank Thee for his competent and impeccable stewardship as Governor of the Commonwealth of Kansas. We thank Thee for his wise and impartial judgments as a member of the Tenth Circuit Court of Appeals.

We thank Thee for his exemplary expression in his private, as well as public, life of all the sterling qualities that define the noblest and finest stature and ideals of American citizenship, all demonstrated and performed in a genuine spirit of modesty and humility.

IN MEMORIAM

We further thank Thee, our Heavenly Father, for all the goodness and courage which have passed from the life of Thy faithful servant into the lives of others, thus leaving our beloved country richer for his presence. We thank Thee for a life's task faithfully and honorably discharged, and for trials and challenges met without defeat or surrender.

Then, too, O God, we thank Thee for the happy days enjoyed in his companionship. We thank Thee for the example of his faith and patience. We thank Thee for the teaching of his words and deeds, and for his share in Heaven's new and enlarged opportunities of service.

May the grateful recalling of his life now serve to inspire and encourage each of us with the resolution faithfully to follow his worthy example, and ever to remain faithful and dedicated in devotion to duties incumbent upon us in our respective stations and callings of life.

All this we ask in the name of Him and for the sake of Him, who upon occasion spake these words of commendation: "Well done, thou good and faithful servant; thou hast been faithful over a few things, I will make thee ruler over many things: Enter thou into the joy of thy Lord." Amen.

JUDGE HILL: The Court is convened this afternoon for a special and very important purpose. We are here to pay our respects to our beloved and respected friend and associate, Walter A. Huxman.

The Chief Judge of this Court, David T. Lewis, has asked me to express his regrets to those present, the family and friends of Judge Huxman, because he is unable to be here today and to preside on this occasion. Judge Lewis is ill and unable to come to Wichita for this court session.

Two former chief judges of the court, Orie L. Phillips and Alfred P. Murrah, as well as John Pickett, a senior judge of the court, have all asked me to express their regrets in being unable to be here today.

HONORABLE WALTER A. HUXMAN

Walter A. Huxman was born February 16, 1887, on a farm in rural Reno County near Pretty Prairie, Kansas. He was the son of August H. and Mary Graber Huxman. He died June 25, 1972.

He grew to manhood on this Reno County farm, and was educated in the public schools of that county. After graduation from high school, he became a school teacher. From 1907 to 1909 he was principal of the Castleton Grade School. During the school year of 1910 he was principal of the Pretty Prairie Grade School. After that he attended Kansas State Normal School, which is now Emporia State Teachers College, at Emporia, for two years. When he completed that part of his formal education, he enrolled in the law school at the University of Kansas, and received his law degree from the university in 1914. After being admitted to the bar of the state, he became a law partner of Charles S. Fulton, Judge Fulton, at Hutchinson, Kansas, where the two of them engaged in the practice of the legal profession for many years.

On January 21, 1915, he was married to Eula E. Biggs, who survives. We are very happy Mrs. Huxman is here today. One child, Ruth Huxman Syler, was born to them. Mrs. Syler predeceased her father. We are also pleased that Mrs. Holdeman, a sister of Judge Huxman, is present for this memorial service.

The Judge served as Assistant County Attorney in Reno County from 1915 to 1919, and later served his home town, Hutchinson, Kansas, as City Attorney. In 1928 he was the Democrat candidate for a position on the Kansas Supreme Court. In 1931 he was appointed by the then Governor, Harry H. Woodring, as a member of the Kansas State Tax Commission. In 1936 he was the Democrat candidate for Governor of Kansas, and was elected Governor.

He served with honor and distinction in that position. On May 23, 1939, after he had completed his term as Governor, he was appointed by President Franklin D. Roosevelt as a Judge of the United States Court of Appeals for the Tenth Circuit. Pursuant to the provisions of statute, in 1957 he chose to as-

IN MEMORIAM

sume senior status as a member of this Court. Thereafter he continued to sit occasionally on the Court, and from that date until May, 1964, he also carried a very heavy load of work as an assigned Judge of the United States District Court for the District of Kansas. He completely retired in May, 1964, and closed his office in Topeka at that time.

We have asked some people who have been close to Judge Huxman down through the years to be here today to express their thoughts about him. The first one on the scheduled program is former Governor Alfred M. Landon. Governor Landon is ill at the present, and was unable to be here, but he has written a letter, which I will read.

