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Remarks at Memorial Service for the Honorable Morris E. Lasker, U.S. District Court, Southern District of New York

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MEMORIAL SERVICE
FOR
THE HONORABLE MORRIS E. LASKER

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

Friday, July 9, 2010
4:30 p.m.

In Memoriam: M.E.L.
July 17, 1917 – December 25, 2009

By

Prof. Nicholas A. Robinson
Law Clerk to Judge Morris E. Lasker, 1970-72

In 1968 Morris E. Lasker left the law firm of Battle Fowler, and set aside his civic endeavors for Chappaqua, New York, where he and Toy and his family made their home. He began an extraordinary life exploring the realms of justice. At the time, few if any could have predicted his forty-one years on the bench. Today the Southern District of New York is a different place. While he served here, through his rulings grounded in common sense and decency, incrementally Judge Lasker transformed human relations in this place.

Others today will speak of Morris Lasker's legacy of jurisprudence, including his decisions about prisons. Suffice it to say that Judges sitting in the Southern District of New York encounter a greater variety of important cases than anywhere else in the nation. Judge Lasker had his share of memorable civil and criminal matters, as Chief Judge Preska has recalled.

On behalf of Judge Lasker's Law Clerks, may I recall with you the character of this man? His decisions and his approach to decision-making were extensions of his person. May I share with you personal recollections of his early Chambers, a time when he first took counsel with Judge Edward

Weinfeld and crafted his approach to becoming and being a District Court Judge? What reflects the measure of this man?

Known as "Monnie" to family and friends, he chose his initials as his hallmark signature, MEL. The initials were just enough. Unobtrusive and modest, curious and empathetic, MEL was more interested in all those around him than in the space he occupied. He genuinely took interest in the well-being of all whom he encountered. Having appeared before him, lawyers invariably called him courteous. Judiciousness became his mind-set; by the time he was 92, he would not just comment on how hot the weather was, but he would weigh for you its advantages and disadvantages and balance the merits. Defendants found him always respectful, and returned respect to him. In a lecture that de delivered at Pace Law School, he recalled a time after delivering a lecture at the NYS penitentiary at Green Haven when a prisoner introduced himself by saying, "Judge, I don't know if you remember me, but we met at the Rikers Island riot." In the middle of the night, Judge Lasker courageously mediated the end of those riots, freeing guards who had been taken hostage, and restoring order.

To his Law Clerks, he signed his notes MEL and we always responded, "Judge." Over forty years, we Law Clerks bonded profoundly to the Judge and through him, across time, to each other.

It is challenging to recall back four decades ago when Judge Lasker began his service in this Court. For instance, court house security then was present, but unobtrusive. There was no belabored concern for the safety of our respected federal court house or for Foley Square, although to get to work, or come in from lunch, we not infrequently had to navigate around demonstrations and even some street battles between construction workers and Pace College students protesting the Viet Nam War. Security was evident when high profile witnesses or litigants attended court, but more typical of the concerns of that day was when Judge Lasker was called to sentence a homeless man, who was known each fall to throw a brick through the glass pane of the front door of the court house, so that he could secure a warm jail cell for the winter. You can imagine the Judge's exchange of views with the Probation Office.

The Judge initially was assigned rather sparse, compact chambers, on the 28th floor, facing west. We had wonderful views of the Hudson and

would remark when the great ocean liners plied the River, coming to or from their docks, or when the winter's sunsets were particularly glorious.

