

TRIBUTE

THOMAS LAWLOR HAYES*

William C. Hill**

“May it never be said of us that liberty vanished because we failed to stretch forth a saving hand while there was still time.”¹ This remark made by Thomas L. Hayes is indicative of the high value that he placed on liberty. That value flowed naturally from the civic minded life which he led.

Thomas Lawlor Hayes was born in Fair Haven, Vermont, on May 30, 1926, just a few years before the Great Depression. His father, a machinist, raised Tom in the atmosphere of a working class family. Proud of that background, Tom remained at heart a blue collar man.

Tom's character was formed in the crucible of those depression years and in the war years of the early 1940's. During World War II he served in the Pacific Theater of Operations, remaining an enlisted man in true democratic style.

After the war, Tom honed his talents as a debater and public speaker as an undergraduate at the University of Vermont. In his junior year Tom participated on the university debating team, which ranked second nationally. The following year, he and his partner won the national intercollegiate debating championship.

After his graduation from UVM in 1950, Tom stayed on to teach for a short time. However, Tom's lifelong fascination with politics soon took hold and he moved to Washington, D.C. Once in the Capitol, he joined the staff of Congressman, later Senator, Winston Prouty. He worked for Senator Prouty for fifteen years, becoming his senior aide. In 1951, he married Jennie Christy and attending classes in the evening, earned his law degree from Georgetown Law School.

Tom enjoyed the heady atmosphere of the nation's Capitol.

* Associate Justice, Vermont Supreme Court, 1985-1987.

** Associate Justice, Vermont Supreme Court, Retired.

1. T. Hayes, Remarks at a conference on the Vermont Constitution (Spring, 1984) reprinted in VERMONT LIFE 47 (Autumn 1986).

The work of Senator Prouty's office, the meetings with legislative leaders, the social gatherings, as well as a growing family all combined to make his years in Washington exciting and rewarding.

During his tenure with Senator Prouty his duties expanded. The complete administration of the Senator's office became Tom's responsibility. He wrote speeches for the Senator, further refining his talent for speech writing.

In legislative matters, Tom acted as the liaison between the Senator and other members of congress and their staffs. Tom's responsibilities included maintaining contact with the Senator's constituency back in Vermont. He helped organize and supervise the election campaigns of Senator Prouty. In doing so, he became acquainted with the key political leaders in Vermont. These contacts provided an early base for Tom's later political activity in his native state.

This background provided Tom with the experience he needed to serve his fellow Vermonters both at the state and national level. He determined to return home, establish a political base in Vermont, and seek election, first to state-wide office and later, possibly to national office.

He returned to Vermont in 1965 and in 1966 unsuccessfully sought the Republican nomination for governor. Two years later, when Deane C. Davis was elected governor, he was elected lieutenant governor.

In 1970, our country was embroiled in the Vietnam War. Although the majority of the American public was at that time willing to back our president in this struggle, college students throughout the nation were demonstrating against what was to them, and to many Americans, a senseless war. At Kent State College, an Ohio State National Guard unit fired upon an unarmed group of demonstrators, killing four students. Hayes, acting as governor in the absence of Davis, ordered the flags lowered to half staff in memory of those slain students. This courageous act indicated the depths of Tom's moral objection to the Vietnam War.

After his defeat in the 1970 primary, he returned to the practice of law, eventually opening an office in Burlington, Vermont. As a general practitioner, Tom accepted all cases that came to him. He also settled disputes between labor and management as an arbitrator. His compassion for the poor and friendless best showed in

the myriad of *pro bono* cases he accepted.

After the flag incident, Tom changed political parties in 1973. In becoming a Democrat, he declared that the Democratic party provided a refuge for liberal Republicans like himself. In November 1974, Governor Salmon, a Democrat, named Tom as his legal counsel.

In 1976, Governor Salmon appointed Tom a superior court judge and he quickly became one of the outstanding trial court judges in the state. He put his experience as an arbitrator to good use in helping attorneys negotiate the settlement of cases.

His masterful control of court proceedings distinguished him among trial judges. For example, Judge Hayes presided over the trial of Louis Hamlin, convicted of killing a young Essex Junction girl. In the most emotionally charged trial in recent Vermont history, Judge Hayes's firmness and judicial temperament drew high praise.

In December of 1983, the Supreme Court of Vermont appointed Judge Hayes the Administrative Judge for Trial Courts. In this capacity he was responsible for the administration of all aspects of the superior and district courts including the assignment of judges and court reporters.

Governor Madeleine Kunin appointed Tom to the position of Associate Justice of the Vermont Supreme Court in March 1985. Following his appointment, Tom attended the appellate judges seminar, a gathering of newly appointed appellate judges from around the country held annually at New York University School of Law. He so impressed the administrators of the seminar that he was invited to join its permanent faculty, a rare honor.

In his new role as Supreme Court Justice, Tom advocated the use of our state constitution in cases where it granted greater protection to the individual than the federal Constitution granted. Writing for the court in *State v. Jewett*,² he called on the Vermont Bar to rely on the Vermont Constitution to protect client's rights. In language characteristic of Tom's concern for all Vermonters he concluded that opinion by saying: "We [the court] have an opportunity to develop a sound jurisprudence of state constitutional law that will serve not only this generation of Vermonters but those

2. *State v. Jewett*, 146 Vt. 221, 50 A.2d 233 (1985).

who will come after us in the decades yet to be.”³

He believed passionately in the rule of the law and, with all its flaws, the American system of justice. Tom held lawyers in high esteem. He said in a speech commemorating law day in 1978, “I can think of no better epitaph than to be able to say ‘I was a lawyer.’” Having known Thomas L. Hayes for many years, I am proud to say he was a judge and a politician, but first and foremost he was a lawyer. He will be missed.

3. *Id.* at 229, 500 A.2d at 238.