

1983

In Memoriam: Brendan Francis Brown

Mark R. Joelson

Recommended Citation

Mark R. Joelson, *In Memoriam: Brendan Francis Brown*, 17 INT'L L. 699 (1983)
<https://scholar.smu.edu/til/vol17/iss4/10>

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IN MEMORIAM

BRENDAN FRANCIS BROWN

Brendan Francis Brown, Professor of Law Emeritus at Loyola University has died at 83. He received the A.B. and LL.B. degrees from Creighton University and was a Knights of Columbus Scholar at Catholic University where he received the LL.M. and J.U.D. He received the D. Phil. from Oxford where he was a Penfield Scholar and did research at Harvard.

Dr. Brown began his teaching career at Creighton as an instructor in English, Latin and History in 1921. He moved on to the Catholic University law faculty in 1926 and remained until 1954, serving as Dean from 1949. He was a member of the Loyola law faculty from 1954 until 1970.

Dr. Brown also served as Special Assistant to the Attorney General and as Judicial Consultant to the Chief Prosecutor at the Japanese War Crimes Trial at different points in his career. His published works include: *The Canonical Juristic Personality* (1927); *Crimes Against the Natural Law* (with Joseph Berry Keenan, 1950), and *The Natural Law Reader* (1960).

He was devoted, even after retirement to working with students in the National Moot Court Competition where his teams continually made the finals, winning nationally in 1974.

Dr. Brown was truly a jurisconsult, a scholar of Roman, Civil, Canon and the Common Law. His associations read like a *Who's Who*: English Legal History at Oxford with Sir William Holdsworth; Trusts with Scott and Jurisprudence with Pound at Harvard, and on and on. He was a man of strong and well-reasoned convictions and a leading spokesman for Thomistic jurisprudence. He was a man of Chestertonian stature who believed ideas have consequences and was willing to accept the consequences of his own ideas, including being patronized by the intellectually and academically chic.

We live in a world, as Richard Weaver has written, that is frightened by the idea of certainty, in an age in which Marx, Freud and Einstein in their own way undermined the individual as a free responsible agent capable of making choices in a responsible world. "Everything is relative. That is the only absolute principle," said Comte, and as Jacques Maritain observed, we live in Comte's world. Jacques Maritain also said, in a letter to Jean Coc-

teau some sixty years ago, "I have given my life to St. Thomas and labor to spread his doctrine, for I too want intelligence taken from the Devil and returned to God." Brendan Brown's life made the same statement.

Requiescat in pace.

Frank Ruddy

ALWYN VERNON FREEMAN

On March 1, Alwyn V. Freeman passed from being, quietly, his hand cradled in those of Grenna, his bride of thirty-five years. The "world fraternity of international lawyers,"¹ as he termed his colleagues, has lost one of its best and most beloved brethren. I have found his departure particularly bereaving, having been for four years his assistant when he was the distinguished Editor-in-Chief of *The International Lawyer* (1975-78), and became my mentor and my friend. To have had this association with this brilliant, scholarly and dynamic gentleman has been one of the most fortunate of my professional and personal experiences. His charm and wit were legendary; still more, his warmth and caring were reflected not only in his personal relationships, but in his professional commitments as well.

Al Freeman literally burst upon the international legal scene forty-five years ago with the publication of *International Responsibility of States for Denial of Justice*,² which, incidentally, had been his dissertation at the University of Geneva. Carl Christol, his longtime friend and distinguished colleague, was there in Geneva when the soon-to-be Dr. Freeman defended his thesis before an illustrious and demanding committee, which awarded him the degree, *Docteur es-Sciences Politiques, cum laude*. This work along with a subsequent volume, *State Responsibility for Armed Forces*,³ embodying the text of lectures given by Al during the month of August, 1955, at the Hague Academy of International Law, firmly established him as a leading authority in this area.

His commitments to international law and his caring nature inevitably led him into the field of human rights. He served in a variety of official positions with the U.S. government, including Chief, International Law Division, Office of the Judge Advocate General, 1945-46, and Assistant Legal Advisor, U.S. Department of State, 1946. In 1947, Al Freeman became a member of the U.S. Delegation Committee of Government Experts on Revision of Prisoners of War Convention in Geneva, 1947, and a string of insightful writings on human rights issues flowed from his pen, including, "War Crimes Based upon the Administration of Justice in Occupied Territory",⁴ and "Human Rights and the Rights of Aliens."⁵ A Marginal Note to Yamashita," or "How the Nation's Highest Court was Led

¹See 67 A.J.I.L. at 501.

