

JEROME N. FRANK

WILLIAM O. DOUGLAS†

I KNOW NO ONE in the law who in our time had a more creative mind than the late Judge Frank. While he believed in *stare decisis*, he never allowed precedent to stand in the way of justice in the individual case. He was continuously shaping the law to meet modern needs and was less chained to tradition than any judge I know. Though he traveled little, he knew the world of ideas—in philosophy, history, politics, and mathematics. He had a universal mind in tune with the great intellects of all races and continents. Being at home in the world of ideas, he brought a fresh viewpoint to every case before him. So it was that his opinions usually brought new insight into ancient dogma. His inventive genius made his opinions read like exciting chapters in history, rather than stodgy legal essays. *Law and the Modern Mind* was his greatest book.

One cannot get to know Judge Frank through his writings alone. They, indeed, reveal only a limited phase of the man. One knew his dynamic quality only through personal acquaintance. He and I were intimate friends for over twenty years. I knew him in days of sorrow and in hours of achievement. He had left Washington, D.C., in Roosevelt's first term after a row with Henry Wallace. I was responsible for bringing him back to Washington, D.C., in Roosevelt's second term as a member of the Securities and Exchange Commission. The hours we spent together were hours of exciting discourse. He threw illuminating shafts of insight into many imponderable problems. He had a keen sense of humor, a rare gift for figures of speech, and a rich storehouse of analogies. He helped shape the high ideals of the public service by showing the same devotion to government that a lawyer owes his client. He was a good man, never being driven by malice or vindictiveness; and although he was a vigorous protagonist for his viewpoint, he was always fair in his actions as an administrator. He made bureaucracy efficient, yet human and warmhearted.

He was also an excellent trial lawyer and as able an advocate on appeal as any I have known. He represented the United States in important litigation, including *Alabama Power Co. v. Ickes*,¹ which involved important issues of public power. Here he was pitted against the elite. It was Frank, the liberal, who was the true champion—gracious, generous, and yet devastating.

He carried the libertarian tradition to the bench, writing many important opinions in the cause of human rights. Even in days of hysteria, his voice was heard above the multitude, pleading for a restoration of faith in ancient principles. Those opinions will be sources of inspiration for years to come, especially when people become dismayed by the fear and suspicion that seizes the community.

† Associate Justice, United States Supreme Court.

¹ 302 U.S. 464 (1938).