

# Indiana Law Review

---

Volume 44

2011

Number 2

---

## TRIBUTES

### A TRIBUTE TO JUSTICE THEODORE BOEHM

GERALD L. BEPKO\*

On the day I began to write this tribute to retired Indiana Supreme Court Justice Theodore Boehm, I received an email news item from the *Indianapolis Business Journal* reporting on a celebrated probate case. The case involved disputes over the estate of one of Indiana's most successful and wealthy business leaders. There had been some intra-family disagreements, and the family member who had been designated as the executor for the estate, after engaging in some questionable activities, was removed by the presiding judge. Because the assets of the estate were valued at more than two billion dollars, and because the issues raised were sensitive and complex, the judge had to appoint someone of special stature, competency, and judgment to serve as a new executor. The news release explained that the judge had appointed Ted Boehm to be the executor and that Ted had accepted the appointment.

This appointment made sense to me not only because Ted Boehm is so talented, experienced, and wise, but because the appointment is another episode in a life of extraordinary consequence—a life filled with a mixture of professional achievements, leadership in a broad range of roles in his relevant communities, a repeated willingness to answer the call to service in his home state of Indiana, and a confidence-inspiring demeanor and wit which are hallmarks of Ted's exceptional life. There are few, if any, who have contributed as much to the life of Indiana with such constancy and a special understanding of the culture and needs of the Hoosier state.

The foundation for his life in Indiana was a superior education. Like so many leaders of this era in Indiana's history, Ted Boehm studied at Shortridge High School before going off to one of the nation's great universities. In Ted's case, this was Brown, from where he graduated summa cum laude on his way to Harvard Law School. From Harvard he went to the U.S. Supreme Court, where he had the opportunity of clerking for Chief Justice Earl Warren. Prior to his appointment by President Dwight Eisenhower, Chief Justice Warren had been a presidential candidate and popular governor of California, so popular that in one of his reelection campaigns he was nominated by all of California's major political parties. He was not only the Chief Justice who had brought landmark

---

\* Former Interim President of Indiana University; IUPUI Chancellor Emeritus; Indiana University Trustees Professor and Professor of Law; former Dean of the Indiana University School of Law—Indianapolis.

cases like *Brown v. Board of Education*<sup>1</sup> to a successful conclusion with a unanimous vote of the Justices, but at the time of Ted's clerkship, the Chief Justice was tapped by President Lyndon Johnson to head up the commission that was charged with studying and reporting on the assassination of President John F. Kennedy.

There are few people of that era who would not know instantly what was described by the words "Warren Commission." Its purposes were to gather the facts of the Kennedy assassination, to put this horrible event in perspective, and to help the nation move on. It was appointed on November 29, 1963, only seven days after President Kennedy's death, and filed its report on September 22, 1964. The time in between, during which the Commission conducted its investigation and prepared its report, was roughly the time when Ted clerked for the Chief Justice.

One could make the case that there was no more important year in the history of the office of the Chief Justice than 1963-64. Earning summa cum laude honors at Brown, a law degree from Harvard, and serving as a clerk in Earl Warren's chambers during a year when the eyes of the world were on the Warren Commission provided Ted with a remarkable background for nearly anything he would choose to do. If there was any better way in this era for a young lawyer to get an accelerated start toward a life of consequence, it is not easy to envision.

With a world of opportunities waiting, Ted Boehm answered the call of his adopted home state and returned to Indiana to join Baker and Daniels, one of Indiana's largest and most prominent law firms. At that time Ted probably could have chosen any threshold opportunity in any place of his liking, but he was influenced by John F. Kennedy's Inaugural Address from 1960. That was the speech in which the young President spoke of a new generation of leadership who should "ask not what your country can do for you; ask what you can do for your country."<sup>2</sup> Ted Boehm has lived this admonition, starting with his decision to return to Indiana and his choice of a life in a place where he would seek to make an important difference.

In this sense Ted seems to have contributed to a pattern for Baker and Daniels lawyers I know, such as Jack Swarbrick, who was a key leader of the sports movement in Indianapolis before going back to his alma mater, Notre Dame, to be athletic director. Ted was instrumental in recruiting Jack Swarbrick by serving as an example of the sort of person who had come back to Indianapolis and by making the case that Indianapolis was a city of the future with special opportunities. Jack said that none of his Stanford Law School classmates went to smaller cities like Indianapolis. They followed the allure of the largest firms located in a few of the largest population centers. Ted's example confirmed what Jack had heard from a priest friend about what was important in building a professional life—a priest friend who was on his way from an affluent parish in San Francisco to an inner city parish in Detroit. This influenced Jack to think about what was most important to a life of fulfillment and helped bring Jack to

---

1. 347 U.S. 483 (1954).

