

January 2004

The Honorable Jack B. Weinstein, United States District Court for the Eastern District of New York

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Recommended Citation

Jack B Weinstein, *The Honorable Jack B. Weinstein, United States District Court for the Eastern District of New York*, 48 N.Y.L. SCH. L. REV. (2003-2004).

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REMARKS AT THE FUNERAL OF W. BERNARD RICHLAND

August 18, 2003

THE HONORABLE JACK B. WEINSTEIN*

I met Bernie some half a century ago. Our families regularly celebrated Passover Seders and *gemutlichkeit* gatherings at his home in Brooklyn Heights overlooking the harbor. He was pixie-ish, full of fun, and constantly surrounded by a bevy of youngsters whose careers he had furthered as mentor.

Our relationship became more professional as I repeatedly turned to him (the great expert in municipal government and its relationship to the state) for help revising New York Civil Practice, as adviser to the New York Constitutional Convention in 1967, as a teacher of state constitutional law at Columbia Law School, as County Attorney in New York County, and a colleague in our administration of the *Agent Orange* case over a ten-year period.

As outlined in a memoir by Bernie, he was lifted out of the slums and despair (though surely Bernie would not have despaired) of Liverpool by his almost miraculous association with the great liberal reformer and scourge of a corrupt Tammany Hall and its Mayor Walker. The tale is told simply in Herbert's Mitgang's wonderful book, *The Man Who Rode the Tiger, The Life and Times of Judge Samuel Seabury* (1963). It remains a fascinating window on New York politics from the 1880s through the 1930s.¹ Mitgang bridges the gap between the uneducated Liverpooldian and the New York scholar and reformer with these paragraphs:

The Judge [Seabury] advised his office boy [16 year old Bernie] to continue schooling after work, recalling that he himself had been unable to go directly to law school because of financial strain. "I went to night high school," Richland said, in retrospect.

* Senior U.S. District Judge for the Eastern District of New York.

1. HERBERT MITGANG, *THE MAN WHO RODE THE TIGER, THE LIFE AND TIMES OF JUDGE SAMUEL SEABURY* (Fordham University Press 1989) (1963). See also W. Bernard Richland, *The Man Who Rode the Tiger: The Life and Times of Judge Samuel Seabury*, 64 COLUM. L. REV. 180 (1964) (book review).

Young Richland went on to become a law clerk, doing research and discovering fresh approaches for cases handled in the office. He read law in Judge Seabury's office, attended New York [University] Law School as a nonmatriculated student, and then asked the Judge to file a certificate of clerkship for him so that he could take the bar examinations. He became one of the few lawyers in the 1930's in New York to do so without graduating from a law school. Nevertheless, he acquired the scholarly approach that prevailed in Judge Seabury's office. One day, when researching a knotty problem, he brought a copy of the Harvard Law Review to the Judge, who, to Richland's surprise, declared, "Don't bring me these schoolboy magazines." The Judge preferred the weight of principles backed by precedents.²

Bernie's many years teaching at New York Law School honed his theory and reinforced his enormous practical experience in government. His book, *You Can Beat City Hall*,³ was a masterpiece of simplicity coping with complexity. His three major law review articles constituted an unrivaled treatise on Home Rule — *Home Rule and the New York Constitution*,⁴ *Constitutional City Home Rule in New York*,⁵ and *Constitutional City Home Rule in New York: II*.⁶

This unexcelled background in municipal government enabled Bernie to take a chief role in drafting the various updates of the New York City Charter beginning in 1961 and Nassau County's Charter beginning in 1964. He served as the leader of many city and bar association committees and was adviser to Mayor Fiorello H. LaGuardia, Mayor William O'Dwyer, Mayor Robert Wagner, Mayor Abraham Beame, Governor W. Averell Harriman and others.

As corporation counsel from 1975 to 1977, he headed the city's Law Department when New York faced bankruptcy. Like other branches of its government, he wrote to the City Council in 1976, his office was "decimated" and "on the brink of disaster." Under his guidance, the office nevertheless won an enduring victory for the

2. MITGANG, *supra* note 1, at 130.

3. W. BERNARD RICHLAND, *YOU CAN BEAT CITY HALL* (1980).

4. 66 COLUM. L. REV. 1145 (1966).

5. 54 COLUM. L. REV. 311 (1954).

6. 55 COLUM. L. REV. 598 (1955).

city's threatened architectural landmarks. When the city decided to join the campaign to save Grand Central Terminal, it was up to him and his associates to fight the matter in the courts.

At issue was a developer's plan to build a 53-story office tower atop Grand Central, a plan that the city argued would spoil the structure forever.⁷

The New York Court of Appeals upheld the city's landmark-preservation law; its decision was affirmed by the United States Supreme Court.⁸

From 1947 on, he was chief of the Opinions and Legislative Division of New York City's Law Department. This made him essentially the legal adviser to the city with special responsibility for critical relations with the state legislature and governor.

Private practice with Baer, Marks and O'Dwyer & Bernstein, even when supplemented by teaching at New York Law School and work on governmental commissions, left him feeling unfulfilled. He loved full devotion to public service.

Thus, he welcomed the chance to serve full-time as Special Master administering the Agent Orange funds for those veterans of the Vietnam War who might have been sprayed with herbicide and were suffering from a variety of diseases. He handled some 30,000 appeals from insurance company decisions denying benefits. These poignant cases were reviewed by me. In none did I reverse Bernie, for we shared a deep compassion for these veterans and their families.

He answered thousands of letters and telephone calls of veterans, giving each a sympathetic response. In the courthouse, he was a favorite of law clerks and secretaries because of his bubbling good humor. Much of the success of the Agent Orange Program was due to Bernie's sensible and stable administration, proving once again that accomplishment in the law is as much due to moral and psychic superiority as it is to knowledge and legal skills.

Bernie was fortunate in his many friends and sponsors and, particularly, in his women: his mother, who fought off neighbor-

7. Wolfgang Saxon, *W. Bernard Richland, 94, Dies; Counsel in Fiscal Crisis*, N.Y. TIMES, Aug. 19, 2003, at C13.

8. Penn Cent. Transp. Co. v. New York City, 42 N.Y.2d 324 (1977), *aff'd*, 438 U.S. 104 (1978).

hood hoodlums in Liverpool, his wife, Pauline, his daughters, Robin and Lisa, and, in his happy last years, his companion, Carroll Weiler.