²1938.

³1955/57.

⁴A.J.I.L., 1947.

⁵*Proceedings*, A.S.I.L., 1951.

Astray" was being prepared for publication at the time of his final illness. He was industrious and productive to the end!

From his first government post as Attorney, U.S. Section, Agrarian Claims Commission (United States-Mexico), 1939-40, through his service as a member, Inter-American Juridical Committee,⁶ twice a Delegate of the U.S. to the First Meeting, Inter-American Council of Jurists,⁷ Legal Counsel, U.S. Department of State⁸ and Consultant to the Senate Committee on Foreign Relations,⁹ Al Freeman displayed a deep sensitivity to the needs and growing pains of the Inter-American system and community of nations. He continued to share his views with us in "The First Meeting of the Inter-American Council of Jurists,"¹⁰ "La Competencia General del Consejo de la Organizacion de los Estados Americanos,"¹¹ "The Political Powers of the OAS Council,"¹² "Comments on Recent Developments in Regional Organizations,"¹³ "The Contribution of the Inter-American Juridical Committee and Inter-American Council of Jurists to the Codification and Development of International Law"¹⁴ and "The Panama Canal Treaties of 1977."¹⁵ His thoughtful and cogent contributions have encouraged intelligent discussion of the issues which have haunted successive U.S. administrations since the second World War. It is unfortunate that more persons in positions of power were not privy to such discussions, or readers of his works.

Al Freeman was possessed of infinite patience when it came to the development, delineation or elucidation of legal rules or norms. He was entirely devoted to international law and did not hesitate to speak up for it or to defend it from those who would detract from it for political reasons. He would not suffer international law to be sacrificed on the altar of political expediency.

An illustration of the foregoing occurred during the debates over ratification of the Panama Canal Treaties. I had accompanied Al to a symposium at which the treaties were to be discussed. Several of the speakers, instead of addressing the substantive issues, devoted their allocated time to excoriating the Carter administration and condemning the "giveaway" of "U.S. territory." When called upon to comment on the discussion, and despite substantial misgivings he had over the history and status of the Canal and our dealings with the Panamanian governments since World War II, he succinctly noted that the erosion of U.S. sovereignty over the Canal Zone

⁶Rio de Janeiro, 1949-50.

⁷Rio de Janeiro, 1950, and Santiago, Chile, 1959.

⁸New York City, 1951-53.

⁹1953-58.

¹⁰A.J.I.L., 1950.

¹¹REVISTA PERUANA DE DERECHO INTERNACIONAL, 1950.

¹²IN LAW AND POLITICS IN THE WORLD COMMUNITY (Lipsky), 1951.

¹³Proceedings, A.S.I.L., 1955.

¹⁴Proceedings, A.S.I.L., 1965.

¹⁵A.B.A. J., October, 1981.

began during the Eisenhower administration when we permitted the Panamanian flag to fly there alongside our own, that each successive administration had made further concessions which compromised U.S. sovereignty and that the Treaties were inevitable; it was merely a question of "when" and not "if." He then outlined the salient issues which should be discussed if the symposium were to be of intellectual value to the participants. His comments had a most salutary effect on the remainder of the proceedings, which he had so deftly depoliticized.

Many who knew Al Freeman called him "Judge," a title which derives from his service as U.S. Member, Lake Ontario Claims Arbitration Tribunal.¹⁶ In addition to his service in his country, he served as Deputy Representative of the International Atomic Energy Agency at the United Nations Headquarters (1958-62) and was a delegate of the IAEA to the fourteenth, fifteenth and sixteenth sessions of the General Assembly and to the Ninth Session of the Economic Commission for Latin America in Santiago (1959).

He showed his commitment to his profession, by serving as a member: the Board of Editors of the *American Journal of International Law* (from 1955 to 1972) and elected an Honorary Editor in 1976; the Executive Council of The American Society of International Law; the Advisory Board, American Law Institute of Foreign Relations Law; and the Advisory Committee, Harvard Draft Convention on Responsibility of States. He taught international law at American University, Ohio State, UCLA, University of Michigan, Johns Hopkins School of Advanced International Studies and held the Stockton Chair of International Law at the Naval War College.