"I am indeed sorry that my bad sciatic nerve in my right leg, which has been bothering me for some three months or so now, prevents me from being with you Wednesday afternoon to pay my final respects to Judge Huxman, whom I admired and respected so much.

"I first became acquainted with him in 1933. On my recommendation, the legislature that year made the Corporation Commission bi-partisan. I offered the minority appointment to Walter Huxman. After several days of consideration, he turned it down.

"The first incident I recall that shows his innate kindness and thoughtfulness was a few days after his inauguration as governor in 1937. In 1935, the Deaf and Dumb Institute at Olathe had made me a beautiful walnut desk with two matching office chairs. When I left office, I did not take them with me. I had not disposed of my old ones. Governor Huxman found out about it in a few days and asked me why I hadn't taken the desk. I said, 'I'd love to have it but I didn't feel like taking it.' He said, 'It was given to you. I'll send it out.' I didn't say anything about the two chairs. The next day or so, he called me again and said, 'Why didn't you tell me about the two chairs?' The next day, he sent them out.

"Another incident I recall of his dry sense of humor was a bridge game one evening he had arranged with me at home

HONORABLE WALTER A. HUXMAN

with Judge Murrah. Walter was my partner. I doubled Judge Murrah and led an ace. Walter started shuffling his cards and, from the bidding, I thought he was getting ready to trump it. I said, 'That's my ace.' Walter kept on shuffling his cards. I repeated again with considerable emphasis, 'That's my ace.' Judge Murrah made a mild protest. Walter finally discarded on it. Afterwards, in a somewhat kidding conversation, Walter remarked, 'I guess I've got the right to trump my partner's ace if I want to!'

"In those years, we had many lunches together in the old Senate dining room of the Jayhawk. Generally Judge Sloan was there and occasionally one or two others.

"Your Memorial recalls many similar incidents that I am sure the members of the Bar experienced frequently and his fellow judges in his decisions. Judge Murrah outlined this so well in his final goodbye to a great Judge, who can really be described accurately as a great American, and one whom I remember with affection and respect.

"With highest personal regards and every good wish, Alfred M. Landon."

It is indeed fitting and proper that some member of the Court of Appeals should speak at this time on behalf of the Court, and we have invited the Honorable Jean S. Breitenstein, a Judge of this Court from Denver, Colorado.

JUDGE BREITENSTEIN: Thank you, Judge Hill. In 1939, Walter A. Huxman became the seventh appointee to the United States Court of Appeals for the Tenth Judicial Circuit. After seventeen years of service on that court, he took senior status in 1957 and continued to participate actively in court affairs for a number of years in his capacity as senior judge.

His associates on the court esteemed Walter Huxman as a great judge. He had a keen sense of justice and worked indefatigably to attain what he deemed to be the correct result in every case. He was persuasive in court conferences and more often than not was able to convince a hesitant judge to agree

IN MEMORIAM

with him. He had a tremendous capacity for work and willingly undertook complicated matters, such as railroad reorganization cases, which required many hours of painstaking mental labor.

Federal judges are inclined to be individualists. Walter Huxman was an individual among individualists. During extracurricular sessions following a hard day of judging, he was in his glory. His jolly laugh, great humor, and sharp wit enlivened many a meeting. Those who were privileged to attend such occasions well remember the continuing interchange between him and Judge Sam Bratton, his long-time friend on the court. One area of dispute had to do with the relative merits of certain protestant religious denominations, and the other with the relative status of a State Governor and a United States Senator. Huxman had been a Governor and Bratton a Senator. Perhaps regrettably, the protocol problem was never resolved.

Judge Huxman was a loyal Kansan, proud of his state and of the accomplishments of its people. He loved the outdoor life and was ahead of the times in his concern with environmental problems. His generous nature was displayed in his concern for the underprivileged and the assistance which he gave to those in need. He was a delightful host as all who have enjoyed his hospitality at Lake Wabaunsee will attest.

The accomplishments of a judge are often assessed both quantitatively and qualitatively. From the standpoint of quantity, Judge Huxman did more than his fair share of the work of the court. His quick and incisive mind enabled him to get at the heart of a controversy with a minimum of time and delay. Coupled with this ability was his skill in expressing himself in writing. The result was an output of opinions which was the envy of other members of the court.

