

A TRIBUTE TO RICHARD J. HUGHES: JUDGE AND ADMINISTRATOR

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This Fall will bring to a close the forty years of distinguished service which Richard J. Hughes has selflessly rendered to the people of this state as a lawyer, a statesman, and a Chief Justice of the Supreme Court of New Jersey. I feel honored to be accorded this opportunity to comment upon his achievements in the judicial sphere.

In January 1974, when Richard Hughes assumed leadership of the New Jersey court system, he was confronted with the formidable task of following two great jurists—Chief Justices Joseph Weintraub and Arthur T. Vanderbilt. There can be no question but that he fulfilled that task admirably.

The Court over which Chief Justice Hughes presided was compelled on numerous occasions to confront and resolve issues which theretofore had not been addressed by any judiciary in this country. We were also forced to devise novel solutions to age-old problems. Space limitations preclude a synopsis of all of the landmark decisions handed down from 1974 to 1979. A handful of the Court's achievements can, however, be briefly sketched.

One dominant theme of the Hughes' years was the Court's expansion of individual freedoms through interpretations of state constitutional provisions. This development was especially significant in view of the contemporaneous trend of the United States Supreme Court to move away from the liberalism that had characterized Earl Warren's years as Chief Justice. Thus, in *Robinson v. Cahill* (I through IV),¹ we struck down as unconstitutional the method through which state public schools were funded, holding that reliance solely upon the assessed value of a district's ratables impermissibly deprived students residing in poor districts of a thorough and efficient education. This result was reached despite the fact that the United States Supreme Court had recently held that such a financing scheme did not contravene the equal protection clause of the fourteenth amendment.²

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¹ 62 N.J. 473, 303 A.2d 273 (1973), *cert. denied*, 414 U.S. 976, *aff'd on rehearing, juris. retained*, 63 N.J. 196, 306 A.2d 65 (1973), *order entered*, 67 N.J. 35, 335 A.2d 6, *order entered*, 67 N.J. 333, 339 A.2d 193 (1975), *republished*, 69 N.J. 133, 351 A.2d 713, *order vacated*, 69 N.J. 449, 355 A.2d 129, *injunction issued*, 70 N.J. 155, 358 A.2d 457, *injunction dissolved*, 70 N.J. 465, 360 A.2d 400 (1976).

² See *San Antonio School Dist. v. Rodriguez*, 411 U.S. 1 (1973).

In the field of zoning, we limited the power of municipalities to prohibit the construction of moderate and low income housing, and thus concomitantly expanded the opportunities of individuals to integrate theretofore homogeneous communities.³ In *State v. Saunders*,⁴ we utilized the state constitutional guarantee of the right to privacy to invalidate a statute criminalizing fornication between two consenting adults, holding that the state's police power to regulate adult sexual activity was sharply limited.⁵

The state constitution was not the only vehicle through which individual liberties were expanded. To the contrary, federal constitutional provisions as well as state law were utilized. Thus, the rights of persons to be free from unreasonable searches and seizures were made more secure.⁶ A host of due process protections, including periodic review hearings, were ruled necessary in order to institutionalize those suffering from mental illness.⁷ Alternatives to prosecution and conviction were made available to individuals whose background and crimes did not merit the invocation of traditional criminal sanctions.⁸

The Hughes' years also witnessed increased concern for the lot of the consumer,⁹ as well as for the plight of injured employees seeking redress through workers' compensation.¹⁰ The constitutional concerns raised by local rent control ordinances were dealt with extensively¹¹ as were the contours of the negotiating rights of public employees.¹² Redress was provided for those who were victims of

³ See, e.g., *Southern Burlington County NAACP v. Township of Mount Laurel*, 67 N.J. 151, 336 A.2d 713 (1975); *Oakwood at Madison, Inc. v. Township of Madison*, 72 N.J. 481, 371 A.2d 1192 (1977).

⁴ 75 N.J. 200, 381 A.2d 333 (1977).

⁵ *Id.* at 213, 381 A.2d at 339.

⁶ See, e.g., *State v. Slockbower*, 79 N.J. 1, 397 A.2d 1050 (1979); *State v. Ercolano*, 79 N.J. 25, 397 A.2d 1062 (1979).

⁷ See, e.g., *State v. Carter*, 64 N.J. 382, 316 A.2d 449 (1974); *State v. Krol*, 68 N.J. 236, 344 A.2d 289 (1975).

⁸ See *State v. Leonardis*, 71 N.J. 85, 363 A.2d 321 (1976), *reaff'd on other grounds on rehearing*, 73 N.J. 360, 375 A.2d 607 (1977).

