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A TRIBUTE TO JACOB D. HYMAN, LAW TEACHER AND LAWYER

WILLIAM B. LAWLESS*

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Alden

John Lord	Frank	Mark	Louis	Ernest
O'Brian	Shea	Howe	Jaffe	Brown

is indeed an illustrious bank of lawyers and law professors for one law school to have been closely identified with over its lifetime. Yet none of these men contributed more to the building of the Buffalo Law School than Professor Jacob D. Hyman who celebrates his 25th anniversary of teaching this year. Gentle in style, mild in manner, possessor of a highly polished mind, Jack Hyman is the epitome of a superb law teacher and lawyer as well. He came to Buffalo from government practice in Washington, D.C. immediately following World War II. He brought with him a clarity of thought, beauty of expression and ability to probe deeply into the legal process. He demonstrated from the first his warm attitude toward students, but never hid his complete disdain for the mediocre and the pedestrian. His standards were exacting but his tolerance unlimited.

In addition to teaching, Professor Hyman served his turn as Dean of the Law School and during eleven difficult years between 1953 and 1964 he surely suffered his share of the administrative agony of that office. As always he performed with skill and diplomacy and had much to do with the strong academic advancement of the school, strengthening its faculty and broadening the base of its student body.

Professor Hyman has contributed much to the literature of the law. His published writings show his deep concern with civil rights and judicial reasoning. He has combined these two topics in *Standards for Preferred Freedoms: Beyond the First*,¹ (coauthored by Wade J. Newhouse, Jr.) and in *Judicial Standards for the Pro-*

* Member, New York Bar. A.B., University of Buffalo, 1949; LL.B., University of Notre Dame, 1944; LL.M., Harvard University, 1950.

1. 60 Nw. L. Rev. 1 (1965).

tection of *Basic Freedoms*.² In both of these articles, Professor Hyman analyzes the factors behind constitutional challenges to legislation. After exploring the various rationales used by the courts (in particular the Supreme Court) in coming to their decisions, he presents arguments favoring the application of a stricter standard to legislation involving first amendment and other "personal rights" than the ordinary "reasonableness" standard applicable to cases involving commercial interests.

A Response to Perry: Judicial Method and the Concept of Reasoning,³ and *Concerning the Responsibility and Craftsmanship of a Judge: A Review of Julius Stone's Legal Systems & Lawyer's Reasoning in the Light of Recent Criticism of the Supreme Court*,⁴ are more philosophical. In these articles, Professor Hyman studies the various theories of judicial reasoning. In particular, he derides the use of set rules in the decision making process believing that they are of doubtful utility in uncertain and new areas of litigation. In the latter article, Professor Hyman analyzes these theories of judicial reasoning in the light of criticism of the Supreme Court's "activist" role in expanding individual liberties. He concludes that these criticisms represent an attempt to hold the Court to an unreasonable standard, and that the Court, faced with situations (e.g., segregation) that demanded action, had to act as it did.

In *Desegregation of the Schools: The Present Situation*⁵ (co-authored by Wade J. Newhouse, Jr.), he traced the effect of the decision in *Brown v. Board of Education* on *de facto* segregation. This article foreshadowed the later cases holding that affirmative action is necessary to adjust racial imbalance in the public school systems.

In *Segregation and the 14th Amendment*,⁶ he called for the same type of broad interpretation of the 14th amendment with respect to civil rights which was later adopted by the courts.

In *Home Rule in New York 1941-1965: Retrospect and Prospect*,⁷ Professor Hyman reconstructs the history of the development of municipal powers in New York and the conflicts arising

2. 1 BUFFALO L. REV. 221 (1952).

3. 19 BUFFALO L. REV. 225 (1970).

4. 14 BUFFALO L. REV. 347 (1965).

5. 14 BUFFALO L. REV. 208 (1964).

6. 4 VAND. L. REV. 555 (1951).

7. 15 BUFFALO L. REV. 335 (1965).

DEDICATION

between the State and the cities. He concludes that the courts cannot be counted on to help the cities in their quest for expansion of their powers. The Local Government Article enacted in 1964 is viewed favorably, but is not sufficient. This article is of particular relevance in light of the particularly harsh battle this year between New York City and the Governor and State Legislature.

The Professor has always been deeply interested in the civil rights movement, not only in its philosophical dimensions but in its enforcement as well. In 1967 he appeared before my trial court as one of the counsel for prisoners at Attica State Prison who were claiming the right to worship within the prison compound in accordance with their religious beliefs. Also they were seeking the right to clergy and requested that their religious dietary habits be accommodated. Professor Hyman was a forceful advocate, won his case, and as a result the Commissioner of Correction was ordered to promulgate new rules and regulations which allowed Black Muslims a broader basis for religious practice.⁸

In community affairs in Buffalo, Professor Hyman has been equally vital and energetic. As Chairman of the Buffalo Charter Revision Committee he led a distinguished panel of citizens through an article by article review of the City's Constitution and led directly to Charter revision and fiscal reform in its capital spending procedures. During the State Constitutional Convention of 1967 he was a leading and successful spokesman for those who opposed repeal of the state's prohibition (article XI, section 4) against the use of public property or money in aid of denominational schools.

Finally, as friend and counsellor he has been for me a steady source of guidance and inspiration. Always dispassionate in his analysis, I have sought out his advice on frequent occasions and followed it with confidence and appreciation.

Professor Paul A. Freund of Harvard Law School once said that you can really only perform one role in life if you are to play it really well. Hyman, like Freund, has done that as a distinguished professor of law. He has invested twenty-five years of himself in Buffalo Law School. Generations of his students will provide a rich dividend for his long and faithful service.

8. *Sa Marion v. McGinnis*, 55 Misc. 2d 59, 284 N.Y.S.2d 504 (Sup. Ct., Erie County 1967).

