

DEDICATION
to
The Hon. Robert L. Clifford,
Associate Justice of the New Jersey Supreme Court

*Robert N. Wilentz**

A court with a proud history needs a champion to preserve it. It needs someone to assure that its future is true to the best of its past. Justice Clifford has been that someone.

Justice Clifford's tenure began on September 1, 1973: except for Justice Jacobs, no one has served longer on this Court. He knows the Court, its history, and its spirit. He has served on the Court with those who helped to start it and set its course (Justice Jacobs and Justice Hall) and with those who held it true to that direction (Justice Mountain, Justice Sullivan, Justice Pashman, and Justice Schreiber). His tenure, which commenced with Chief Justice Weintraub's retirement, spanned the entire terms of Chief Justice Garven and Chief Justice Hughes, and all, or practically all, of the terms of Justices Sullivan, Pashman, and Schreiber.

These apparently elderly credentials belong to a man so young at heart and full of life and fun that retirement at age 70 seems uniquely inappropriate for him. His interests are lively, his knowledge remarkably broad, and his convictions deep. His opinions provide but a partial view of a most engaging person and a most dedicated and talented jurist. They include opinions affirming the power of government and private industry to protect the public, *515 Associates v. City of Newark*, 132 N.J. 180 (1993) (holding ordinance requiring certain private building owners to provide armed guards on their premises eight hours each day was within city's power); *Hennessey v. Coastal Eagle Point Oil Co.*, 129 N.J. 81 (1992) (upholding private employer drug testing); *Township of Mount Laurel v. Department of the Pub. Advocate*, 83 N.J. 522 (1980) (upholding constitutionality of Department of the Public Advocate Act of 1974); expanding consumer rights in product liability cases, *Dewey v. R.J. Reynolds Tobacco Co.*, 121 N.J. 69 (1990) (upholding a cause of action against cigarette manufacturer based on failure to warn), compensating employees for improper medical treatment provided by employers, *Millison v. E.I. du Pont de Nemours & Co.* 101 N.J. 161 (1985) (recognizing employees' cause of action against employer and company physicians for fraudulently concealed knowledge of already

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contracted diseases); expanding state constitutional rights, *State v. Hemepele*, 120 N.J. 182 (1990) (limiting police warrantless search of citizens' curbside garbage); clarifying defendants' rights, *State v. Hartley*, 103 N.J. 252 (1986) (establishing "bright-line" rule for honoring defendant's exercise of *Miranda* rights), supporting freedom of and from religion, *State v. Cameron*, 100 N.J. 586, 602 (1985) (Clifford, J., concurring) (asserting municipality may not prohibit practice of religion in home used primarily as a private residential dwelling); *Marsa v. Wernik*, 86 N.J. 232, 258 (1981) (Clifford, J., concurring) (noting that solemnification statement, sometimes religious, regularly used to open municipal meeting is potentially unconstitutional), exposing nonsense in all forms, *Mochary v. Caputo*, 100 N.J. 119, 126 (1985) (Clifford, J., concurring) (rejecting county clerk's contention that picking Line A on the ballot for Democratic party candidates forty out of the last forty-one ballot draws was the result of blind chance, by noting at oral argument that odds of such a chance were about one in fifty billion), and others, e.g., *Feldman v. Lederle Lab.*, 97 N.J. 429 (1984) (holding that federal law did not preempt state law liability of drug manufacturer for failure to warn that drug could cause tooth discoloration); *Smith v. Ricci*, 89 N.J. 514 (1982) (upholding constitutionality of family-life education regulations); *Beck v. Beck*, 86 N.J. 480 (1981) (authorizing joint custody of children in matrimonial dispute). He was part of a unanimous court in *In Re Quinlan*, 70 N.J. 10 (1976), and part of the majority in the original *Mount Laurel* case, *Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel*, 67 N.J. 151 (1975).

Like the man himself, this is a judge of enormous dignity and elegance, qualities clearly stamped on all of his opinions. His love of language is a love of clarity, precision, and economy of words. He has an unmistakable style, shaped by a compulsion to state the issues, the argument, the reasoning, the conclusions, and the qualifications with the utmost clarity and simplicity. To him, ambiguity and fudging are anathema, permissible only if explicitly acknowledged, explained, and justified. In short, this almost poetic, enormously creative writer has chosen to confine his prose to the expression of intellect and analysis in order to educate and persuade. But not always, for on rare occasions he has allowed his wit and mischief to explode — usually in dissent — to the entertainment of all with equally persuasive force.

A court with our great traditions obviously benefits from the mere presence of one who has lived its history and helped shape its traditions, as he has. Justice Clifford adds more than that, for he deeply respects and loves this institution. Whenever he senses the slightest deviation from what he believes best in those traditions, we know it and in no uncertain terms. His voice has been a voice of integrity in all respects and at all times.

Justice Clifford has also been the Court's unofficial, but clearly recognized, unselfish, painstaking editor. Or, from the point of view of the reluctant student, he has been our instructor, corrector, our unyielding

taskmaster and disciplinarian in matters of grammar, style, usage, citations, and even more arcane matters — such as the use (non-use) of footnotes. If his efforts have not totally succeeded in their apparent direct objectives, they have served to remind us of our obligation to honor all scholarship, which, for a judge, includes the clearest exposition of precedent and the clearest explanation for our decisions. We are indebted to him for that. And we are indebted to him for the humor, the wit, the sheer entertainment, often badly needed, that he has always added to our deliberations. But most of all we are deeply indebted — as is the entire judiciary and the public — to this great judge for doing so much to try to keep this the great Court that he found when he joined it.

Chief Justice Robert N. Wilentz
October 1, 1993