More important than quantity is quality. Judge Huxman wrote good opinions which clearly defined the facts, the issues, and the controlling law. They were understandable. The litigants knew why they either won or lost. His expositions of the

HONORABLE WALTER A. HUXMAN

law were accepted by his associates for their precedential value. He inspired confidence.

Perhaps the best test of an individual's accomplishment in any line of endeavor is its acceptance and approbation. The record of Judge Huxman is clear. He deservedly won the commendation of the man in the street, of the lawyers not only of Kansas but of the entire Tenth Circuit, and of his associates of the Court of Appeals. The ultimate recognition of his standing and ability was given by the highest court in the land, the Supreme Court of the United States. In 1949 that Court had before it on certiorari from the Tenth Circuit a vexing problem of Kansas law. The Court concluded its opinion thus: "* * * the Court of Appeals on a careful canvas of Kansas law in an opinion written by Judge Huxman, a distinguished member of the Kansas bar, has held to the contrary. * * * We will not disturb that holding here." Rarely has a lawyer or a judge received such high praise from the highest court.

The esteem in which the Supreme Court held Judge Huxman was exhibited on another occasion. In an original proceeding in the United States Supreme Court the states of Texas and New Jersey were contending over their escheat rights to abandoned intangible personal property. I am sure you all understand that. After his retirement from active service, the Court appointed Judge Huxman as Special Master to take evidence and report. Predictably, exceptions were filed to the report, but the Court brushed them aside saying: "We agree with the Master's recommendations as to the proper disposition of the property."

The place of Judge Huxman in the history and traditions of the Court of Appeals is well established. It is enough to say that we honor him as a man and as a judge and cherish our memories of him.

JUDGE HILL: Thank you, Judge Breitenstein.

We are honored today by the presence of our present Governor, the Honorable Robert B. Docking. We will now hear from Governor Docking.

IN MEMORIAM

GOVERNOR DOCKING: Thank you, Judge Hill, and family and friends of Walter A. Huxman. Today we are eulogizing a man of law and a man of leadership. Walter A. Huxman was a man who dedicated much of his life to people and the order of society. As Governor he was instrumental in shaping the laws of our state. As a judge he wrote more than 1,400 opinions, which have helped shape the laws of our land.

Once removed from deeply religious German emigrants who came to this country in search of religious, economic and political freedom, Walter Huxman entered the governorship in the depths of the depression. He was faced with the tough decisions of providing 4,000 jobs for more than 44,000 applicants.

Walter Huxman was a man who believed government should stand for the people. He believed, as he once said, "The democratic principle of government is based on governing for the people," a philosophy which I very much admire.

Walter Huxman, in 1959, received the Man of Law—1959 Award, and on that occasion he spoke of his deep commitments to his country, when he said: "We are the beneficiaries of the richest heritage of liberty under law in the history of civilized people." It was he who helped shape that liberty under law for future generations to enjoy.

Walter Huxman was a man of great perception, humility and uncommon faith in people. He was diversified in the legal field. He was a man of many interests. He was a humanitarian.

He was a man who believed in helping young people, treating law clerks as sons and giving generously to his alma mater, the University of Kansas Law School.

He was a farm boy who was proud of the fact that he was raised among the tools of our state's largest industry.

Walter Huxman was a man who will be remembered for many years by students of government, as well as by students of the law. He will be remembered by his many friends, and I feel

HONORABLE WALTER A. HUXMAN

very fortunate that I can join all of you here today, as we call ourselves friends of Walter A. Huxman.

JUDGE HILL: Thank you, Governor.

We have invited the Honorable Robert H. Kaul, Associate Justice of the Kansas State Supreme Court, to represent the state judiciary on this occasion. We will now hear from Judge Kaul.

JUDGE KAUL: May it please the Court, ladies and gentlemen, friends of Judge Huxman. It is my privilege, on behalf of the Supreme Court of our State, to bring to this occasion a tribute of respect and an acknowledgment of gratitude for the distinguished service of Walter Huxman to the administration of justice.

