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A Man For All Decades

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Abstract

This Article examines the life and legal career of Whitman Knapp, a former lawyer and United States District Judge for the Southern District of New York who contributed much towards the improvement of the laws that relate to urban society. The Article focuses on some of the cases Judge Knapp partook in either as a litigator or as a judge. These cases deal with a wide range of issues, including First Amendment speech, labor racketeering and extortion, police corruption, and the Mafia.

KEYWORDS: urban law, Whitman Knapp, racketeering, police corruption

A MAN FOR ALL DECADES

*Honorable John F. Keenan**

When the Editors of this distinguished publication contacted me requesting that I consider writing an article, they asked that the subject be “(1) What decision, person, event or occurrence had the greatest significance (legal or otherwise) to urban society in the twentieth century? Or, in the alternative, (2) What is the greatest challenge facing urban society in the twenty-first century?”

The answers to Question #1 would seem to be *Brown v. Board of Education*; Fiorello LaGuardia, Robert Moses, Richard Daley, Edward I. Koch or Alfred E. Smith; World War II and, as to Question #2, one might answer race relations or transportation. I thought I would let others write articles responding to the two questions, however, and for me to write a piece about a remarkable man who has contributed more towards the improvement of our laws as they relate to urban society than any other person I know. He is a colleague of mine and his name is Whitman Knapp. He is a United States District Judge for the Southern District of New York.

Judge Knapp’s life spans all the decades of the century and his distinguished legal career has extended for more than six decades. He has done more for the law in this City and for law enforcement here than anyone I have known. Whitman Knapp graduated from Yale College in 1931 and from Harvard Law School in 1934. From 1937 to 1950, he was an Assistant District Attorney in the New York County District Attorney’s Office under Thomas E. Dewey and the legendary Frank S. Hogan. While in the District Attorney’s Office, he prosecuted important felony cases and became head of the Appeals Bureau where he argued the appeals and wrote the briefs in some of the most important cases of that era.

Among the successful appeals argued by Judge Knapp were: *People v. Doubleday & Co.*,¹ *Fay v. New York*² and *People v. Perez*.³ The legal doctrines in those landmark cases may have been changed over the following years, but they were three of the most important cases of the mid-century.

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1. 77 N.E.2d 6 (N.Y. 1947), *aff’d*, 335 U.S. 848 (1948).

2. 332 U.S. 261 (1947).

3. 90 N.E.2d 40 (N.Y. 1949), *cert. denied*, 338 U.S. 952 (1950).

The conviction in *Doubleday* rested upon a finding that the story, "The Princess With The Golden Hair," in a collection entitled *Memoirs Of Hecate County*,⁴ was obscene within the meaning of the relevant New York statute. Judge Knapp successfully defended the conviction in the Appellate Division and the New York Court of Appeals. This was a major First Amendment case and the Supreme Court granted certiorari.

Judge Knapp's opponent in *Doubleday* was a most distinguished leader of the New York Bar who argued for fifty minutes and reserved ten minutes for rebuttal. Judge Knapp, on the other hand, delivered this brilliant but brief argument:

May it please the Court. The statute upon which this judgment rests is valid. A reading by the Court of the book will demonstrate that the factual finding of obscenity was reasonable. I therefore submit that the judgment should be affirmed.

He said this and sat down. An equally divided Supreme Court, Justice Frankfurter abstaining, affirmed the unanimous New York Court of Appeals decision after listening to Judge Knapp's argument. Apparently brevity is not only the soul of wit — it appears also to be the essence of successful appellate advocacy.

The *Fay* case dealt with labor racketeering and extortion and the *Perez* case was a murder trial with major issues relating to the admissibility of custodial statements made by the accused and arrest to arraignment delay. These are subjects which have impacted upon and continue to affect the lives of citizens in our urban areas up to the last year of the millennium.

After leaving the District Attorney's Office and becoming a prominent private practitioner, Judge Knapp continued to make great contributions to the public weal. From 1953 until 1954, he served as Special Counsel to the Waterfront Commission of New York Harbor. The Waterfront Commission did more to clean-up corruption on the New York docks than anyone imagined could be done. The Academy Award-winning film, *On The Waterfront*,⁵ starring Marlon Brando, provides some idea of how rampant crime was in the New York Harbor before the Waterfront Commission.

