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Tribute to Bert T. Combs

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Kentucky Supreme Court

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Tribute to Bert T. Combs

*Robert F. Stephens**

It was September of 1951. I was a June graduate of the University of Kentucky law school, had been elected to the Order of the Coif, had passed the Kentucky Bar Examination, and had been employed as a law clerk by the then Kentucky Court of Appeals. I was twenty-four years old and was filled with the heady wine of my seeming success. To say that I was "full of it" is a gross understatement. On my first day at the job, my supervisor, Henry H. Harned, told me to report to Judge Bert T. Combs for a special research assignment. I approached his office, somewhat condescendingly, prepared to give him the benefit of my legal erudition. He was not particularly impressive at first glance. He was slight of build, not too tall, and spoke with an accent that I, being from Covington, could hardly understand.

But, within a very short time, I saw the power of his mind, the quickness of his wit, his courtesy, and his idealism. From that day to the last time I spoke with him, at his eightieth birthday celebration in the summer of 1991, I recognized those qualities as the hallmarks of Bert Combs—the man, the lawyer, the judge, the Governor, and most of all—the Kentuckian.

While serving him as a law clerk, I had the opportunity to read his brilliant, concise, and penetrating opinions. He did not waste either the written or the spoken word. When he spoke—we listened. Many Kentuckians were to do this to the very day he died.

* Chief Justice of the Supreme Court of Kentucky.

When he left the Kentucky Court of Appeals to seek the Office of Governor, I, of course, devoted much of my time and limited resources to assisting him. I witnessed, for example, the opening of his 1955 campaign in Shelbyville. He, in effect, advocated new tax revenues that he believed were so critical to solving the myriad of Kentucky's problems, particularly education. An astute political observer, having heard his speech, commented that Bert had opened and closed his campaign on the same day.

But, with the grit, determination, and hard work typical of him, Bert ran again in 1959, and this time he was successful. After his administration, Kentucky and Kentuckians were never the same. By executive order he desegregated Kentucky government. He added much needed financing to Kentucky's school system. He developed Kentucky's great park system. He instituted our toll-road system, literally opening up many parts of the state. I will not further burden this article with a list of his achievements. History will confirm his greatness—as a Governor and as a Kentuckian.

During all his years in public and private life, as a Kentucky Judge, as Governor, as a United States Court of Appeals Judge, and as the head of Kentucky's largest law firm, he always retained his humility and his humor. I enjoyed several evenings with him, listening to him reminisce about his life. One of my favorite stories involves the way Bert would handle job applicants. As he would travel on the highways and byways of our state, if a prominent (or not so prominent) power broker would offer his (or her) help in consideration of the promise of a job, e.g., Adjutant General, Combs would merely respond "you'd make a good one."

Judge Combs never lacked for a quick comment, usually phrased with typical Eastern Kentucky wit. In June of 1989, when our Court handed down the so-called Education case, Judge Combs was asked his view of it. He promptly responded, "Well, we asked for a thimbleful and got a bucketful."

Bert Combs was my friend and my inspiration. More able scribes than I have already described his achievements and his character. I would simply say that while some Kentuckians have given a thimbleful to this great state, Bert Combs gave a bucketful. In truth, such a man may never again come this way. His mental gifts, his energy, his courage, his love of Kentucky, all worked together to make a difference. A big difference in *all* Kentucky lives. The children of this state, who will benefit from his pro bono work in *Rose v. Council for Better Education, Inc.*, should say a small prayer of thanks to his memory. His efforts have forever changed our Commonwealth.

Bert, I will miss you; the lawyers and judges of this state will miss you; and, all Kentuckians—great and small—will miss you.

It was my privilege and honor to have known you.

*Edward T. Breathitt**

When you reflect on Bert Thomas Combs as a lawyer, you have first to think of Bert as a student. Certainly his mother, a mountain schoolteacher, had a profound influence in his life. She instilled in Bert the value of an education and the importance of never stopping the learning process. Bert worked his way through Cumberland College and the University of Kentucky College of Law. His uncle, Dean "T-Square" Jones, was Dean of Men at the University when I was a student and certainly was a role model for Bert. The lawyers in his home town of Manchester provided the opportunity for him to be a law clerk. His professors in the law school recognized in Bert a student with rare intellect and understanding of the law. He was Order of the Coif and Managing Editor of the *Kentucky Law Journal*. His classmates had great respect for Bert and they supported him throughout his political career. I was privileged to be his friend. On many hunting and fishing trips, I would find Bert reading one of the classics, or a book about a famous leader or a distinguished lawyer.

Bert was a lawyer's lawyer. When he moved to Prestonsburg to practice law, his friend Woodrow Burchett said, "He talked like us, he walked like us, he thought like us, and we liked him." He soon established a reputation as a man to be valued if he was on your side in a lawsuit and one to be respected and feared if he was your opponent. In his quiet way he would analyze the problem, do his research, set a strategy, and represent his client in a very effective way. He realized the value of thorough preparation and never went to court unprepared. Bert was elected Commonwealth's Attorney and honed his skills as a prosecutor. This served him well when General MacArthur selected him to help prosecute Japanese war criminals at the end of World War II.