Walter Huxman assumed his high office with his customary modesty at a ceremony sponsored by the Reno County Bar in Hutchinson, on May 31, 1939. The oath was administered by Judge J. G. Somers on that occasion. Judge Huxman responded with these words, and I quote, "I am honored beyond my just deserts. I have no illusions of grandeur. I owe my good fortune to a combination of circumstances." He put his judicial philosophy in these words, which were recorded at the time, "I hope to be sound, just, progressive with the times and adapt myself to changing conditions. The Constitution is pliable, but it must be approached with a sense of responsibility. I hope to live up to the best traditions of the Reno County Bar so your faith will not be displaced. Judges should not be partisan. I always intend to take an interest in my party, to help keep it clean, but there must be no partisanship on the bench."

Throughout his judicial career Judge Huxman's faithful adherence to those precepts is reflected in the conduct of his office, and the hundreds of opinions which he wrote for this court and wrote in dissent. His judicial philosophy, that the Constitution is pliable, but that its interpretation must be tempered by a sense of judicial responsibility, is illustrated in his opinion for the Tenth Circuit in the landmark case of *Brown v. Topeka*

IN MEMORIAM

Board of Education. Judge Huxman was torn between his own philosophical beliefs and judicial responsibility dictated by the rules of stare decisis. A long line of United States Supreme Court decisions, commencing with *Plessy v. Ferguson*, without deviation compelled adherence to the then prevailing separate, but equal doctrine. Judge Huxman, however, so constructed the opinion that it served, at least in part, as a vehicle for later reversal by the Supreme Court when it overthrew the long-standing doctrine in its momentous decision.

During the tumultuous years of the 50's and 60's, when the boundaries of state and federal jurisdiction were being reassessed, Judge Huxman played an important part, together with other Kansas judges, both state and federal, in fashioning a judicial atmosphere in Kansas which avoided the strained relationship that in some instances became bitter conflicts between federal and state judiciaries in many sister states.

In addition to the broad range of activities in his public career, Judge Huxman, in his extraordinary full life, enjoyed a great variety of interests in many private pursuits: his collection of classics and historical works in his extensive private library, his ranch, his great love of nature and outdoor sports.

My personal acquaintanceship extended over a period of more than thirty-five years. Our friendship developed, perhaps, more from our mutual interest in fishing, rather than sharing experiences in the law. As has been mentioned, and as many of you know, the Judge spent many happy hours in relaxation and recreation at Lake Wabaunsee, near Eskridge. In the late 40's the Judge organized the "Lake Wabaunsee Sportsman's Association," an organization dedicated to the betterment of fishing in the lake. The Judge undertook considerable research on his own, and also brought in an expert, a biologist from K. U., who checked conditions and made some recommendations. Spawning ponds were constructed, and fish were hatched; but this was one of the few projects in which Judge Huxman failed to attain 100 per cent. Although some fine bass were later taken from the lake, it ultimately developed that most of the hatched fish

HONORABLE WALTER A. HUXMAN

served to appease the voracious appetites of a number of monster flathead catfish that had established domain over the deepwater part of the lake.

The Judge made fishing trips to Canada, and also fished many of the trout streams of Montana and Wyoming, with which I am familiar. In fact, the only occasion I know of when the Judge was heard to foresake his inherent modesty was in the telling of fishing exploits.

It was only about four years ago that I encountered the Judge and his close friend, John Kirk, of Topeka, at the Fancy Creek Marina on Tuttle Creek Reservoir. The Judge was beaming with delight. He displayed a ten-pound channel cat and several other nice fish, which he carefully explained were caught on rod and reel. Of course, I inquired as to the location. His reply was a fisherman's typical evasive answer. "Well, Bob, we found a good brushy spot up the Fancy Creek Arm." The fact is that the reaches of Fancy Creek Arm extend for ten to twelve miles and include several hundred acres of "good brushy spots."

Among the many honors which he accumulated, the Judge was recognized on two occasions by his Alma Mater, the University of Kansas. In 1953 he was named to receive the Alumni Association's Award for distinguished service. And in 1970 he was awarded the "Distinguished Alumnus Citation" by the K. U. Law Society for his contribution to the administration of justice. On this latter occasion it became my responsibility to secure the Judge's attendance at the annual law school luncheon held in connection with the meeting of the state bar association. I was instructed that I could not divulge, under any circumstances, the reason for his attendance. The Judge had made other plans for that day. In fact, he had planned to attend the luncheon of another law school, so I was forced to resort to some rather devious scheming to accomplish my assignment. The Judge accepted his law school's highest honor in his usual unassuming manner, and then with the familiar twinkle in his eye he chided me, as a Justice of the Supreme Court, for being guilty of conduct which he described as "bordering on fraud and misrepresentation."