After his successful stint at the Waterfront Commission, he became a member of the Commission that revised the New York Penal Law and Code of Criminal Procedure. The work of that Commission resulted in the substantive and procedural statutes of

4. EDMUND WILSON, *MEMOIRS OF HEcate COUNTY* (Doubleday 1946).

5. Columbia Pictures Corp. (1954).

the State of New York that define our criminal laws and the rules that govern those laws to this day. While in private practice during the 1950s, 60s and early 70s, he was a partner in the distinguished firm of Barrett, Knapp, Shapiro & Simon but, as illustrated above, he never abandoned the public sector.

In 1970, it had become apparent that there was a corruption problem in the New York City Police Department and Mayor John Lindsay concluded that it was necessary to create a Commission to determine the extent and nature of police corruption in the City and to examine procedures for dealing with corruption and recommending changes and improvements in the procedures.⁶ The Mayor appointed Whitman Knapp as Chairman of this "Commission To Investigate Allegations Of Police Corruption."⁷ "The Knapp Commission," as it came to be known, with a small but elite staff and with limited funding, uncovered more systemic corruption in the New York City Police Department than the most cynical citizen or newspaper reporter ever dreamt existed.

On August 3, 1972, after public hearings, the Commission issued its initial Report.⁸ The first sentence of the Knapp Commission Report summed it all up. "We found corruption to be widespread." In a carefully-documented follow-up Report, dated December 26, 1972, the Commission called for an overhaul of the Department's methods of dealing with corruption.⁹ This overhaul created institutional methods for dealing with corruption, which have largely freed the New York Police Department of the types of graft and shakedown so common in other local law enforcement agencies throughout the country and the world.

None of this could have been accomplished without the intelligence, efforts and honesty of Judge Knapp. There are still "rotten apples" in the New York City Police Department as there are in all human institutions, but knowledgeable observers believe that the New York City Police Department is largely free of the systemic corruption which existed in 1970 when the Knapp Commission was formed.

Whitman Knapp was appointed to the United States District Court for the Southern District of New York by President Richard Nixon on June 30, 1972. Because of his devotion to the cause of

6. See Rep. Of the Comm'n to Investigate Allegations of Police Corruption and the City's Anti-Corruption Proc. (Dec. 26, 1972) (Whitman Knapp, Chair).

7. See *id.*

8. See *id.*

9. See *id.*

cleaning-up police corruption and his attention to that important issue, however, he did not assume his judicial duties until September 20, 1972. From then until today, Judge Knapp has been, and continues to be one of the brightest jewels in the crown of the Southern District. He has presided over all manner of complicated commercial, tort, employment and criminal litigation. Two of the most important cases over which he presided were: *United States v. Coonan*¹⁰ and *United States v. Friedman*.¹¹

Coonan involved a murderous Irish-American gang that associated itself with the Mafia. The gang was known as "The Westies" and they were responsible for scores of murders in this City. *Friedman* revolved around bribe taking by high-ranking City officials, including the Borough President of Queens and the Chairman of the Bronx Democratic Committee who had been a Deputy Mayor. No cases tried during my time on the Southern District have been more important to urban affairs than *Coonan* and *Friedman*. Both cases were extremely complex and involved difficult legal issues. Competent, but highly-charged, counsel represented the parties in both cases. It is rare for the Court of Appeals for the Second Circuit to praise a trial judge. But now Chief Judge Winter wrote in affirming *Friedman*, "Given the length of the trial, the complexity of the issues, and the vigor with which it was prosecuted and defended, Judge Knapp conducted a remarkably fair and error-free trial."¹²

Whitman Knapp was a great lawyer and he continues to be a great judge. His contributions to the law and to urban life have made New York a better place for all that live here. It is an honor to serve with him.

10. 938 F.2d 1553 (2d Cir. 1991) (affirming conviction), *cert. denied sub nom.*, *Kelly v. United States*, 503 U.S. 941 (1992). *See also* *United States v. Coonan* 664 F. Supp. 861 (S.D.N.Y. 1987) (original order denying empanelment of anonymous jury); *United States v. Coonan*, 671 F. Supp. 959 (S.D.N.Y. 1987) (revised order sequestering jury); *United States v. Coonan*, 839 F.2d 886 (2d Cir. 1988) (affirming Judge Knapp's decision not to use special verdicts in an ongoing racketeering trial).

11. 854 F.2d 535 (2d Cir. 1988) (affirming Judge Knapp's trial rulings).

12. *Friedman*, 854 F.2d at 541.