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Introduction

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JUSTICE PHILIP HALPERN
1902-1963

- 1925 —Began thirty years of service as Professor of Law, Acting Dean, and Dean
- 1947 —Elected to New York State Supreme Court
- 1952 —Appointed to Appellate Division, Third Department
- 1953 —Appointed to the Human Rights Commission
- 1958 —Appointed to Appellate Division, Fourth Department

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In Memory of Philip Halpern: Two Essays on Jewish Contributions to American Law

INTRODUCTION

CHARLES R.* AND JAMES B.** Halpern

IN 1964 the *Buffalo Law Review* published a series of articles in memory of our father, Philip Halpern, who had recently died. The memorial articles, written by his friends and colleagues—teachers, judges, and public servants—reviewed his career in detail, including his long and close association with the Buffalo Law School.***¹

Twenty years later, on November 17, 1984, three distinguished scholars came to Buffalo to present papers at a symposium in memory of Philip Halpern entitled "Jewish Contributions to American Law." Two of those papers are included in this issue of the *Buffalo Law Review*.² The attendance at the symposium of

* Dean, City University of New York School of Law at Queens College.

** Member, New York and District of Columbia bars.

*** Footnotes have been prepared by the editors.

1. 13 BUFFALO L. REV. 303, 303-38 (1964). Our father was also honored in memoriam at the Fourth Department by his colleagues and friends. See 19 A.D.2d v (1964).

2. The third paper, an essay on the careers of Justices Brandeis and Frankfurter, by Professor Robert A. Burt, Southmayd Professor of Law at the Yale Law School, will be published elsewhere in an expanded version. The symposium, which was held at Temple Beth Zion, the congregation to which our father belonged throughout his adult life, was made possible by a generous contribution to the Temple by his lifelong friend, Paul Dosberg.

more than three hundred persons, so many years after our father's death, was a moving tribute to his memory. In this brief introduction, we share some of the inheritance that makes his memory a living force for us and for many of the other people who knew him.

He left a legacy to all of us, through which he has reciprocated for all that his community had given him. It early recognized his unique talents and gave him opportunities to develop them. It gave him many honors. It shared with him, and took pride in, his national and international achievements. It made him a respected leader. He took advantage of the opportunities that he had, and he used his prominence in his community to provide a model of selfless dedication to the public good, of fair and honorable dealings with people, and of commitment to principle.

He loved jokes. He had favorites which he told more than once. One of them was this:

A man sat in the reading room of the public library and picked up a magazine from the shelf. He sat down and started tearing out pages and scattering them on the floor around his chair.

After a few minutes, the librarian came up to him and asked him what he thought he was doing.

'Keeping away the tigers,' the man said.

'But there are no tigers around here,' the librarian said.

The man replied: 'It works, doesn't it?'

Philip Halpern did not have a particular formula for keeping the tigers away. He did not choose imaginary tigers, but real ones—ignorance, opportunism, malice, discrimination, and oppression of the helpless. He spent his life in combat with these tigers, and he knew that humor was necessary to keep the struggle in perspective. The weapons he used were his great gifts: brilliant mind, inexhaustible energy, buoyant optimism, wit, and commitment to public service. Those qualities have enabled his memory to affect us today, more than twenty years after his death. His qualities can inspire us, can let us continue to share in the journey of his life in a practical way—in a way that makes us better and more effective people in our own worlds.

As his sons, we took his standards for granted, without reflecting on how rare and admirable they are. In our profession, there are some qualities of mind that are (or, in some cases, should be) especially valued: thinking in a cool, rational fashion, free from bias or prejudice; careful analysis; drawing on the

best of past thinking while being attentive to present circumstances; mastering facts; concern for honesty and justice; and attention to the needs of the disadvantaged and helpless. That is simply the way our father thought. It was ingrained in him and he could be impatient with those who did not think that way.

He believed in progress, in the importance of improving our institutions. He felt that our form of government and social structure constituted a good framework for the application of reason and law to make the world a better place. His optimism had many expressions. It fed his conviction that the power of reason could make the law an ever-improving instrument for doing justice and that law could bring order to relations among nations.

His optimism was also reflected his dealing with people. He was warm and open, and he was disposed to think the best of people. He found real joy in human interaction. An occasion that promised both intellectual exchange and conviviality was one that he valued particularly.

He lived by his principles. We now realize how unusual and impressive this is. There was little compromise. Yet there was not the zealot's intolerance. He knew that he (like anyone) did not have all the answers. He was committed to a system, to a way of life, that gave people room to develop their own answers.

The world has become much more complex in the years since his death. Our problems seem more intractable. Yet our father's approach suggests a number of ways of attending to these problems. We should engage them and grapple with them. We should apply reason and try to avoid violent confrontation. We should find within the law a framework for problem-solving. We should approach these problems from a perspective of social justice, not grasping selfishness.

It is unclear whether the application of these principles will keep the tigers away in the 1980's. In varying degrees, we have tried to incorporate them in our lives, to build on them, to move forward through our lives in a way which draws on the great strengths of Philip Halpern's life and memory.

Dean Monroe Price and Professor Saul Touster have, in their essays, been true to the intellectual tradition which our father valued. Two of the subjects that were of most interest to him were the law and Judaism, the subjects of the articles which follow. He would be proud to see these thoughtful and provocative essays

published in his memory in the *Review* of the law school to which he was so devoted.

In an issue of the *Stanford Law Review* dedicated to Justice Robert H. Jackson, Philip Halpern described Justice Jackson as "a natural-born lawyer, endowed with great native ability,"³ who "regarded the law as truly a public profession, whose primary objective was to serve the public interest through the composing of differences, the vindication of rights and the defeat of oppression."⁴ In describing Justice Jackson, who was an admired mentor, Philip Halpern also described himself.

Text and Intellect

MONROE E. PRICE*

Biography and autobiography as touchstones for analysis have their treacheries. But in the explication of the extraordinary experience of the Jewish community in the United States—an experience in which the career of Justice Philip Halpern plays an exemplary part—the summation of personal vignettes has been a useful, almost indispensable component. Today's discussions, memorializing Justice Halpern, evoke thoughts of self and the relationship between self and collective responsibility. My life, indeed, has been enriched by my association with Justice Halpern's son Charles, as a classmate at the Yale Law School, and as a companion in the brutal and often frustrating task of defining a suitable personal and professional life. I, of course, did not know Justice Halpern; but through Charles I have seen the consequences of an unusual inheritance: the feeling of an enormous responsibility to think and act to improve the quality, integrity, and compassion of the legal profession. I have watched Charles as he founded the Center for Law and Social Policy in Washington and greatly influenced the public interest movement in this country; and, now, he is contributing greatly to the rethinking of legal education in our

3. Halpern, *Robert H. Jackson, 1892-1954*, 8 *STAN. L. REV.* 3, 3 (1955).

4. *Id.* at 6.

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