IN MEMORIAM

Judge Huxman possessed the enviable capacity to harmoniously blend—dignity with humility; wisdom with wit; judicial decorum with patience and understanding.

His contribution as Judge, Governor, lawyer and citizen will be marked in the heritage of his state and of his nation.

His memory as a friend and delightful companion will be cherished by the hundreds who knew him personally.

JUDGE HILL: Thank you, Judge Kaul.

As we all well know, Walter Huxman spent a great part of his life deep in politics, and I think it is proper that someone who lived during those days back in the 30's and knew Walter Huxman as a politician should appear on this program. I am sure no one is better qualified than Mrs. Georgia Neese Gray, who was Democratic National Committeewoman at that time, and later was Treasurer of the United States.

Mrs. Gray, please.

MRS. GRAY: Thank you, Judge Hill. Mrs. Huxman, ladies and gentlemen. There was perhaps something prophetic about the Christmas of 1971 when the Huxman card carried a handwritten message that it would be the last sent; that keeping up the custom of cheer imposed a bit more work than the Judge could undertake.

But the good wishes for many more Christmases to come were expressed with commanding sincerity. And we thought of the Huxmans this year. Sadly and warmly. The calendar can never ring down the curtain on friendship. It endures and enables one to carry emboldening memories and helps us onward, always aware of the gifts great souls bestow on other pilgrims.

The high distinction of being invited to join in this thoughtful and exceedingly appropriate tribute to Judge Huxman carries with it heavy responsibility. Felicity of friends in an attempt to capture this wonderful spirit in words remains futile. It is al-

HONORABLE WALTER A. HUXMAN

ways so when one tries to define and pay honor to one whose greatness lies in his disarming mystic simplicity.

Judge Huxman's life unfolded a career of accomplishments, as we all know. Boundless was his capacity for friendship and intense interest in people. His virtues and deeds make a long, long list, but they scarcely sum up the man Walter A. Huxman. His total dedication as a fine human being with a delicate regard for all humankind will live on in the hearts, minds and sentiments of the men and women who were blessed to have the pleasure of his earthly company.

If those of you who invited me to share with you this memorial today thought I might add a woman's touch, I frankly avow it's not in me. I would not be true to the Huxman I knew. There was no double standard in his attitude toward and regard for men or women.

There is one revealing facet of his character that always amused me. Shortly after he was elected Governor, I went to visit him with a leading Democratic woman who put before him a long list of appointments and matters bearing on policy. Governor Huxman patiently "listened her out" and nodded to the lady. Then he quietly closed the interview, by remarking, "Of course, but *with my approval.*"

His gentleness sheathed an intellect of steel. It could be disarming, but not for long. One knew where one stood with him at all times. I must add that if he did not agree with you, he could still honor your point of view and hold you in warm friendship and regard. This is truly an unusual quality.

Judge Huxman's memory remains in our home. Several years ago, while I was visiting him and Mrs. Huxman, he gave me a handcrafted, wooden three-legged stool. Woodworking was one of his many hobbies. To this year it reminds me of him. We'll always treasure this memento.

To my mind, the only line he drew on sex distinctions was in his later years was for a regular noonday meal at the Hotel Jayhawk Coffee Shop with likeable comrades. Our esteemed

IN MEMORIAM

Judge George Templar was a regular at these noonday meals, well larded with sense and nonsense, as one might expect. My husband was privileged to interlope occasionally, and he recalls that the topics were rangeless and no holds were barred in the exchange of opinions, beliefs, and just jestful sallies.

With love and reverence for a marvelous Kansas person, I bow out of my stint in trying to capture this man. His wise simplicity, as I said, defies definition. His state and nation honored him. Proud we are to share as friends reflected glory.

With the permission of the judiciary, I would like to present for the archives a penetrating paper on Judge Huxman, done by Mr. James Rankin of Topeka, Kansas, a Washburn University student. I strongly recommend its publication. The research is revealing, for Jim Rankin was a little boy and neighbor to the Huxmans when he first won counsel and friendship from the Judge. Incidentally, Jim got an "A" on this paper, just as we give Judge Walter A. Huxman an "A" for whatever he did in his long and fruitful years on this earthly planet.

JUDGE HILL: Thank you, very much.

