



RICHARD J. HUGHES

RICHARD J. HUGHES—PUBLIC SERVANT

*John B. Wefing**

The Seton Hall Law Review has wisely chosen to dedicate this book to the memory of a great man, Richard J. Hughes. It is right to honor the former Governor of New Jersey who initiated significant developments in the state's legal system. It is right to honor the former Chief Justice of the distinguished New Jersey Supreme Court who participated in many of its most important decisions. It would be even appropriate to honor the person who authored the significant *Quinlan*¹ decision. When all three of these individuals are actually the same person, a law review must honor his memory. Moreover, it is particularly fitting that the Seton Hall Law Review has made this decision, because Richard J. Hughes also served as a Professor of Law at Seton Hall University Law School and authored a number of articles for this journal.

With an extraordinary career like that of Richard J. Hughes, it is easy to overlook aspects that are not as well known but which are important in their own right. Shortly after the completion of his term as Chief Justice, the New Jersey Legislature created a professorship in his honor at Seton Hall. He was the first person to hold that chair. In this position, as in all others, he excelled. His teaching reflected his deep love for the law.

It is difficult to refer to Richard J. Hughes because he held so many distinguished titles. I always called him Governor, perhaps because I first met him when he was Governor of the state, and perhaps because he seemed to enjoy that title so much. Additionally, his easy and pleasant manner seemed more consistent with the image of Governor than the seemingly more serious and cerebral title of Chief Justice. One of my older colleagues on the faculty once asked him what he preferred to be called—Governor or Chief Justice. In his typically friendly and relaxed way, he replied “Dick.”

One of his sons, Michael Murphy, a former student of mine and now the Morris County Prosecutor, told me that his father's favorite position was Assignment Judge. But Richard J. Hughes

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¹ In re *Quinlan*, 70 N.J. 10, 355 A.2d 647 (1976).

achieved so much in so many different positions that it is hard to cast him just in one role.

Over the past sixty years, Richard J. Hughes served the public in virtually every capacity. Many people know that he served two terms as Governor of the State of New Jersey and five years as Chief Justice of the New Jersey Supreme Court. No other person has done that in the recent history of New Jersey. But he served in other capacities as well; his life was a vibrant mixture of politics, law and judicial service.

After graduating from law school and passing the bar, he realized almost immediately that politics was to be part of his life. In 1937, he won the state presidency of the New Jersey Young Democrats. Shortly thereafter, however, in his first run for political office, he suffered one of his few political defeats by losing a race for Congress in 1938.

He then turned to other aspects of public service, spending six years as an assistant United States Attorney. Upon completion of those years, he returned to the practice of law and politics and was elected Democratic leader of Mercer County. Soon thereafter, he was appointed to the bench. He served as a county court judge and then superior court judge. Later, he became Assignment Judge of Mercer County and then served on the appellate division until he resigned in 1958. When he eventually returned to the bench as Chief Justice, his years of judicial experience were extremely helpful in understanding the problems of the legal system.²

In 1961, he returned to politics as a candidate for Governor. He was a compromise candidate, and most assumed that he would not win. He faced James Mitchell, who had been Labor Secretary of the United States under President Eisenhower, and was far better known. Ultimately, Hughes turned out to be a born campaigner and defeated his opponent in a close race. One of the ironies of that race was that Hughes campaigned against his opponent in some substantial degree by opposing Mitchell's support for a sales tax. Hughes himself supported an income tax but campaigned heavily against the sales tax. I remember the Governor telling me how he had gone all over the state condemning the sales tax as regressive and unfair. Only when neces-

² For an excellent discussion of the early history of Richard J. Hughes and his development as a trial judge, see Michal R. Belknap, *Chief Justice Richard J. Hughes: Leadership and Liberal Activism*, 17 SETON HALL L. REV. 4 (1987).

sary would he indicate that he himself was in support of an income tax.

After his election, he tried valiantly to get an income tax passed. When he saw that passage was politically impossible, he turned to a sales tax, resigning himself to the fact that some broad-based state tax was necessary and that a sales tax was politically achievable. Subsequently, as Chief Justice in the *Robinson v. Cahill* decisions,³ he was able to use his position to help push for the income tax that he had always believed to be the fairest system of taxation because of its greater progressivity. He was thus able to accomplish as Chief Justice what he had been unable to accomplish as Governor.

Hughes consolidated his position in the state during his first term and achieved a number of important goals, including the passage of the first legislation dealing with the Public Defender. In his second campaign, he won reelection by a much greater margin.

During his eight years as Governor, Hughes became a national figure. He brought the Democratic National Convention to Atlantic City in 1964, hosted the summit meeting between President Johnson and Premier Kosygin at Glassboro State College, and played a major role at the Democratic National Convention in Chicago in 1968 as chairman of the Credentials Committee. Many believe his unswerving support for a policy of non-discriminatory selection of delegates kept him from becoming the vice-presidential candidate.

After completion of his second term as Governor, he returned to the practice of law but never left public service. He was almost immediately appointed Chairman of the American Bar Association committee on correctional reform. In this position, he worked tirelessly for prison reform and for efforts to improve the prisoners' opportunities for rehabilitation.

