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The Honorable James F. Battin

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United States District Court Judge for the District of Montana

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IN MEMORIAM

THE HONORABLE JAMES F. BATTIN

February 13, 1925 - September 27, 1996

Much of the wealth of human experience comes from what is handed down from one life to the next. We do not remember simply the mortar and stone, but recall with fondness individual thoughts and collective experiences that make the life and times of someone like Judge Battin live on. We remember good things because they are worth remembering and because the memories satisfy a need that we the living have.

Judge Battin was an extraordinary person and a great Montanan. He was born February 13, 1925 in Wichita, Kansas. He was raised and educated in Billings, Montana. On August 9, 1947, he married Barbara Choate. The Judge graduated from Eastern Montana College. He received a Bachelor of Laws degree and a Doctor of Jurisprudence degree from George Washington University Law School in Washington, D.C.

The hallmark of Judge Battin's long legal career was an unwavering commitment to public service. He was motivated by a desire to advance the public good in the State of Montana. His life was devoted to protecting Montanans' civil rights, freedom, liberty, security, and the beliefs necessary to a democratic society. He spent a lifetime working to make Montana truly the "Last Best Place."

One of his great strengths was his personal and professional integrity. He came from an age when your word was your bond. He enjoyed a remarkable public career keeping his word and honoring the bond of commitment: commitment to family, commitment to community, and commitment to the court. His door

was always open. Anyone, lawyer or not, facing a problem could seek counsel and advice from the Judge. He kept confidences, yet managed to lead many through what seemed to be unsolvable ethical or personal problems. He humanized the practice of law by constantly placing what lawyers and litigants do in the grand and historical system of self-government that we all enjoy.

Judge Battin was President Richard Nixon's first appointment to the federal bench. He was appointed on February 27, 1969 and confirmed in record time by the United States Senate. Before being appointed to the bench, he served as Montana's Eastern District Congressman. He was elected to the U.S. House of Representatives in 1960 and re-elected each ensuing election until he was called to serve as a judge in 1969. As a member of Congress, he served on the House Ways and Means Committee, the House Judiciary Committee, the House Foreign Affairs Committee, and the Executive Committee.

Judge Battin replaced Judge Jameson on the bench. He was, like Judge Jameson, a practical jurist. He never lost sight of the constraints and pressures on lawyers in the private practice of law. He firmly believed that it was the lawyers, the members of the practicing bar, and not the "omnipotent judges," who had the best sense of how a case should be tried. He consistently refrained from meddling in a lawyer's case. He was a "lawyers' judge." He was patient enough to always allow members of the bar, young and old, to practice their profession without worrying about interference from the heavy hand of the court. Yet he had an uncanny ability to sense when lawyers needed direction and help in their cases. When the time was right, he would exercise firm guidance to the parties and lawyers appearing before him. His ability to exercise restraint, and yet to manage, made him an extraordinarily effective judge. Not every litigant or lawyer agreed with his decisions; yet one would be hard-pressed to find a lawyer who did not have a high degree of respect for Judge Battin's integrity.

In his public life, a career spanning almost one half a century, he was a soldier, a citizen, and a servant. He touched all of our lives with his service and with his decisions. There is not time or space to mention all he did or tried, but he made many landmark decisions that shaped and will guide our voyage into the twenty-first century.

I was fortunate to have my life so deeply touched by this man. I first met him in 1962. My good friend Roman Losleban was a Battin supporter. "Big Jim" was in Malta in his role as a

young congressman and Roman insisted that I meet him. Little did I know how intertwined my life would be with his. In many respects I held views, political and others, that were at odds with his. When our paths crossed again, I wondered if that potential conflict would be a problem. My concern was unfounded, and I began a two-year clerkship with the Judge—two of the most memorable years of my life.

I treasure the years I worked for him, the years he became my mentor and friend. He loved to engage. He wanted to discuss and argue about issues and the law. He pushed on policy and practicality and displayed a wisdom I think is, and was, unmatched in understanding human dynamics and in being able to put a finger on “what made it work.” In my mind, he made the law work within the framework of our constitutional form of government, he understood history and its role in lawmaking and decision-making, and he held in the highest regard Teddy Roosevelt’s observation that “the first requisite of good citizenship in this republic of ours is that he shall be able and willing to pull his weight.”

My good fortune in being named to the federal bench is due, in no small part, to Judge Battin. All of his best qualities were my pillars of strength and repose during what seemed to be an interminable confirmation process. When I was finally confirmed, on July 18, 1996, we shared an emotional release of energy. Sadly, he would appear in court only one more time. On August 16, 1996, I was sworn in as Montana’s newest federal Judge. I was honored and moved that Judge Battin presided at that joyous event and that he administered the oath of office. I remember asking him to go slowly with the oath. Perhaps I should not have asked the favor of him because it gave the red-headed Irish judge one last chance to demonstrate his sense of humor.

I saw him the afternoon that he died. I felt comfort in knowing that he went “gently into that good night.” He will be sorely missed. His integrity should be an example for all of us. His devotion to the ideal of public service is a reminder to each of us that good government requires commitment and good public servants. His warmth, compassion, and understanding of the strengths and frailties of the human condition will be missed by all who enter the federal courts, whether by choice or by necessity.

Judge Battin is survived by his wife, Barbara; daughter Loyce and her husband Craig Peterson; daughter Patricia (P.J.) and her husband Tom Pfeiffer; son James, Jr. and his wife Mary;

and seven grandchildren, Hannah, Roy, Christopher, Abigail, Bailey, Kelsey, and Katherine. He was a good father, a good friend, a good citizen, and a great man.

*—Donald William Molloy, United States District Court
Judge for the District of Montana*

SPECIAL APPRECIATION

The Montana Law Review would like to express its gratitude to John G. Hursh for the generous gift that established the James R. Browning Symposium Series. The James R. Browning Symposium Series addresses issues of national importance and enables the law review to present outstanding scholars to the Montana legal community. Mr. Hursh is a 1982 graduate of the University of Montana School of Law and served as a law clerk to the Honorable James R. Browning from 1982 to 1983. Mr. Hursh is a partner in the law firm of Ritchey, Fisher, Whitman & Klein in Palo Alto, California. Without Mr. Hursh's contribution to the law review, the Militia Symposium would not have been possible.

The Montana Law Review would also like to extend a special thanks to William V. "Bud" Roth for his efforts in organizing the 1996 Browning Symposium. Unfortunately, Bud transferred to another law school before the event; however, his hard work contributed to the success of the Militia Symposium.