To represent the federal judiciary here in Kansas, we have invited the Honorable Frank G. Theis, who was one of Governor Huxman's appointees during his administration as Governor, and during that time and in his later years came to know Judge Huxman very well, and became one of his best friends. Judge Theis.

JUDGE THEIS: May it please the Court, friends and dear ones of Judge Huxman. As Judge Hill has indicated, I shall probably speak here in somewhat of a personal vein, of Judge Huxman. And that was the reason, I think, that Judge Hill asked me to perform this pleasant duty this afternoon.

My first meeting with Walter Huxman was in a place called the Marceline Dance Hall in Arkansas City on a September evening early in the 1936 campaign. My main interest in that campaign at that point was a warm feeling about President Roosevelt and a zeal to help bring about the election of my

HONORABLE WALTER A. HUXMAN

friend, Olin Scott, to the exalted office of Cowley County Attorney, for which he was the nominee of the Democratic party. Scott and I had both graduated in June, 1936, from Michigan Law School, and in spite of the still-existing depression, we were viewing the world, or at least our part of Kansas, as our "bowl of cherries."

Judge Huxman, as the Democratic nominee for Governor of Kansas, strode briskly into the meeting place. He was of medium height, a slightly built man with silver hair, intensely blue eyes, and forthright businesslike mien. He proceeded to give a brief but compelling speech with a fast-speaking delivery on some of the state problems of the time and emphasizing the importance of reelecting FDR. I recall his appearance inspired the local party leadership and workers to extended effort through the rest of that victorious campaign which resulted in his election over a complacent Republican candidate who had had his inaugural invitations already printed in reliance upon the Literary Digest poll and the state press predictions of an overwhelming Landon and Republican party sweep of Kansas.

In May, 1937, I joined the Huxman administration as assistant attorney in the State Tax Commission under Judge Hill, who was already chief counsel for the Commission and a close adviser of Governor Huxman. Without minimizing or in any way reflecting on the political integrity of previous administrations, the new Governor set to work to install austerity, efficiency, economy, and rigid integrity in all executive offices. I can still remember the grumbling about the initiation of the 8:00 a. m. opening of the state offices and reduction of and policing of coffeekes. The new Governor, while an experienced politician, soon proved he was a statesman and not a spoilsman. There was no state civil service system at the time, and all positions down to the lowest clerk were at the Governor's disposal. Governor Huxman proceeded with dispatch to insure loyalty and responsibility to command by replacing in an orderly fashion most of the policy positions in the executive branch. However, he sent emphatic word to his major appointees in the various boards and commissions that no one who was efficient in his or

IN MEMORIAM

her job was to be replaced, and that order was adhered to. Judge Hill and I both remember well-known Republicans in prominent positions, as well as many others in lesser positions, who were retained. These, as well as the new Democratic appointees, felt an immense loyalty to Governor Huxman and strove to reach the heights of taxpayer service upon which he constantly insisted.

I specifically remember he was not a Governor of spectacles, neither in press conferences of administration accomplishment, acrimony of opposition, nor ribbon-cutting at state or public functions. He never raised his voice in dealing with opponents or appointees. He was short on public oratory and long on quiet, patient direction.

I remember as though it were yesterday a typical incident in that administration in which Judge Hill and I played a prominent role. Among my duties, as sole assistant attorney to Judge Hill, was to directly administer the Inheritance Tax Department, as well as to be assistant litigation attorney to Judge Hill in various other tax divisions—property, income, and the then newly-established sales tax division. Charles Brenneisen, who had held the inheritance tax position under Governor Landon, had resigned to enter private practice. He called my attention to a survey then being made which indicated there were hundreds of thousands of dollars of unpaid inheritance taxes on decedent estates dating back more than twenty years. In many cases, especially in large and prominent estates, there had been complete breakdown in both reporting from the various county probate courts and collection at state and county levels. There existed no statute of limitations against state collection. Through Judge Hill, Chairman W. G. Fink, and Commissioner Lester Luther, this aspect of inefficiency was brought to Governor Huxman's attention. The word came down, "Tell him (meaning me) to collect every nickel with interest." So we embarked on several hundred suits in almost every one of the 105 counties in Kansas, and collected, if I recall correctly—and I checked this with Judge Hill, and he remembers about the same

HONORABLE WALTER A. HUXMAN

thing—almost a million dollars in unpaid inheritance taxes during the two years of the Huxman administration. As a result of our litigation, the Republican legislature enacted a ten-year statute of limitations on collections due to one of our suits against the large estate of a prominent political personage in the state. This was the only inheritance tax case Judge Hill and I did not bring to fruition, since the legislature beat us in a race to judgment in Shawnee County.