⁹ See *McDonald v. Miannecki*, 79 N.J. 275, 398 A.2d 1283 (1979).

¹⁰ See, e.g., *Briggs v. American Bilrite*, 74 N.J. 185, 376 A.2d 1231 (1977); *Watson v. Nassau Inn*, 74 N.J. 155, 376 A.2d 1215 (1977); *Mikkelsen v. N.L. Indus.*, 72 N.J. 209, 370 A.2d 5 (1977); *Strzelecki v. Johns-Manville*, 65 N.J. 314, 322 A.2d 168 (1974).

¹¹ See, e.g., *Helmsley v. Borough of Fort Lee*, 78 N.J. 200, 394 A.2d 65 (1978); *Troy Hills Village v. Parsippany-Troy Hills Township Council*, 68 N.J. 604, 350 A.2d 34 (1975); *Brunetti v. Borough of New Milford*, 68 N.J. 576, 350 A.2d 19 (1975); *Hutton Park Gardens v. West Orange Town Council*, 68 N.J. 543, 350 A.2d 1 (1975).

¹² See, e.g., *Board of Educ. of Bernards Township v. Bernards Township Educ. Ass'n*, 79 N.J. 311, 399 A.2d 620 (1979); *Ridgefield Park Educ. Ass'n v. Ridgefield Park Bd. of Educ.*, 78 N.J. 144, 393 A.2d 278 (1978); *Red Bank Regional Educ. Ass'n v. Red Bank Regional High*

sex discrimination,¹³ and outmoded common law immunities were abolished.¹⁴

Richard Hughes did not merely supervise the workings of our court during this period; as Chief Justice, he felt it his duty to also personally pen many of the seminal decisions handed down during his tenure. His ability to grasp complexities in diverse fields of law is no better illustrated than by an enumeration of some of the varied areas in which he wrote: tort law,¹⁵ criminal procedure,¹⁶ rate-making,¹⁷ insurance law,¹⁸ secured transactions,¹⁹ education,²⁰ civil service,²¹ and professional responsibility.²²

Special mention must be made of the Hughes' contributions in the field of procedural due process. In *Nicoletta v. North Jersey District Water Supply Co.*,²³ and *Avant v. Clifford*,²⁴ the Chief Justice wrote ably and exhaustively of the procedural protections to be accorded discharged public employees and disciplined prisoners.²⁵ *State v. Harris*²⁶ and *State ex rel. D.G.W.*²⁷ upheld the validity of restitution as a condition of probation and set forth the due process protections to be accorded criminal defendants and juvenile delinquents before such a remedy could be imposed.

School Bd. of Educ., 78 N.J. 122, 393 A.2d 267 (1978); *Township of West Windsor v. Public Employment Relations Comm'n*, 78 N.J. 98, 393 A.2d 255 (1978); *State v. State Supervisory Employees Ass'n*, 78 N.J. 54, 393 A.2d 233 (1978); *Galloway Township Bd. of Educ. v. Galloway Township Educ. Ass'n*, 78 N.J. 25, 393 A.2d 218 (1978).

¹³ See, e.g., *Castellano v. Linden Bd. of Educ.*, 79 N.J. 407, 3XX A.2d XXX (1979); *Countiss v. Trenton State College*, 77 N.J. 590, 392 A.2d 1205 (1978).

¹⁴ See, e.g., *Merenoff v. Merenoff*, 76 N.J. 535, 388 A.2d 951 (1978); *Small v. Rockfeld*, 66 N.J. 231, 330 A.2d 335 (1974).

¹⁵ See, e.g., *Carrino v. Novotny*, 78 N.J. 355, 396 A.2d 561 (1979); *Baxter v. Fairmont Food Co.*, 74 N.J. 588, 379 A.2d 225 (1977); *Leimgruber v. Claridge Assoc., Ltd.*, 73 N.J. 450, 375 A.2d 652 (1977).

¹⁶ See, e.g., *State ex rel. H.B.*, 75 N.J. 243, 381 A.2d 759 (1977); *State v. Cohen*, 73 N.J. 331, 375 A.2d 259 (1977); *State v. Deatore*, 70 N.J. 100, 358 A.2d 163 (1976); *State v. Alston*, 70 N.J. 95, 358 A.2d 161 (1976).

¹⁷ See, e.g., *In re Board's Investigation of Tele. Cos.*, 66 N.J. 476, 333 A.2d 4 (1975); *In re Intrastate Indus. Sand Rates*, 66 N.J. 12, 327 A.2d 427 (1974).

¹⁸ See, e.g., *Rova Farms Resort v. Investors Ins. Co.*, 65 N.J. 474, 323 A.2d 495 (1974).

