

BERNARD G. SEGAL

A. LEON HIGGINBOTHAM, JR.†

By the continual vote of his peers, Bernard G. Segal has received all of the coveted accolades which any lawyer could desire from the traditional professional associations that represent lawyers at their best. He has been Chancellor of the Philadelphia Bar Association, President of the American Bar Foundation, President of the American College of Trial Lawyers, and President for the Americas of the World Association of Lawyers. As the ultimate accolade, he has been proclaimed by his legal colleagues to be Lawyer of the World.¹ Those who observed him decades ago in the trial courts, as I did as a young lawyer, knew instantly that he was a superstar in the trial pit. Today, he is still an energetic, articulate, discerning advocate at the appellate level. He has been the confidant and adviser to many men and women of power and high prestige.

But a citation of all these qualities and past attainments does not reveal why I believe Bernard G. Segal has been unique for decades among even the best lawyers at the bar. When the high court of history writes its judgment in praise of Bernard G. Segal, it will place an even higher value on his indefatigable efforts to expand and improve legal services for the poor, the powerless, and the dispossessed. It will note his mighty role in pushing the organized bar and many individual lawyers to accept the eradication of barriers of racial discrimination and religious bigotry as part of their mission. It will stress his efforts to maintain and improve the independence and excellence of the judiciary.

After all of the rhetoric about greatness at the bar, the most enduring values of our civilization will not be predicated on the techniques used in litigation battles between economic giants who seek to dominate the market with impunity. The long term durability and vitality of our civilization will not be contingent on any lawyer's ability to close the floodgates that allow so much meaningless discovery and the taking of so many unnecessary depositions in

† Circuit Judge, United States Court of Appeals for the Third Circuit. B.A. 1949, Antioch College; LL.B. 1952, Yale University. Trustee, University of Pennsylvania; Member, University of Pennsylvania Law School Board of Overseers; Lecturer in Law, University of Pennsylvania; Adjunct Professor of Sociology, University of Pennsylvania.

¹ The World Lawyer Award from the World Peace Through Law Center.

protracted litigation. Of course, we must improve the management of our legal and judicial systems. Of course, solid legal talent is required to manage mammoth litigation skirmishes. But these results can be obtained by bright lawyers whose values and concerns about our society run no deeper than winning their individual cases. Being a lawyer's lawyer or judge's judge may require nothing more than mastery of the endless minutiae of the legal rules of a society that might be sinking or becoming more callous, a society that might not survive as a vibrant civilization.

Twelve years ago the National Commission on the Causes and Prevention of Violence chaired by that brilliant historian and educator, Dr. Milton Eisenhower, concluded:

When in man's long history other great civilizations fell, it was less often from external assault than from internal decay. Our own civilization has shown a remarkable capacity for responding to crises and for emerging to higher pinnacles of power and achievement. But our most serious challenges to date have been external—the kind this strong and resourceful country could unite against. While serious external dangers remain, *the graver threats today are internal*: haphazard urbanization, racial discrimination, disfiguring of the environment, unprecedented interdependence, the dislocation of human identity and motivation created by an affluent society—all resulting in a rising tide of individual and group violence.²

Bernard Segal has focused on those internal problems in our society that could be as destructive of our civilization as those that come from external assault. He has recognized that at times our legal system can create and magnify these internal dangers instead of helping to reduce the threat they pose. In *Plessy v. Ferguson*,³ in 1896, eight Supreme Court Justices fathered a concept of separate but "equal" that, in reality, for generations of blacks, meant both separateness and massive inequality in government, in education, in the courts, and throughout American society.⁴

² NAT'L COMM'N ON THE CAUSES & PREVENTION OF VIOLENCE, TO ESTABLISH JUSTICE, TO INSURE DOMESTIC TRANQUILITY xxxii (final report 1969) (emphasis supplied).

³ 163 U.S. 537 (1896).

⁴ See, e.g., R. BARDOLPH, *THE CIVIL RIGHTS RECORD* (1970); M. BERRY, *BLACK RESISTANCE/WHITE LAW* (1971); M. BERRY & J. BLASSINGAME, *LONG MEMORY: THE BLACK EXPERIENCE IN AMERICA* (1981); J. FRANKLIN, *FROM SLAVERY TO FREEDOM* (5th ed. 1980); G. FREDRICKSON, *THE BLACK IMAGE IN THE WHITE MIND* (1971); A. HIGGINBOTHAM, JR., *IN THE MATTER OF COLOR: RACE AND THE AMERICAN LEGAL PROCESS* (1978); G. MYRDAL, *AN AMERICAN DILEMMA* (1944);

Plessy v. Ferguson teaches us that the great potential of a society can be damaged as much by courteous lawyers in finely tailored suits or by personable judges in flowing robes who assert pernicious legal doctrines as it can by hooded persons who espouse violence and use fear and hatred as their calling cards.

Yet, from time to time, persons come on the horizon like Bernard Segal, persons who have mastered all of the tools of the lawyer's trade—clarity in expression, perception in analysis, professional integrity, and intimate knowledge of many statutes, cases, and regulations. But these rare individuals have something additional. Beyond excelling in those basic lawyer skills, they are equally concerned about those who are not sufficiently powerful to make the present rules of law truly protect their lives. They are concerned about a judicial system that is as responsive to the needs of the poor as it is to the demands of the mighty, as fair to the victims of crime and to criminal defendants as it is to the powerful who can blitzkrieg a case with unlimited legal manpower. They are concerned about modifying the present order when necessary so that the weak will have better options and their environment will offer more hope than despair.

I do not write to honor Bernie Segal because of the continuous adulation expressed in his many bar association plaques or because of the traditional standards by which so many measure greatness at the bar. I write of him with a special sense of admiration because I am convinced that thousands of citizens today have better lives and better options because Bernard G. Segal cared about trying to improve our society. He has given more than mere Law Day rhetoric. His untiring efforts made throughout the years have moved us closer to better and equal justice under the law for all citizens of the world.