I will be ever personally indebted to Governor Huxman for three significant milestones in my life. First, because I met and married from his administration my dear departed wife Marjorie. Second, for the experience and sense of confidence I acquired both in and out of many courts, trial and appellate, as an attorney. Judge Hill gave me my head in most of the cases which were, no credit to either of us, almost unassailable from a defense standpoint under the statutes. We met and vanquished many competent and prominent attorneys who were representing the estates from which we were exacting state penance. I never suffered from lack of composure in succeeding years as a practicing attorney. Third, I made, as is always the case in such a rich experience, hundreds of friends and acquaintances who have helped me immeasurably in the years of my political and professional life. For some, such as our dear departed friend and colleague, I had an abiding affection. And Governor Docking here, and his father also.

Governor Huxman was defeated, as Judge Hill indicated, for a second term in the Republican sweep of 1938, mostly on the opposition's clever use of the sales tax issue. The Republican legislature had enacted a two per cent sales tax law and provided tin tokens worth one-tenth of a cent each to aid in its collection. The opposition hung the name of "Huxies" on these little tin tokens, the name stuck, and the Governor reaped voter revulsion. Soon President Roosevelt made Governor Huxman Judge Huxman of the Tenth Circuit Court of Appeals, and the people could only remember and say, "He was one of Kansas' best Governors."

IN MEMORIAM

Since Judge Huxman's retirement, it was always the custom of any federal judge holding court in Topeka—and this was alluded to previously—to sit with Judge Huxman's noonday court at the luncheon table in the Jayhawk Hotel to discuss, indeed, often joke about, the political, judicial, economic, or sporting topics of the day or season. Judge Huxman's acute sense of humor and human philosophy always dominated these midday sessions. It is perhaps repetitious for me to say, but Kansas and this nation have lost a leader of stature, and we of the judiciary, a dear colleague and friend.

JUDGE HILL: Thank you, Judge Theis.

During Judge Huxman's many years of public service, I am sure that standing at the top of his list of favorite people would be his law clerks. During his tenure as Judge, I think he had somewhere between fifteen and twenty law clerks. Each of these law clerks he considered to be equal to a son. He had the same affection for them, the same interest in them, as he would for a son. And he carried that feeling down through the years toward each and every one of them. They all became quite successful and skillful lawyers, due to, to some extent, of course, the fine training they received at the hands of Judge Huxman. So we had a difficult time to select a law clerk to speak on this occasion.

We finally concluded we would select the first man who served as his law clerk after his appointment as Judge, and that is John Shamberg, who now practices law in Kansas City, Kansas. He is a prominent and successful lawyer there. He came from Judge Huxman's home town of Hutchinson. Mr. Shamberg served two years as his law clerk, and then went back to Hutchinson to Judge Huxman's law office where he practiced law for a time.

We will hear now from Judge Huxman's first law clerk, John Shamberg.

MR. SHAMBERG: May it please the Court, Mrs. Huxman, Mrs. Holdeman, friends and colleagues of Judge Huxman. There

HONORABLE WALTER A. HUXMAN

were, I believe, seventeen law clerks during the years that Judge Huxman served in the Court of Appeals as an active Judge, and in visiting with those who clerked for him, I find that most of them continued an intimate association with the Judge long after they left his service. This was true in my case.

He took a continuing interest in all of us, and his influence on our lives was indeed great.

He was a dynamic man, an exciting man, and working for him as a law clerk was indeed a thrilling experience. It was not employment; it was more like a joint undertaking of two equal partners.

Judge Huxman was his own man. He reached his own decisions and wrote his own opinions, but he expected his law clerks to play an important part in the decision-making process. There was no restriction on our efforts. He encouraged us to extend ourselves to the limits of our capabilities.

Fragmentary answers or piecemeal treatment of a problem was not good enough. He pressed us to structure a total solution to the problem presented by the appeal requiring memorandum or decision. These demands presented a real challenge and were invaluable in the preparation for the practice of law.