2. President John F. Kennedy, Inaugural Address (Jan. 20, 1961).

Indianapolis and to a kindred spirit who served as a mentor.

Another Baker and Daniels lawyer whose life was influenced by Ted is David Johnson, who now leads Indiana's efforts to expand economic opportunity and create jobs in the life sciences. Ted became a mentor to David while David was in college and Ted was the president of the Meridian-Kessler Neighborhood Association. David's father was pastor at First-Meridian Heights Presbyterian Church. In the 1960s and early 1970s, David's father and his clergy colleagues worked to establish the Meridian-Kessler Association to avoid racial segregation and block racially divisive lending practices in the Meridian-Kessler area of the city. Up until that time, Meridian-Kessler had been a stable and diverse family neighborhood. David saw Ted Boehm, who at the time was a young partner at Baker and Daniels, play a leadership role in this successful movement.

Later, when David clerked during law school at Baker and Daniels, Ted was his assigned mentor. Still later, when David joined the firm as an associate in 1983, fresh from his term as a Rhodes Scholar at Oxford and as a student at the Harvard Law School, Ted was the managing partner, the first person to serve in this leadership role. In subsequent years Ted and David became active together in Democratic Party politics, especially the campaigns of Frank O'Bannon for lieutenant governor and governor. David served as counsel and close advisor to Governor O'Bannon, another person with a fully developed sense of community and civic responsibility.

Ted's role as a champion of civic responsibility and values not only had an impact on those who considered him a mentor, but were also a factor in the way he practiced law as a highly ethical and capable lawyer who served his clients well. This is why he was chosen to argue two different cases before the U.S. Supreme Court. It also contributed to his emergence as a leader of the firm as its first managing partner, but there was more.

In a firm comprising scores of very talented and competitive peers, the person chosen as a leader must be as good as the best in terms of professional work and also be the type of person who has very good judgment and inspires trust and confidence among peers. One of the most easily observable aspects of Ted's life has been the enormous trust and confidence he has inspired in and among various constituencies. He lives by the highest standard of ethical conduct and is a living example of the legal concept known as good faith.

His years as the first Baker and Daniels managing partner were of considerable consequence. In collaboration with another leader of the sports movement and real estate developer, Michael Browning, Ted played a lead role in planning the new office space that the firm acquired in a new building at New York and Meridian Streets. Consistent with his modesty and egalitarian spirit, he arranged for offices in the new space that were all roughly the same size, in contrast to firms which have chosen a hierarchical pyramid of larger and larger offices for more senior partners. And he planned the space so that every office would have maximum external views. It was called a "train trestle"—all windows with no cubicles—built around the library and work areas in the center of the building.

During this same time, Ted played a crucial role in creating and advancing the sports movement in Indianapolis. He was active in and served as the first

chair of the board of the Indiana Sports Corporation (ISC), which has provided energy and leadership for Indianapolis's ambitions to make sports a driver of economic and community development. In these early years, the ISC managed Indianapolis's first large multi-sport event—the National Sports Festival. This event built momentum, gave confidence to the people of Indiana that the sports initiative would bring success, and began a pattern in other cities around the country of copying the Indianapolis experience.

Not long after the National Sports Festival, I had my first opportunity to work with Ted. It was in connection with the Pan American Games, which were held in Indianapolis in 1987. Ted was the chair and CEO of the Pan American Games Host Committee. Since many of the sports venues were on the IUPUI campus, where I worked, I had lots of dealings with Ted. From this vantage point it seemed clear to me that his leadership and passionate efforts were essential to the success of the Games.

Although there was a reservoir of volunteers left from the National Sports Festival in 1982, the Pan American Games volunteer effort in 1987 was of an entirely different and greater magnitude. It was a consummate example of a community, a city, coming together in a volunteer spirit to achieve something very important. It was an uplifting moment of unity. In all of this, Ted played the primary role—including leading on the largest issues, on which the success of the Games depended, and often on the smallest details that were essential to this successful community volunteer effort.

As IUPUI campus Chancellor, I was very impressed with Ted's work, and, inspired by his leadership, I made special efforts to support the Games. It was also a pleasure for me to serve for nearly twenty years on the board of the Indiana Sports Corporation and see the product of Ted's early leadership and the enormous benefit that it brought to Indianapolis and Indiana. Former UN World Food Program leader and current Indiana Pacers CEO Jim Morris, one of Indiana's most prominent leaders, has summed up Ted's contributions in this and other areas of Indiana's growth and development by saying that Ted "has an unusual commitment to simply want to make things better. When somebody has the passion and commitment that he has and also has the skills and talent and brainpower that he has, it's an incredible combination."

