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Judge J. Skelly Wright: Thirty Years

Introduction*

Just as “memorial addresses often provide an even greater insight into the speaker than into the subject,”¹ so, too, may the choice of a quotation at the head of an article indicate the philosophy of its author. Opening an article honoring Justice Hugo L. Black’s contributions in the field of maritime worker personal injury claims, Judge J. Skelly Wright quoted an early U.S. Supreme Court opinion:

And what is the decision of reason on the merits of these conflicting pretensions?

Her first and favorite answer would be, that were the scales equally suspended between the parties, the decision ought to be given in favor of humanity.²

Even more importantly, Wright wrote, Justice Black is a “humanitarian—a man with an inborn distrust for the legal cliché who pierces such legalisms to expose the real world outside. It is [his] humanitarianism that has been his polar star. . . .”³ These words apply as fully to Judge Wright as to his late “mentor and friend.”⁴

Whence came Judge Wright’s rich, highly developed “sense of injustice”?⁵ The bare outlines of his life are simple enough. A graduate of Loyola University in his native New Orleans, he practiced law there for more than fifteen years before becoming United States Attorney for the Eastern District of Louisiana. In 1948 he was appointed a federal district judge, serving until 1962 when he was named to the Court of Appeals for the District of Columbia; in 1978 he became chief judge of the court. One studying Judge Wright’s career will discover moments of high drama. In implementing the Supreme Court’s desegregation decisions in New Orleans, for example, he became the “focal point for

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1. P. FREUND, *THE SUPREME COURT OF THE UNITED STATES* 34 (1961).

2. Wright, *Justice at the Dock: The Maritime Worker and Mr. Justice Black*, 14 U.C.L.A. L. REV. 524 (1967) (quoting *The Nereide*, 13 U.S. (9 Cranch) 388, 434 (1815) (Johnson, J.)).

3. Wright, *supra* note 2, at 524.

4. J.S. WRIGHT, *JUDICIAL REVIEW AND THE EQUAL PROTECTION CLAUSE* 50 (Francis Biddle Memorial Lecture delivered at the Harvard Law School, December 1979).

5. See E. CAHN, *SENSE OF INJUSTICE* (1949). See also Wright, *Public School Desegregation: Legal Remedies for De Facto Segregation*, 40 N.Y.U. L. REV. 285, 308-09 (1965).

one of the most intensive campaigns of harassment and abuse ever suffered" by a United States judge.⁶ But mainly Judge Wright has spent the past thirty years trying and deciding several hundred cases, and writing close to one thousand opinions. And it is his forthrightness in laying bare the deep convictions behind them which commands our attention.

Judge Wright's work is all of one piece. He combines a thoroughgoing fact-skepticism with a view of law from the vantage point of those upon whom it acts—from the bottom looking up, one might say. He has a compulsion to protect the weak and powerless in society against the strong and domineering, and to promote this within a framework of lasting human dignity for all. The bar may find his opinions too scholarly, laymen may deplore their length, and law professors may criticize their general orientation, if not their specific result; yet, like those of Judge Jerome Frank of an earlier generation, they fill the casebooks.

One case is especially fascinating. In *Application of the President and Directors of Georgetown College, Inc.*⁷ he ordered the blood transfusions necessary to save a woman's life over the religious objections of her husband. "To refuse to act," he wrote, "only to find later that the law required action, was a risk I was unwilling to accept. I determined to act on the side of life."⁸ As befits the man who argued Willie Francis' case before the Supreme Court, Skelly Wright is one of our first explicitly "existential judges."⁹ Many of his opinions and articles, which have flowed on a continuing basis, view the courts as partners, in effect, with the other branches of government, "prepared to act on the ideals to which America is theoretically and rhetorically dedicated."¹⁰

The authors of the following pieces need no introduction. Distinguished judges and prominent scholars, they all have known Judge Wright long and well. As they pause to honor him in the midst of his busy career, Judge Wright, with undiminished zest, continues daily to perform good deeds for "my brother general, the commonwealth."¹¹

6. F. READ & L. MCGOUGH, *LET THEM BE JUDGED: THE JUDICIAL INTEGRATION OF THE DEEP SOUTH* 114 (1978). See W.O. DOUGLAS, *THE COURT YEARS, 1939-1975: THE AUTOBIOGRAPHY OF WILLIAM O. DOUGLAS* 122-28 (1980).

7. 331 F.2d 1000 (D.C. Cir. 1964) (Wright, J., in chambers).

8. *Id.* at 1010.

9. *Louisiana ex rel. Francis v. Resweber*, 329 U.S. 459 (1947). See B. PRETTYMAN, *DEATH IN THE SUPREME COURT* 90-128 (1961).

10. Wright, *Professor Bickel, The Scholarly Tradition, and the Supreme Court*, 84 HARV. L. REV. 769, 804 (1971).

11. W. SHAKESPEARE, *HENRY IV, Part II*, act iv, scene 1, l. 94.