Our work and friendship together in these intimate chambers were – in the words of my co-clerk, the late Edward Kuriansky - a "charmed time." Judge Lasker's secretary – as professional assistants were then called, Mildred Cady, had come with him from his law practice. Having found herself now serving a Judge; self-conscio0us in her position of profound responsibility, she shared her serious demeanor, dedication and diligence with all of us. The rhythms of the Chambers were still new, learning the ropes was important, and careful hard work was the order of that day. Later, once the Judge had settled in, while the judicial work ethic in Chambers remained focused and diligent, a more relaxed ambiance could emerge within Chambers. When Miss Cady retired, the Judge selected the ever cheerful Claire Wasserman. He began to hold more conference with parties in Chambers, around a long mahogany table, where the less formal setting seemed conducive to getting to the heart of a dispute and producing a quicker resolution than the arguments in open court. He set aside wearing his robe in court for civil matters, to bring the court closer to the people it served. He consciously exercised his awesome judicial powers as sparingly as possible.

My fellow Law Clerks each have shared comparable experiences during our successive two-year periods of service with the Judge. Judicial Chambers are uniquely intense places, at once professional and personal. No where else in our legal system does such a small team – a Judge, two newly minted lawyers and a Personal Assistant – define justice in a practical way, every day. This team comes to include the Court Clerk, who shares each day with the Judge when on the bench. MEL valued his Court Clerks deeply. Yet it is the crucible within Chambers where the often mundane and sometimes magnificent research and daily debate about law and facts and people forges such singular bonds.

` Over the years, the death of any member of Judge Lasker's judicial family was a cause of grief for him, as when a child dies before a parent. We shared Judge Lasker's sadness at the premature deaths of friends and law clerks, Carolyn Martin, Edward Kuriansky, and Jody Powell. Since December 25th, 2009, we Law Clerks have grieved as one at MEL's passing, after the fullness of his life. We have been embraced by a shared and profound sorrow. In each of us, he was and is eternal.

The Judge found his life's calling in being a federal District Court Judge. He declined advancement to higher courts, because he had come to thrive in bringing order repose and justice to the daily lives of our fellow citizens. He relished coming to work each day. He loved having fresh roses in Chambers, which also featured selected works of art, not symbols of law (aside from his presidential appointment certificate and his sketch of the Federal Court house by Shelley Robinson). He shared with us thoughts about whatever book he was reading in his daily commute, which was always by public transport, to and from Westchester. This was a time before cell phones or blackberries or even word processors in Chambers. It was still the time of the typewriter, carbon paper, and proof-reading original manuscripts before filing "ribbon copies" of decisions with the office of the Court Clerk.

During our clerkships in the first three years of Judge Lasker's four decades, Howard Matz, now himself a U.S/ District Judge in California, who sends his regards and regrets that his judicial obligations preclude his being with us today, and John Sale, Joe Danas, Ed Kuriansky and I spent many Saturdays with the Judge in Chambers. We worked each Saturday in order to address the vast number of motions assigned to Judge Lasker in those years before the individual calendar reforms in court administration and before the introduction of Magistrate Judges. As the "junior" Judge in the Southern District of New York, Judge Lasker drew the short straw, with frequent assignments to Part 560 (prosaically so-called because motions were then heard in the cavernous Court Room 560). Whenever he heard motions, we were left with a prodigious volume of legal matters to resolve; 150 or more motions found our "in box" in just each of the several two weeks period when the Judge sat in Part 560.

The Judge arrived early and left late on Saturdays. Mildred Cady had the day off. The phones did not ring and there were no visitors. Email did not exist. Judge Lasker worked with his radio tuned to the classical station, WQXR. He was a pianist. Not infrequently he would punctuate our Saturday toils by summoning me with an intercom buzz into his more spacious office with an urgent inquiry, to guess who composed whatever symphony or concerto was then being played. We would assess the style, ponder and guess, and he won the match more often than not. He liked games. He delighted in the backgammon that he played with Toy at home in the evenings.