He served his communities as a member of the Board of Directors of the Bank of the Commonwealth, Detroit, Michigan, and First Charter Financial Corporation in Los Angeles, California. He was a loving and devoted husband to Grenna, father to Janne and grandfather to her children.

Al Freeman was all of that, and more. We shall miss him; but he will live on in the hearts of those who loved him, and in the memories of those who knew him. His work will live on beyond the collective reflections of his colleagues and contemporaries, so long as there be men of honour and personal nobility who love law and truth, and are willing to follow his example.

Albert S. Golbert

¹⁶Ottawa, Canada, 1966-68.

GEORGE WINTHROP HAIGHT

George Winthrop Haight, former Divisional Vice-Chairman of the International Law Section of the American Bar Association and Assistant Editor of *The International Lawyer*, died on August 12, 1983 in New York City, at the age of 77 years. He is survived by his wife, the former Mary Lillian Upperco, three daughters and eight grandchildren.

Mr. Haight was born in Washington and was a graduate of Yale College (A.B. 1928) and Yale Law School (LL.B 1931). He was associated with Cravath, de Gersdorff, Swaine & Wood in New York from 1931 to 1939, and with companies in the Royal Dutch Shell Group from 1939 to 1965. Since 1965, he was of counsel to Decker, Hubbard & Weldon and its predecessor firm. From 1948 to 1957 he was Manager of the Legal Department of the Shell Petroleum Company, Limited in London. Throughout his career, Mr. Haight practiced international law in both its private and public aspects. He was for many years an advisor to the U.S. delegation to the United Nations Conference on the Law of the Sea. He was an expert on antitrust law, within the United States and abroad, and served on numerous arbitration panels of both the American Arbitration Association and the International Chamber of Commerce.

Win Haight found the time during his legal career of over fifty years to engage in numerous bar association and business organization activities. In addition to his activities as a member of ABA's International Law Section, he was an active member of the International Bar Association, International Law Association (Vice-President of the American Branch), Association of the Bar of the City of New York, New York State Bar Association, American Law Institute, American Society of International Law, American Foreign Law Association, Council on Foreign Relations (New York City), British Institute of International and Comparative Law, and many other professional groups. In addition to his arbitration work, he served as Chairman of the U.S. Council for International Business's Restrictive Business Practices Committee, and as Vice-Chairman of the ICC's Commission on Competition. For many years he represented the United States in the Business Industry Advisory Committee (to the O.E.C.D.) Panel on Restrictive Business Practices.

The International Lawyer benefitted from the very outset from Win Haight's intelligence and industry. The very first number of the journal, that of October 1966, contained a searching 38-page contribution by Mr. Haight, as United Nations editor, on the principles of international law concerning friendly relations and cooperation among states. The second number contained Win Haight's 23-page (closely printed) Appendix to the

ABA Brief in *Banco Nacional de Cuba v. Farr, et al.* (2nd Circuit) on "Provisions in Constitutions, Investment Laws & Treaties of Developing Countries on Compensation for the Taking of Foreign Privately Owned Property." In the third number, Win Haight wrote about the U.N. International Covenants on Human Rights. And so it went.

Win Haight's special province was to speak up, in print and at numerous meetings, on behalf of a cause in which he deeply believed—the right of foreign owners of privately owned property to the protection of international law. At a time when such rights were under attack in various countries and in the halls of the United Nations, Win Haight pressed his brief on behalf of this principle. It was one of his great satisfactions in later years to see a recession in the waves of attack on this principle as reflected in recent arbitral awards and the several hundred bilateral treaties for the protection of private foreign investment negotiated since World War II.

It was my privilege to know Win for some twenty years, as a legal and professional colleague and as a personal friend. He was a model for several generations of international lawyers in his professionalism, integrity and industry. Win never flagged in the pursuit of what he considered to be his professional responsibilities, and he was scrupulous in carrying out those responsibilities in both his private and public practice. Like all lawyers active in the international law and antitrust fields, I was ever conscious of the continuing important contributions which Win made in both of these areas. In common with the rest of my colleagues, I marvelled at the unremitting industry which he displayed in carrying out his many duties. I was most impressed, however, by the great generosity and kindness which he displayed toward many junior and lesser members of the profession, including myself, in instructing and guiding our efforts in these areas. He was truly a great teacher.