¹⁹ See, e.g., *King v. South Jersey Nat'l Bank*, 66 N.J. 161, 330 A.2d 1 (1974).

²⁰ See, e.g., *Robinson v. Cahill*, 69 N.J. 133, 351 A.2d 713, *order vacated*, 69 N.J. 449, 355 A.2d 129, *injunction issued*, 70 N.J. 155, 358 A.2d 457, *injunction dissolved*, 70 N.J. 465, 360 A.2d 400 (1976).

²¹ See, e.g., *White v. Township of North Bergen*, 77 N.J. 538, 391 A.2d 911 (1978).

²² See, e.g., *In re Koslov*, 79 N.J. 232, 398 A.2d 882 (1979).

²³ 77 N.J. 145, 390 A.2d 90 (1978).

²⁴ 67 N.J. 496, 341 A.2d 629 (1975).

²⁵ 77 N.J. at 162, 390 A.2d at 99.

²⁶ 70 N.J. 586, 362 A.2d 32 (1976).

²⁷ 70 N.J. 448, 361 A.2d 513 (1976).

Finally, no sketch of the New Jersey Supreme Court could be complete without mention of the Chief's opinion in *In re Quinlan*,²⁸ a decision which may well be the most lasting legacy of the Hughes' years. By upholding the right, under certain circumstances, of a comatose young woman's guardians to decide to terminate her existence by natural forces, the Court truly embarked into an uncharted field of law.

Chief Justice Hughes was not only a great jurist, he was also an excellent administrator. Too often laymen are apt to forget that the major duty of a Chief Justice is that of supervising the conduct of all of New Jersey's courts. There can be no doubt that the many reforms quietly accomplished by Hughes as administrator will have a lasting impact upon our judicial system.

As Chief Justice, Richard Hughes established the Supreme Court Committee on Appellate Practice—a body whose function is that of devising solutions to the congested calendars that have traditionally plagued the Appellate Division. Since the Committee's inception in September 1978, the backlog of cases pending appellate review has been drastically reduced. The success of this Committee has led Hughes to recently inaugurate a Committee on Matrimonial Litigation in order to eliminate the long delays that have heretofore existed in adjudicating matrimonial matters.

It was under Hughes' aegis that a Supreme Court Committee on Mental Health was formed—a body consisting of lawyers, laymen and doctors who are charged with the responsibility of monitoring the periodic hearings mandated by *Carter and Krol*.²⁹ Likewise, Hughes was instrumental in enacting the Pretrial Intervention Program³⁰—a program whose aim is that of diverting those with high rehabilitative prospects from the traditional channels of the criminal process. The Chief was also responsible for the creation of the Supreme Court Committee on Judicial Evaluation and Performance.

Hughes took bold strides to supply the public with greater access to and more information about the judicial system. Henceforth, selected trials and appellate arguments will be televised. Soon, lawyers will be able to take an examination, and, assuming a positive result, be allowed to advertise as trial specialists. Lay persons are now sitting on District Ethics Committees and Disciplinary Review Boards, and thus participate in decisions regarding the disciplining of

²⁸ 70 N.J. at 10, 355 A.2d at 647.

²⁹ See note 7 *supra* and accompanying text.

³⁰ See Rule 3:28.

lawyers. Likewise, lay persons are members of the Advisory Committee on Judicial Conduct and pass upon complaints of judicial misconduct.

As in the case of the public at large, the Hughes Court allowed the New Jersey bar to participate more fully in decisions affecting the organization and administration of this state's judiciary. The line of communications between our Court and the lawyers of New Jersey has never been more open. "Due Process" has truly been a prerequisite to change.

Finally, a few words must be said concerning the personal attributes of our Chief Justice. Richard Hughes is a man of great humility, strong character, wide knowledge, and utmost integrity. He has a quality that spells quiet decency, warm friendliness, and simple dignity. These virtues impelled him both to accord each of us on the Court an opportunity for full self-expression and to encourage our judiciary to tolerate dissent. He realized that such a climate was necessary in order that human rights and civil liberties be safeguarded.

Richard Hughes constantly strived to accomplish equity and justice in the most practical manner possible. He recognized that the law belongs to the people. It had to sense their needs; it had to speak to them.

As a champion of freedom in every form, he has presided over a meaningful and productive chapter in the judicial history of our state. The Chief Justice has zealously spoken for us through the medium of Court opinions and in his appearances throughout the country on behalf of the New Jersey court system.

The reforms accomplished in our court system during the 1970's establish Richard Hughes as a great administrator. His judicial opinions show him to be a great jurist. His personal attributes demonstrate his greatness as a man. I am proud to have served under him for the past six years.