Bert was a judge's judge. Bert was drafted to run for Kentucky's highest court. That was a very difficult race because his opponent was a distinguished former Republican governor and member of

* Former Governor of the State of Kentucky.

the court, the Honorable Simeon S. Willis. Fortunately, Bert ran in a strongly Democratic district and was elected. That's when I first knew him, for I served on the Judicial Council of Kentucky, which he chaired. The judges and other members of the Council immediately recognized that Bert was not an ordinary man. His opinions on the court and his leadership in his profession soon marked him for greatness. Following his outstanding term as Governor, President Johnson appointed him to the United States Court of Appeals for the Sixth Circuit. There he earned the respect of his fellow judges and the lawyers that practiced in his court. He found, however, that he missed being in the pit as a contestant and soon had the opportunity to be a lawyer/politician again when he was asked to be a partner in the firm of Bullitt, Combs and Tarrant, which later merged with Wilson Wyatt's firm to form Wyatt, Tarrant & Combs. Bert quipped, "When we merged in the governor's race we agreed my name came first. When we merged law firms I thought it was only fair for Wilson's name to be first."

Bert Combs was a public servant that cared. The unemployed coal miner, standing in a food stamp or commodities line with the cold winter wind whistling up his britches leg, knew that he had a friend in the Governor's office that cared. The widow of a coal miner, with a house full of children to raise and educate, knew that she had a Governor that cared. The child, whether born with black, brown, yellow, or white skin, knew that he had a Governor and a man that cared and would devote his life to ensuring equal opportunity.

I won't attempt to outline the great accomplishments of Bert as a governor. As a lawyer, in the last years of his life, Bert won the greatest case of his career, pro bono, when he successfully represented sixty-six school districts before the Kentucky Supreme Court, ultimately resulting in the Kentucky Education Reform Act. His dear friend and journalist, John Ed Pearce, summed it up in his tribute at Bert's eightieth birthday celebration:

Combs has cause to be content. They say that the loveliest light of day illuminates the evening sky, and if Combs decides to relax in the afternoon light, he has earned the chance. In a day when men prate of being education president or education governor but do nothing to justify the claim, Bert Combs can take comfort in the knowledge that, without foolish boast or self-serving words, he was the savior of Kentucky education.

I don't know how he feels about being called Kentucky's greatest governor. I don't know how he would feel about being Kentucky's first citizen. But that's what he is.

Bert left his mark on Kentucky and we are a better Commonwealth and a better people because of his service. All of us will miss him. He deserves his rest and his honored place in history. Goodnight, sweet prince. . . .

*Wilson W. Wyatt, Sr.**

Among the many amendments being considered to modernize our Kentucky Constitution is one that would require candidates for Governor and Lieutenant Governor to run as a team. More often than not throughout Kentucky's history, the governor and lieutenant governor have been at cross-purposes—running the full gamut from being members of opposite political parties and openly hostile to being merely “not close.” Some three decades ago, Bert Combs and I demonstrated that it could be very beneficial for the state for the two to run, and then serve, as a team.

Back in 1958, Bert and I were both running actively for governor—but it was a three-man race, with Happy Chandler's candidate the likely winner. The *Paducah Sun* commented, “If the Democratic primary remains a three-man race, the chances of either Combs or Wyatt winding up in the Executive Mansion are slim.” A state-wide poll confirmed this but also showed that we would win handily if we were united as a team. The only way to induce the merger was to make an offer that could not be refused: I offered to run for Lieutenant Governor on a joint ticket and to become a full-time partner in the administration, in charge of economic development. The result was a sweeping victory—but more important, a successful four-year partnership in state government.

Whenever any phase of economic development was considered, Bert would say—“This is in your bailiwick.” This was true not only of taxes, but access highways, vocational education, airports, forestry, the Department of Economic Development, utilities, Workers' Compensation, and a wide range of governmental aspects for the betterment of the economy.

On the other hand, there was no attempt on my part to invade the prerogative of the governorship.

It was a good partnership.

Working together, we were able to accomplish many things for Kentucky that otherwise would not have been possible. *The Cour-*

* Of Counsel, Wyatt, Tarrant & Combs.

ier-Journal generously referred to our administration as “Kentucky’s quiet revolution.”

Although a constitutional change to require candidates for Governor and Lieutenant Governor to run as a team would not guarantee the same result, it would at least make such a result more likely.

One word about Bert’s last years. Life had never been better for him than in these past few semi-retired years: he was thoroughly happy with his wife Sara; he was proud of the accomplishments of his daughter Lois; he was successful in creating the condition for Kentucky’s sweeping new educational program; and, he was active in seeking constitutional reform. His passing was sad, but at least it came when life for him was in full flower.