In his last few months while suffering from his mortal ailment, Win continued to pursue his many duties and responsibilities without any diminution of energy or attention. He will always be an example to the rest of us for the grace and courage which he displayed during his final months. "A very parfit gentil knight," he will be greatly missed.

D.G. Gill

CLIVE PARRY

The Times obituary of Clive Parry said his achievements place him “in the front rank of international lawyers.” Others more able than I have dealt with those achievements. I think particularly of Gillian White’s fine tribute: “Clive Parry: Scholar, Publicist, Teacher.” His students knew him in a special, and I write this as a former student.

Clive Parry took some knowing. Stage One for the student was abject terror. He had a way of making the student defend the most elemental positions, and in the process, quite a few bright young men and women discovered, after running out of clichés, that they didn’t know quite as much as they thought they did. Stage Two was recognizing Parry as provocateur, always saying the most outrageous things, testing, keeping you on the qui vive, delighting in stimulating bright young minds and challenging them.

Stage Three was getting to know Parry himself, exciting, genuine and above all, Orwellian in his intolerance of vogues and all that was fluff and insubstantial. He was not only a great lawyer and teacher, but, while careful to claim amateur standing, a historian and philologist as well. Sir Walter Scott said that a lawyer with some knowledge of history and literature may call himself an architect. Clive Parry was such an architect, not of the cut of a Gropius or Le Corbusier imprisoned in the twentieth century, but of Wren-like proportions, who knew, and in his own special way, celebrated Western legal tradition.

There was also the very kind side of Clive Parry. I don’t know of one of us who studied with him who does not talk of what Clive did to help in getting a position, a book published and any number of other interventions. I am no exception and owe much more to Clive Parry’s kindness than to his sense of justice.

Clive Parry was indeed in the front rank of international lawyers, and it was a privilege to study under him. More importantly, he was a good, kind man and a wonderful friend. May he rest in peace.

Frank Ruddy

LEONARD J. THEBERGE

On October 26, 1983, Len Theberge died. It is a profound and painful loss for his family, his many friends, and for those institutions which Len made special through his generous and forceful spirit, intelligence, and example. The Section of International Law and Practice of the ABA, which Len served as member and Chairman, was among the fortunate beneficiaries of his dedication and affection, even as he courageously fought his illness over the past few years. Our Section was manifestly shaped and inspired by Len.

Leonard Theberge was born in Oceanside, N.Y. He graduated from Columbia University in 1957, earned a law degree from New York Law School in 1960 and received an Honour's Degree in Politics, Philosophy and Economics from Oxford University, England, in 1968. He worked for several years as an Assistant United States Attorney and as an attorney with the Federal Trade Commission in Washington, D.C. From 1969 to 1972 he served as International Counsel for the Upjohn Company. He later joined Rohr Industries as Assistant General Counsel and then became Vice President of Public Affairs for that corporation.

It was characteristic of Len that he gave far more to worthy institutions than he took from them, and that he unhesitatingly created new ones where he perceived the need. When he died, he was President of The Media Institute which he had developed to stimulate more comprehensive and balanced treatment of business-economic news and to examine the legal and political aspects of the communications industry. Previously, he had founded the National Legal Center for the Public Interest and acted as its first president. His love of Oxford led him to be President of the St. Peter's College, Oxford Foundation. Len's vitality and breadth of scholarship also found expression in many publications and speeches dealing with multinational legal communications matters, the role of the judiciary in society and business-media relations.

His abiding interest in international legal issues, both private and public, drew him into an active role in the affairs of the Section of International Law and Practice of the American Bar Association. He gave the needed direction and sustained attention to the Section's publications program by infusing it with his vigor and imagination. Len was chairman of a number of other committees of the Section, including the International Communications Committee which he founded. He was a member of the Section's leadership for many years, culminating with his service as Chairman and Section Delegate in 1979-1981. Len inspired many of us to give of our own

energies to the Section and, even during his stays in the hospital, continued to be an ever-available source of insights, guidance and warm friendship.

Dr. Samuel Johnson, whom Len admired and who would have admired Len, once said that, "The first step in greatness is to be honest." Indeed, Len's great humanity was made possible by his fierce honesty—with himself, with other people, and with ideas. He was wholly practical and a realist, yet he never compromised his integrity, loyalty, or his insistence on excellence. We are grateful that he was with us.

Mark R. Joelson