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Potter Stewart

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Because I have high regard for him as a person and for his work, I appreciate the opportunity to join in this fitting tribute to Justice Potter Stewart, one of the most illustrious graduates of Yale College and the Yale Law School.

I am often asked what difference Potter's retirement has made. I usually respond that I miss him because of his personal qualities—his personality, character, and intelligence—which made him a most interesting, enjoyable, and effective colleague down through the years. Potter was friendly and considerate, attractive and urbane, and an engaging and sophisticated conversationalist. He was well informed about the past, kept close track of the present and with regularity displayed a highly developed—but never cruel—sense of humor, which he used not only to amuse himself and others, but also to lighten the heavy atmosphere that sometimes settles around the meetings of the Justices. All of this made him an agreeable and entertaining man. Combined with his intellectual qualities, this also made him a very effective Justice in dealing with and influencing his colleagues.

Of course, there was and is much more to Potter Stewart than a quick wit and a talent for conversation and getting along. He worked hard, very hard, six days a week or more in term time. He had great integrity and a steady way. He could not abide cant or hypocrisy. He was also well prepared on the bench and in conference. His presentations were concise and penetrating. He was also amenable and effective in private consultations, ready to listen and sensitive to our institutional responsibility. He came to his decisions after careful thought. While open to reason, he could be as tough as nails and was just that often enough to drive home the point.

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Potter gave us another reason to enjoy his presence on the Court. To say the least, we read a lot. And a great deal of what we read originates in other chambers. Fortunately, for him and for us, Potter writes extremely well, so well that it was a welcome respite to read his drafts, even when one did not agree with either his result or his reasoning. And that is saying a great deal around our shop.

In emphasizing his striking style, I take nothing away from the substance of his written work, which was well presented, whether expressing the majority view or written in concurrence or dissent. Beyond this, Potter came to the Court an experienced lawyer and judge, already wise in the ways of the law and the role of the courts. He regularly demonstrated what judges are supposed to have—good judgment—good enough at least to make him a major influence around the Court.

Justice Stewart has said that he would like to be remembered as a good lawyer and a good judge. Surely he was both of these, but he was much more and will be remembered for much more. Most of the time near the center of the Court, substantively and in terms of the judicial role, Potter was nevertheless often in the vanguard. Many of his opinions for the Court broke new ground in very important ways. He knew that constitutional interpretation was subject to change, and he was demonstratively willing to participate in that growth and development.

The short of it is that Potter was well liked and highly regarded by his colleagues and by the bar. It would be extraordinary to be with a man with those qualities for twenty years and not miss him when he moves on. I do, and so do others. All of us wish him the very best.