You had to know the nature and temperament of Walter Huxman's personality to appreciate the enjoyment that we felt in working with him. The lively discussions grappling with knotty legal problems are unforgettable. Oftentimes he forgot he was the Judge and became the advocate, with his lightning-quick mind and incisive manner of speech, with almost evangelistic zeal, he would argue his position with such vigor and conviction that it was hard to resist him. And all the time the clerk served as a sounding-board for his own views.

He welcomed the lively exchange, but he was not easy to sway nor his mind easy to change once it was made up. To those who knew him less well, Judge Huxman gave the impression of one who was stubborn or hard-headed. The fact of the matter was, his mind worked so fast and he possessed such

IN MEMORIAM

phenomenal powers of marshaling in logical order the reasoning upon which his conclusion was based that those who did not know of this gift could not understand how such solid decisions could be reached so quickly.

A Huxman clerk was expected to detect the real issue and identify the legal principles which applied to the problem. He was pressed to think beyond the immediate problem of the case before him and to consider how it fit into the larger body of law from which the decision was wrested.

A Huxman clerk was encouraged to bold and imaginative thinking. He inspired us by the boldness of his own execution. He was a courageous Judge. It was a courage born of a purity of purpose in the decisional process, to decide as right and justice demanded.

To be a law clerk for Walter Huxman was indeed a mind-stretching experience.

Fortunately, my friendship with Walter Huxman did not end with my services as his clerk. It extended, as was the case with most of the clerks, to the end of his life. And in that friendship I was influenced by his political and social views in great measure. He was one of the last of a vanishing breed.

The qualities that so distinguished Judge Huxman and endeared him to us would by some be considered old fashioned by today's standards. He was plain spoken; he was frank in his expression. His bluntness sometimes had a rough edge on it, but it was never cruel. His candor was like a breath of fresh air. He was totally without guile, and his intolerance for double-dealing, evasion and half truths was heartwarming and good to behold.

He was not innocent or naive, but his upbringing from simple, rural, hardworking immigrant stock would never permit him to brook any tampering with the fundamental virtues of integrity and character.

If these traits suggest a stuffy or cold and unbending man, without warmth or compassion, nothing could be further from

HONORABLE WALTER A. HUXMAN

the truth. Walter Huxman was a compassionate soul. He championed the cause of the common man. He believed passionately in his reliability and his worth.

Even after he was elevated to the high office of the federal appellate bench, he still identified himself with the simple folk from whom he had sprung. It disturbed him that some made the early day charge that the federal courts were the sanctuary for the powerful and the privileged, and in denying this accusation he invited the lowly and the poor to come to his court. He put it this way, in his plain, unvarnished style: "I frankly say to you that in my case, within that field of reasonable discretion, all doubtful questions are resolved in favor of the unfortunate and the weak against the powerful and the great, and while I do not propose to speak for anyone else, I am sure that that is the attitude not only of my associates on the bench but also of the great number of District Judges. You need not hesitate to bring a case in the federal courts if you have justice and right on your side, even though your client be the humblest citizen and your adversary the mightiest corporation in the land. In every contest between a David and a Goliath, the sympathy is with David, so just be sure that you represent a David and fear not."

All of us who had the uncommonly good fortune to have our lives touched by Walter Huxman have been enriched, and are a little better for it. We who knew him and loved him will always revere and respect the memory of this noble man. Thank you.

JUDGE HILL: Thank you, Mr. Shamberg.

On behalf of all of the Judges of the Court, I want to express appreciation to the participants in this program. We deeply appreciate your participation. We know that some of you came a long distance here, and we think that everything that you have said here certainly has added up to a very fine tribute to our late associate.

I want to also acknowledge the presence here not only of Mrs. Huxman, but of Judge Huxman's sister from Hutchinson,

IN MEMORIAM

who has come to the ceremony. And also Mrs. George Docking, the widow of the late Governor George Docking of Kansas. We appreciate your presence, Mrs. Docking, very much.

Father Raasch, will you give the benediction?

FATHER RAASCH: Go forth in the world in peace; always be of good courage; hold fast that which is good; render to no man evil for evil; rather strengthen the fainthearted; support the weak; help the afflicted; honor all men; love and serve the Lord, rejoicing in the power of the Holy Spirit. And the blessing of God Almighty; the Father, the Son, and the Holy Spirit, be upon you and remain with you forever. Amen.