Governor Hughes would have been the first person to recognize that success is a combination of hard work and luck. It has been said that his appointment as Chief Justice came as a bolt out

³ *Robinson v. Cahill*, 62 N.J. 473, 303 A.2d 273 (1973) [*Robinson I*]; *Robinson v. Cahill*, 63 N.J. 196, 306 A.2d 65 (1973) [*Robinson II*], cert. denied 414 U.S. 976 (1973) (denying certiorari for *Robinson I* and *Robinson II*); *Robinson v. Cahill*, 67 N.J. 35, 335 A.2d 6 (1975) [*Robinson III*]; *Robinson v. Cahill*, 67 N.J. 333, 339 A.2d 193 (1975), reprinted, 69 N.J. 133, 351 A.2d 713 (1975) [*Robinson IV*]; *Robinson v. Cahill*, 69 N.J. 449, 355 A.2d 129 (1976) [*Robinson V*]; *Robinson v. Cahill*, 70 N.J. 155, 358 A.2d 457 (1976) [*Robinson VI*]; *Robinson v. Cahill*, 70 N.J. 464, 360 A.2d 400 (1976) [*Robinson VII*].

of the blue. When Pierre Garvin tragically died only a few months after his appointment as Chief Justice, Governor Cahill, a Republican, was a lame duck Governor who had originally intended to appoint Justice Pashman, a Republican, as successor to Garvin. It soon became clear that the Democrats, who were about to take back the governorship, would not support the appointment of a Republican to the important position of Chief Justice. Governor Cahill, in a surprise move, turned to his old friend and predecessor as Governor to be the next Chief Justice. Interestingly, Cahill, a moderate Republican, shared many of Hughes's philosophical principles and was pleased to select him. Hughes, who was able to maintain close friendships with members of all political parties, was truly a man for all seasons and all positions.

Hughes then served as Chief Justice for just over five years, until he reached the mandatory retirement age of 70. During his tenure as Chief Justice, he led the court through a number of tumultuous years, including the bruising battles on school funding and the right to die. He could have been describing himself when, after his retirement from the position of Chief Justice, he wrote that the New Jersey Supreme Court needs "an activist Chief Justice who will set a tone of progressive change, a man restless for the doing of right, untiring in the elusive search for justice, unflinching in his insistence upon excellence in performance of a court system designed for excellence."⁴

Hughes could remain a prominent figure in legal history solely due to his authorship of the *Quinlan* decision. That case forced the court to explore basically uncharted waters and come to grips with the profound issues surrounding the right to die. *In re Quinlan* remains the starting point for courts across the country as they wrestle with these complex issues.

This case affected Hughes more than any other. I well remember an evening many years ago when I was chairing the dinner of the Young Lawyers' Division of the New Jersey State Bar Association at which Hughes was the main speaker. It was clear that Hughes had endured a grueling day. Although he was usually gregarious and charming, he began that evening far more pensive than I had ever seen him. Soon, however, he was amiably greeting everyone in the room and gave a very thoughtful and more introspective talk than usual. I learned later that the Court

⁴ Richard J. Hughes, *The Impact of Judicial Transitions in Administration*, 10 SETON HALL L. REV. 1, 5 (1979).

had reached its final agreement on the *Quinlan* decision earlier that day.

One of Hughes's most abiding passions was the independence of the judiciary. Even though his life intertwined law and politics, he was adamant that judges not be involved in politics and that politics not control judges. Hughes reinforced New Jersey's strict rules against involvement by any judge in politics. Additionally, he strongly believed that judges should not have to worry that their decisions might offend the political leadership. For example, I remember being part of a discussion group considering the judicial appointment process. The New Jersey Constitution provides for a reappointment process (after Judges had served for seven years they had to be reappointed and, if reappointed, would be on until the mandatory retirement age of 70), and I suggested that the Governor who was making the reappointment, and the Senators who were exercising their power to advise and consent, could consider the various decisions rendered by the individual to determine whether the judge should be reappointed. Hughes quickly took strong exception to my suggestion and argued forcefully that that process was designed only to allow the Governor not to reappoint a judge who proved incompetent. It was not intended to allow consideration of the judge's judicial opinions.

Hughes was the consummate after-dinner speaker. He actually seemed to enjoy the endless round of dinners that he attended in his many different positions. He loved meeting people and had the uncanny knack not only for remembering thousands of names, but also for making the person to whom he spoke feel important.

Hughes also was devoted to his family. His was the ultimate "his, hers and ours" family. Hughes was a widower with four children when he met Betty Murphy, a widow with three children. They married and had three more children. They were a remarkable couple. She became a well-known television commentator as well as a political partner, and together they raised their ten children.

At the Governor's funeral, his oldest son, John Hughes, currently federal magistrate in Trenton, gave the eulogy. During that wonderful testimonial, Jack said that the Governor's favorite author was Charles Dickens. Although I had not known that, I quickly saw how that would be. Dickens was always critical of the promiscuity and inequities that he found in the legal system.

Hughes himself was the antithesis of pomposity and he strove against injustice.

I initially endeavored to conclude this rather long tribute with some word or words to sum up Richard J. Hughes, but found it difficult. In a dedication that he wrote about Justice Pashman when Justice Pashman retired from the Supreme Court, Hughes chose two words to describe him—humanist and activist.⁵ Both those words certainly fit Hughes as well. But other words come to mind as well, including just, courageous, gregarious and influential. The phrase I have chosen is public servant, because he never forgot that the primary duty of his position, whether it be as attorney, Judge, Governor or Chief Justice, was to act on behalf of people.

⁵ See Hon. Richard J. Hughes, *Justice Morris Pashman—Humanist, Activist*, 13 SETON HALL L. REV. 441 (1983).