

## MEMORIAL

### RAY A. FENTON

#### IOWA JUDGES ASSOCIATION-NOVEMBER 17, 2005

We meet few truly good people on our journey. So it is appropriate that we recognize and celebrate those lives. For in so doing we witness the potential for goodness in ourselves.

RAY A. FENTON, was born August 13, 1930 in Buckingham, Iowa, the son of A.R. and Beth (Lambert) Fenton. He died peacefully, surrounded by his family on August 8, 2005 at the age of 74.

He graduated from Tech High School in 1947. Ray attended and played football for Iowa State University before entering the Air Force in 1949. He was stationed in Fairbanks, Alaska. He received his undergraduate degree from Ohio State University in 1952 and his Law Degree from Drake University in 1957. In 1954, Ray married Felicia Senecaut and two sons, Greg and Terry, were born to this union.

Ray was in private practice in the law firm of Hawkins, Fenton and Scalise before becoming Polk County Attorney in 1965. Local legend has it that the Democratic Party, assuming it had no chance of winning the Polk County Attorney's Office or the Attorney General's Office ran two young lawyers just to fill the slate. To everyone surprise, Ray and Larry won. Ray served as County Attorney for 12 years until being appointed a District Court Judge in 1977 by then Governor Robert D. Ray.

Ray was a formidable and fair prosecutor. And those who ever saw him work a jury would appreciate his litigation skills. His cross-examination skills were second to none in comparison to others I have seen. He exercised nolo prosequi, prosecutorial discretion, with discernment and provided substantial justice in many criminal cases by refraining from filing charges but "holding the file" in his office to see if their conduct was an anomaly. This process saved citizens criminal records long before deferred sentences were a recognized legal procedure.

But he knew his job and could be stubborn. If he wanted a case tried by his office, it was tried – no ifs, ands or buts, the assistant's whining notwithstanding. He would annually feud with the courthouse janitors who would loudly play Christmas Carols in the rotunda. Ray, concerned that this would "soften up the jurors," turned down the volume. They turned it up. He turned it down. And on it went. One year a newspaper in Germany picked up the story from the wire service and a friend sent Ray the article.

Once on the bench Ray displayed this same independence of thought. He had a clear view of what he thought was just and he pursued it, regardless of what others

thought, including the press, the public and his fellow judges. But malice was not to be found in Ray's character. Indeed, he was the most gentle man before whom I ever practiced, and with whom I ever worked. He was a "gentle judge" with a capacity for forgiveness that was sometimes questioned. But he never questioned it. And upon reflection, I suspect it is that portion of his character which humbles the rest of us.

In 1984, Ray married Barbara McFarland and they enjoyed not only a sound marriage but a wonderful friendship. He retired from the bench in July of 1998, and kept active by joining the law firm of Hudson, Mallaney and Shindler, of counsel. He practiced until days before his death. Ray always seemed to be there to care for the one person that the system might have otherwise overlooked. He did not practice for the money – like every professional endeavor in his life, he did it for the service.

Ray was a member of the Polk County Bar Association, a volunteer at the Iowa Law Enforcement Academy and had served as a Drake Relays official for 16 years. He was a 33<sup>rd</sup> degree Mason and a member of Home Lodge, Des Moines Consistory, Za-Ga-Zig Shrine and Royal Order of Jesters. Ray was a former secretary of the Iowa Golden Gloves and a member of The Friendly Sons of St. Patrick. (Which is the only justification I can see for owning a green tuxedo.) He enjoyed crosswords, cribbage, fishing, shooting craps, listening to the blues and following the Iowa Hawkeyes.

Ray was preceded in death by his parents; daughter-in-law, Deloris Fenton and his cherished felines, Alexis and Krystal. He is survived by his wife Barbara; sons, Greg and Terry (Jeff); grandson, Jamie; sister, Elizabeth (Max) Isaacson; father and mother-in-law, Jim and Ethelyn McFarland; brother-in-law, Bob (Cynthia) McFarland and several nieces and nephews.

A courthouse is imposing, unfeeling – just friendless granite, marble, brass and oak. Ray made the place warm, like a fire soothing a stone hearth. His personality tempered justice. How many judges can do that? A rare few.

Judge Ray Fenton was a "regular guy" who gave more than he took, who smiled through all the adversities that life shared with him, who always thought of others before himself. Of him no one would speak ill and his life was well invested. Could we but see some of Ray in each of us, our lives and our judicial system would be greatly enhanced. What a difference one man can make if he lives the Golden Rule.

Mr. President, I move that this memorial be spread across the pages of this association and a copy sent to his wife and family.