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The Lawyer's Reason and the Soldier's Faith: Colonel Frederick Bernays Wiener

by Paul R. Baier

The Lawyer's Reason and the Soldier's Faith

Several years back, Mr. Justice Frankfurter inscribed a photograph for one of his former Harvard Law School students who had gone on to become an extraordinary advocate at the bar of the Supreme Court. Justice Frankfurter's inscription, dated September 1941, reads: "To Major Frederick B. Wiener, who represents the lawyer's reason and the soldier's faith." Felix Frankfurter and Frederick Wiener were personal friends for over thirty-five years and on one occasion, in a letter to his "Dear Brethren," Justice Frankfurter described the Colonel as a lawyer "whose arguments are must esteemed by every member of this Court."

Colonel Wiener, who was recently elected Vice-President (Overseas) of the Selden Society, will visit the LSU Law Center during the week of October 15th, 1979. He will deliver lectures on appellate advocacy on Monday and Wednesday evenings, October 15th and 17th, in the law school auditorium beginning at 7:00 p.m. The Colonel, author of Briefing and Arguing Federal Appeals (BNA, 1967), first published as Effective Appellate Advocacy, a book that was so popular it was literally stolen off library shelves, argued a grand total of 38 cases during his career at the bar of the Supreme Court of the United States, and his briefs fill over 100 bound volumes.

Colonel Wiener will also deliver lectures on the Delaware Reapportionment case, Roman v. Sincock, 377 U.S. 695 (1964), which he argued against then Solicitor General Archibald Cox, and on Reid v. Covert, 354 U.S. 1 (1957), which he won on rearguing in the Supreme Court of the United States, the only instance on record of the Supreme Court, without a controlling change of membership, reversing itself in the same case following a published opinion. These latter lectures, open to all interested students and faculty, will be presented in the law school's Courtroom on Tuesday and Thursday, October 16th and 17th, at 12:40 p.m.

Welcoming Convocation

A convocation sponsored by the Student Bar Association welcoming the Colonel and Doris Merchant Wiener, his wife, to the Law Center will be held at 3:00 p.m. on Monday afternoon, October 15th, in the Courtroom, with a reception immediately thereafter in the Daggett Courtyard.

Retrospective Exhibit

During October, to commemorate Colonel Wiener's visit to the Law Center, a retrospective exhibit depicting Frederick Wiener's work as appellate advocate and legal scholar will be on display in the foyer of the Law Library. Items featured in the exhibit include photographs of Justice Frankfurter, one personally inscribed to F.B.W. and another inscribed "For Doris Wiener, who proves—and I avouch Fritz as witness—that one need not be a lawyer to be a Portia"; letters to the Colonel from Louis Brandeis, Learned Hand, Roscoe Pound, and William Rehnquist; a photograph of F.B.W. in formal court attire, taken in April, 1952, following the winning argument in Greenburg v. United States; bound records and briefs in Covent-Smith I (Defeat) and Covent-Smith II ( Victory); the Petition for Rehearing in Reid v. Covert, Colonel Wiener's outstanding professional accomplishment; separate briefs in Roman v. Sincock, inscribed "For Doris Merchant Wiener, part of the original cast"; F.B.W.'s Notes on the Law of the Constitution, faithfully transcribed at the Harvard Law School 1929-39; Colonel Wiener's Selden Society Lecture, "Uses and Abuses of Legal History: A Practitioner's View"; (1963) and his masterpiece Civilians Under Military Justice (Univ. of Chicago Press, 1967); reprints F.B.W.'s Harvard Law Review articles, including, "The Supreme Court's New Rules" (1954) [F.B.W. was Reporter to the Committee on Rules Revision] and "Courts-Martial and the Bill of Rights: The Original Practice" (1958); and Frederick Wiener's biographical memoir of his teacher and friend Felix Frankfurter, published in the Yearbook of the American Philosophical Society (1965).

Special audio equipment will allow the viewer to hear excerpts of the actual oral arguments in Reid v. Covert, including Colonel Wiener's arresting peroration in Covert II.