Becoming a Judge placed new demands on Judge Lasker's family. Their unstinting support for him, and acceptance of his long hours away, deserves today to be celebrated thankfully. Their pursuits occupied the times when the courthouse preoccupied the Judge. In 1967, Toy Lasker inventively created a new form of travel guide, "*Flashmaps*," a small book for one's coat pocket or purse providing a set of "single-subject maps, color-coded and cross-indexed." She researched and prepared *Flashmaps* for New York, Boston, Washington, and other great cities, and of course for Martha's Vineyard, where the Lasker family gathered each summer. Toy was publisher and editor, and Tim Lasker, who is with us today, was the cartographer for the books. Her creative synthesis of city-specific knowledge and know-how has been emulated, but rarely equaled. Today we would acknowledge Toy for having built unique databases and even more unusual software for accessing them.

On October 22, 1988, MEL's family and his Law Clerks assembled together, at "The Wings Club" in the then Pan Am Building, to celebrate 20 years on the bench. We Clerks later held a festive 40th celebration in Boston, in the federal Court House, where he had been resident since 1994. Then, as today, we thank the Lasker family for sharing a husband, a father and grandfather, with all of the rest of us. We again extend our condolences to the entire Lasker family.

It was at the very end of my second clerkship year that Judge Lasker was assigned a new matter, one challenging the incarceration living standards of persons held in Manhattan House of Detention, the "Tombs." With characteristic thoroughness, he determined a site inspection was in order, and he advised me I was to accompany him to visit this prison. We all had passed the edifice of the Tombs daily, but had no sense of the place, other than discovering by chance that it was on quiet Saturday mornings when the Tombs released some of its inmates. The Judge's initial, brief visit inside the Tombs left an indelible imprint. Closing my eyes, I can still smell and see the crowded, hot, unclean inmate conditions, for persons innocent until proven guilty.

Over the years, the Judge's several decisions about prisons were acts of simple justice, extensions of the common decency he lived and shared with all who crossed his path. These decisions were practical, consistent, and narrowly focused on actual conditions presented to the Court. It is in

retrospect that we now appreciate how Judge Lasker gave applied meaning to the lofty rhetoric of fundamental Human Rights, here in the heart of Manhattan, in the Southern District of New York.

My last visits with the Judge were in Boston, now once again in the sparse Chambers assigned to a Senior Judge, looking out over Boston Harbor, attended to by his able Assistant, Barbara Clarke, and last successive generations of Law Clerks. He would always remark about his sketch of our Foley Square Federal Court House, but he chose not to dwell on what had been. He rather launched into discussions of the civic affairs of the day, the deteriorating natural environment and threats of climate change, and his optimism about the Obama presidency. He bemoaned the lack of civility in political life, and, in his 90's, this worry spurred him personally to do what he might to further respectful decency in civic discourse.

It falls to each of us to extend Judge Lasker's personal values, for are they not also ours?

We memorialize today the character of a man invariably humane and civilized. He remains our mentor, an exemplar, beckoning us to do better – to be better – toward each other, each day. In his assigned Court Room in Boston you will find an oil portrait of the Judge, painted by a distinguished artist from Martha's Vineyard, Allen Whiting, whose brush strokes enliven Judge Lasker's cheerful, smiling eyes, and probing visage. Commissioned by the Lasker Family and the District Court in Boston, this painting becomes a new landmark for our individual *Flashmaps* of Boston. When Boston is your destination, take a moment to visit MEL in this exceptional courthouse.

On behalf of Judge Lasker's Law Clerks, may I thank the Judges of the Southern District of New York for convening this Memorial Service. There is no higher calling than to secure our ordered liberty with justice. Our nation's judiciary began in this District Court, and it is through the collective wisdom and integrity of all our judges that the Southern District of New York remains the measure of what is just. Judge Lasker contributed to this noble tradition in the U.S. District Court of the Southern District of New York for the first two and a half decades of his forty-one years on the bench. Grateful we are that Morris E. Lasker served here as a District Court Judge. Through the legacy of his accomplishments in this Court, MEL will always be remembered.

Thank you.

Nicholas A. Robinson*

*Gilbert & Sarah Kerlin Distinguished Professor of Environmental Law, Pace University School of Law; Professor Adjunct, Yale University School of Forestry & Environmental Studies.