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JUDGE FRANK J. BATTISTI AND THE PROMISES HE KEPT

THE HONORABLE NATHANIEL R. JONES¹

I had the honor of being present on each of the two occasions when Frank J. Battisti took the judicial oath. The first occurred in 1958 when he was sworn in as a judge of the Court of Common Pleas of Mahoning County, Ohio, and the next time was when he became United States District Judge for the Northern District of Ohio on October 4, 1961. Throughout his judicial career, Judge Battisti returned the favor by administering the oath of office to numerous new judges and other public officials.

Judge Battisti viewed the oath of office very seriously. Swearing-in ceremonies were important to him and he presided with great solemnity over them. He considered the assumption of public office to be on par with the undertaking of a sacred trust.

That, very simply, is part of the reason he was able to fearlessly meet the awesome challenges presented to him in cases that involved the most wrenching social issues of our day. Whether the case involved the criminal justice system, economic or racial injustice, Judge Battisti approached them with his oath of office in mind . . . "I will administer justice without respect to persons, and do equal right to the poor and to the rich . . . and uphold and defend the Constitution of the United States . . . So Help Me God." And he constantly sought God's help. Few knew it, but he was a daily communicant at the Cathedral located two blocks from his chambers. Adhering to his faith was essential, in his view, to drawing strength in order to be true to his oath of office.

Also worthy of note, is the reverence that this remarkable jurist had for the Constitution and the independence it provides to the federal judiciary under Article III. He wrote and lectured on the subject with passion. Judge Battisti firmly believed that the framers of the Constitution intended for that independence to be used to carry out the noble mandates of the Constitution. Thus, he did not flinch from the scorching condemnation heaped upon him when he applied the equal protection clause of the 14th Amendment to the children in the Cleveland public school system, or ordered that the provisions of the Fair Housing Act go into effect in the Greater Cleveland area, or when he felt compelled to issue the Great Writ of Habeas corpus in instances where prisoners' constitutional rights had been violated.

I offer this simple explanation to relieve those, who in this era of cynicism and skepticism, desire to probe for complicated answers to the Battisti phenomenon. As I stated in the funeral eulogy, "There is no mystery here. He was not an enigma. It is all so simple." As a judge, when Judge Battisti saw wrong, he tried to make it right. It is all so simple.

¹Judge, United States Court of Appeals for the Sixth Circuit.

An additional insight worthy of mention is that as seriously as the judge viewed his responsibilities, he never allowed it to cloud his relationship with friends. Self effacing, Judge Battisti could enjoy a good story even at his own expense. There was also a love of art and literature. Because he delighted in and drew comfort from the work of poets, I should like to conclude this tribute with the words of the world-renowned poet, Langston Hughes. Nearly three quarters of a century ago he attended one of the very schools in Cleveland that the judge's remedial order sought to desegregate. Langston Hughes, in his poem, "Dream of Freedom," conveys as only poets can, much of what Judge Battisti tried to tell us about human equality:

There's a dream in the land
With its back against the wall.
By muddled names and strange
Sometimes the dream is called.

There are those who claim
This dream for theirs alone—
A sin for which, we know,
They must atone.

Unless shared in common
Like sunlight and like air,
The dream will die for lack
Of substance anywhere.

The dream knows no frontier or tongue,
The dream no class or race.
The dream cannot be kept secure
In any *one* locked place.

This dream today embattled,
With its back against the wall—
To save the dream for one
It must be saved for ALL.