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Sidney B. Jacoby

*David Schwartz**

It is presumption to write about Sidney Jacoby for the community of the Case Western Reserve Law School. But I cannot resist the joy of writing an appreciation of my colleague, collaborator and friend of 30 years.

We were fellow lawyers in the Department of Justice when I first came to know this Berlin-trained lawyer and sometime pianist. His career as a German judge was cut short at its beginning in 1933, when his professors sent him off to the care of their American colleagues.

Though highly competent in comparative and international law, and already the author of solid articles in those fields, he had turned his back on a career in this country as a scholarly writer. He scorned, too, the graduate degree in American law available to the brilliant foreign lawyer. If he was to be a lawyer in the United States, he intended to be a lawyer learned in the law of the United States. How well he has met that goal may be judged from his writings, which range from Ohio civil practice to litigation with the federal government. Federal government lawyer and author William Howard Taft would have found him an agreeable colleague.

I knew Mr. Jacoby, therefore, not as a foreign lawyer but as a fellow American litigation lawyer engaged with me in a legal struggle to conserve for this country assets seized from the enemy at the outbreak of World War II.

I admired his instruction of the young men in our "special litigation" section. He led their attack on the mountain of evidence gathered over many years to support the seizure of the assets in this country of Germany's I.G. Farben, the prize we were defending. The tenacity and tirelessness of his efforts were a model for all of us. When the great heaps of documents had been digested, largely by reason of his tireless efforts, he showed wizardry with courtroom techniques and with the complexities of the procedural rules of federal courts as applied to a hundred-million-dollar case involving foreign parties, far-flung witnesses and papers, and intervening governments. He showed singular ability to analyze and understand complex legal matters and then to simplify and explain them. He remained unflappable through set-backs, defeats and victories, in trial court, court of appeals, and Supreme Court. Never did he raise his voice, never did good spirits and calm desert him.

To support his conclusions and proposals he could draw on a wide and deep knowledge of law, domestic and foreign. When he finished a job, it

*Trial Judge, United States Court of Claims.

was totally prepared and solidly grounded. Throughout he displayed the highest integrity. He put aside stratagems and short cuts which might help our cause, but which might be deemed sharp, unfair, or improper.

He was quick. He saw at a glance what others might never appreciate. One instance will suffice. In the summer of 1951 we both traveled to Switzerland armed with an order of the court for the examination of the books of account of our corporate adversary. There came the day when, in the board room of the corporation, with our microfilming machine at the ready, we were given the books of account, from the corporation's beginning in January 1928. Together we opened the bound "journal" of its earliest transactions and saw the first entries, in January 1928, the month of incorporation. He then turned back to the inside cover, where the stationer's label showed the stock number of the book and a stamped date, in March of 1928. "They bought this book after the first entries," he whispered to me, "they rewrote the books." And months later we proved to the court that there was indeed another set of books, and obtained its production on the order of the court.

Our relationship as colleagues was succeeded by collaboration on a casebook, in two editions, and then a text. In that work, which spanned almost 15 years, I came again to appreciate the keenness of his analysis of legal problems, the thoroughness of his research, his attention to every detail. His overriding constant desire is for excellence.

Now for many years he has been formally the teacher he was informally in the practice of law. Now I know of his influence from chance meetings with former students. By the accident that I work in the District of Columbia, where he once taught at Georgetown University Law Center, I have come to enjoy a certain status with his former Georgetown students, who abound in Washington. Once I am identified by these young lawyers, for my connection with "Professor Jacoby," they tell me how much their studies with him have meant to them. Their respect and affection for him is to be seen in their voices and faces. More than a few were motivated by him to take service with the government. The same message is apparently spread by his teaching in Cleveland. Recently I met two lawyers in the Department of Justice, husband and wife, who delighted in telling me that their first thought of lawyering for the government came from their classes with Professor Jacoby. Their warmth and gratitude for him overflowed and warmed me as well. Goodwill and high regard for Professor Jacoby is shared by others, not his former students. My chief judge regularly sends greetings through me to Professor Jacoby.

Not disposed, on retirement from Case Western Reserve, to rest on his achievements, he has simply moved his shop to another law school and started up again as a teacher. A whole new student body is about to drink the milk of his wisdom and deep knowledge of the law of two continents.

He is not only an inspiring teacher but a prolific, even zealous author. Characteristic of his bent for the real and earnest in the practice of the law, the first major writing he did after his move to Cleveland was a book on Ohio civil practice. Simultaneously he embarked on a whole series of learned articles on comparative and foreign law. Only the other day when I broached to him our publisher's suggestion of a revised edition of our book, he said that he doubted that he had the time, but within the week I had from him a long letter of comment and suggestion.

Sidney Jacoby is truly a man for all seasons—cosmopolitan teacher, practitioner, and writer, equally at home in the federal rules of civil procedure and in French administrative law. Withal, he is a good and gentle man for whom all who know him can feel only respect and affection.