As Jim Morris's quote suggests, Ted's community leadership has not been confined to sports. He was and continues to be active in leading the development of the arts and cultural dimensions of our Indianapolis community. He was an early president of the Penrod Society, which hosts the Penrod Arts Fair each year, and he was one of the founding members of the Economics Club of Indianapolis, which presents monthly speakers of national significance on a range of public policy issues. He has been a member of the board of WFYI, our region's public broadcasting outlet, and his interest in downtown Indianapolis has been reflected in his board memberships for the National Art Museum of Sport and his very important service on the board of the Indianapolis Conventions and Visitors Association (ICVA). I served as the ICVA board chair for a few years, which makes me even more confident in the conclusion that this represents another of Ted's excellent contributions to the public good. Most recently, I've had the pleasure to serve on the Indianapolis Cultural Development Commission, which

Ted chairs. This entity supports the arts, cultural activities, and cultural tourism in Indianapolis, and this has given me more firsthand knowledge of the crucial importance of Ted's leadership.

Ted has achieved enough in his role as community leader in Indiana so that one might think he lived in Indianapolis continuously throughout his career as a lawyer. In fact, Ted left Indianapolis to work for several years as general counsel for two of General Electric's important subsidiaries, first in Louisville as counsel for the appliance division, and finally as counsel for the aircraft engine division in Cincinnati. After those years away, he returned to his home city to work briefly for his home firm, Baker and Daniels, and then to accept an appointment by Governor Evan Bayh to join the Indiana Supreme Court. He took his seat on the court in 1996 and retired in 2010 after having contributed in very important ways to the continuing development of the supreme court and the lower court system in Indiana.

As a law professor and dean, I have always been proud of the growing stature of the courts in Indiana. The quality of the Indiana judiciary in general, which has grown under the leadership of the supreme court by Chief Justice Randall Shepard, is a remarkable phenomenon. It's something all Hoosiers should understand and admire. By the time Ted joined the Indiana Supreme Court, it had already become well known for its high quality, thus making it even more difficult to add to its growing reputation. Ted managed to do that, however, with the basic quality of his intellectual contribution to the court's body of decisions and by bringing his management experience in corporate positions to bear on the work of the court. This led to such things as improvements in the way those eligible for jury service are identified and gathered into pools of candidates for selection.

For four years in retirement, I taught a course titled "Leadership and Law." The purpose of the course was to give law students an opportunity to think about leadership and learn the language and ideas that have been developed by those who study the subject. It was meant to give students a framework for thinking about leadership in all the ways that lawyers must lead: in their communities, in their firms, in their work to reform law in the public interest, in the protection of those who cannot afford full participation in the system of justice, in their efforts to continue to improve the profession, and in their nurturing of each new generation of lawyers. When the class talked about leadership in this context, there was often a reference to "impact" and how those who studied law could improve conditions in the world. This translated into a question: How do we define a life well lived grounded in law?

All the lawyer/leaders who came to speak to my class incorporated in some way these questions in their reflections on the subject matter. This was true of all those "grounded in law" who came to speak, whether it was U.S. District Judge Sarah Evans Barker, Center for Leadership Development CEO Dennis Bland, Indiana House of Representatives Speaker Brian Bosma, Clarian CEO Dan Evans, entrepreneur/author/publisher/lawyer/philanthropist Michael S. "Mickey" Maurer (for whom the Maurer School of Law at Indiana University—Bloomington is named), lawyer/bank CEO Robert McKinney, Indianapolis Mayor Bart Peterson, or Professors David Orentlicher and Florence Roisman.

Until I began to write this tribute, I had not realized that Ted Boehm was a mentor to two of those who spoke eloquently to my class on the subject of leadership: David Johnson and Jack Swarbrick. David and Jack were probably too young at the time to be affected by the Kennedy inaugural speech in the way that Ted Boehm was, but they were among those privileged to be mentored by Ted and imbued with the notion that serving good causes is life's highest calling. By way of their personal reflections, they certainly gave inspiration to the law students in my classes.

I'm sure Ted is proud of what they have done and the way they and others for whom Ted has served as mentor have chosen lives of meaning, adventure, and consequence. My reaction to learning of Ted's influence on the two of them is to conclude that if I teach this course again, I will not only continue to invite David Johnson and Jack Swarbrick to speak, but I will ask Ted if he would be willing to open the class as the first speaker. He may well be the most accomplished of all at defining a life well lived grounded in law and helping others like David and Jack to understand these elements of life and leadership. I doubt that there could be any better way to start the study of leadership and law or to give an orientation to young people entering the profession.