



September 1, 2020
(SENT BY EMAIL)

MEMORANDUM

TO: Members of the Judicial Conference
All Oregon Judicial Department Employees

FROM: Martha L. Walters
Chief Justice

RE: The Honorable Hans Linde

Yesterday, August 31, 2020, we lost a great man. Hans Linde was Oregon's preeminent legal scholar, teacher, and judge. His effect on Oregon law cannot be overstated, but he also was a friend and mentor to many. Hans had a breadth of interests and a depth of kindness that those who saw only the public person and his work may not have known.

Hans was born in Berlin, Germany in 1924. His family escaped from Germany and took him to Denmark in 1933, where he learned Danish and some English. He immigrated to Portland in 1939 and attended Lincoln High School with some other refugees, including Ernie Bonyhadi. It was there that Hans met his wife Helen. They "dated," although Hans did not understand what a prom was, and many of their dates were walks from northwest Portland to Lincoln Hall on the PSU campus, saving money that they otherwise would have spent on the streetcar. Hans was proud to have been elected as assistant editor of the Lincoln Cardinal newspaper, although he always wondered why that was an elected position (Jacksonian effect, he reasoned). His English teacher was Maureen Brown, later Maurine Neuberger.

Hans served in the US Army during World War II and then received a BA from Reed College in 1947 and a JD from UC Berkeley in 1950. Hans served as a law clerk to United States Supreme Court Justice William O. Douglas (1950-51) (Helen served as his legal secretary) and as an attorney in the Office of the Legal Adviser to the United States Department of State (1951-53), where his boss was Richard Meeker's father. Hans then served as legislative assistant to Oregon Senator Richard L. Neuberger (1955-58) and began teaching at the University of Oregon School of Law.

Hans and Helen moved to Eugene, and Hans continued to teach there, and as a visiting professor throughout the country, for many years. As a law professor, Hans wrote some of the

most influential articles of his generation. Beginning 50 years ago with “Without Due Process: Unconstitutional Law in Oregon,” Hans developed and explored a new approach to state constitutional interpretation – one now embraced by state supreme courts and legal scholars across the country. His groundbreaking work on administrative law (with Dave Frohnmayer), legislation, municipal law, the initiative process, and both state and federal constitutional law remade large parts of the legal landscape.

In 1977, Governor Straub appointed Hans to the Oregon Supreme Court, where he rethought every aspect of Oregon decisional law and wrote opinions that are of such continuing significance that one or more is cited by the parties in every set of oral arguments that the court hears and discusses at nearly every conference the court holds. But at the same time, Hans also attended seminars for school children in eastern Oregon and introduced them to the basics of civil procedure and the courts, using the example of kids arguing about possession of a toy and running to mom to get a decision. That the man who wrote the complex decision in *Fazzolari* also relished that simple instruction gives some idea of his heart and humanity.

Hans remained on the court until 1990, when he returned to teaching, sometimes with his close friend and former law clerk, the also brilliant Court of Appeals judge, David Schuman, whom we also lost last October. But Hans’s legal interests ranged far beyond the case law that is the focus of so much law school instruction. For Hans, the law was the responsibility of all citizens, and he was fascinated with how it was crafted and implemented in municipalities, and by state legislatures and administrative agencies. With Hardy Myers, Hans conceived of, served on, and led the work of the Oregon Law Commission, which drafts laws for enactment by the Oregon legislature.

Until his last days, Justice Linde discussed legal education (especially the absence of sufficient training in public law) and possible structures for maintenance of world peace. There is not, and never will be, anyone like him.