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## To Herbert Wechsler with Grateful Appreciation

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## TO HERBERT WECHSLER WITH GRATEFUL APPRECIATION

Though the invitation to join this symposium came to me in my official capacity, I prefer to write in personal terms. I make that choice for two reasons. First, I cannot improve on the Faculty's own affectionate resolution of appreciation, and so I am happy to embrace it as the School's official position. (I alone on the Faculty could not vote for it: only a tie gives me the franchise and, try as I might, I could not suborn any contrary votes.) Second, my feelings for Herb Wechsler owe far more to my days as his student and my years as his colleague than they do to my current office.

He would, of course, be a boon to any dean—someone to boast about in talks to alumni and whenever any other excuse permits; an alumnus-colleague who demonstrates each day that your school must be doing something right; an inspirational example to younger scholars for whom we have high hopes; a loyal and effective co-worker whose full support can always be counted upon. Had he rested on his well-earned laurels as Chief Reporter of the Model Penal Code, his School would have been justifiably proud. That he is also the Wechsler of Hart & Wechsler, *The Federal Courts and the Federal System*, is breathtaking. That the man capable of these and yet other unique scholarly contributions should also be blessed with the skills and energy to provide extraordinary leadership to the American Law Institute is almost more than we deserve. For Herbert Wechsler's School, I say thank you.

Now let me take you back to my student days a little more than a quarter of a century ago, to a time when the case method of instruction was seriously overdone and the first year of law school was a vast sea of private law. Herbert Wechsler provided a critical corrective. He let us know that an ounce of legislation was worth a pound of litigation. And he prepared us for the reality that some of the toughest questions of our time have to do with the relationship between government and citizen.

The Faculty's farewell resolution says that "Herbert Wechsler's dominant professional interest has been the improvement of American law through systematic application of the powers of reason." As Herbert Wechsler's students, we felt that commitment and learned to share it: a teacher can do no more. The crucible was criminal law, and so we learned the great themes and large questions of that subject too. But it was his approach to law and law reform that was uniquely valuable.

Some of us were lucky enough to study with him again. He had not yet succeeded to the constitutional law course, but he did teach federal courts, a relatively unfashionable third-year offering that had been taught from mimeographed materials until the previous year. Even we callow youths recognized the new casebook as something special, though we obviously could not foresee that it would give the subject enduring shape and

breed a generation of disciples. About thirty-five of us signed up: in the law school of that day, with most classes well in excess of 150 students, we felt especially enriched—we had him all to ourselves. And our learning was not diminished in the least by the element of snobbery in our appreciation. Arthur Koestler suggests that when the snob “reads Kierkegaard, he is not moved by what he reads, he is inoved by himself reading Kierkegaard.” \* We were not full-fledged snobs: we were inoved by Wechsler, but we were moved too by the picture of our learning from Wechsler.

We were, of course, in awe of him, and much of that awe remained when I joined the faculty two years later. But he quickly showed his avuncular side and we became warm friends. Lunch with Herb was one of those occasions that made you glad you had chosen the academy for your life's work. I especially liked to draw him out on the issues of Nuremberg, but he was worth listening to on any subject. It was fun to hear him eviscerate the latest lumbbug, exciting to hear him speak with respect of that rare scholar or attorney whose work he truly admired. Many years later I would introduce an outstanding judge by saying: “We do not have the knighthood of the British or the Academy of the French. Here it is only possible to say of a worthy man that Professor Herbert Wechsler respects him. Harold Leventhal has earned that rare accolade.”

I remember Herb's remarks at a farewell party the Faculty gave Paul Hays when he left for the Second Circuit. We asked Herb to speak for us all, and he was eloquent, moving, and beautiful. I wish I could match that performance. Wechsler deserves a Wechsler. In this as in so many things, he has given us a standard of excellence. Considerately, he has made it so high that when we fall short, we do not feel inadequate.

As I write this, Herbert Wechsler is about to become Harlan Fiske Stone Professor of Constitutional Law Emeritus. But we have not let this latest distinction get in the way. Herb will continue to teach both constitutional law and federal courts. The office of the Director of the American Law Institute will remain on the sixth floor of the Columbia University School of Law. And Doris and Herb Wechsler will continue to be very much a part of our lives.

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\* Koestler, *The Aesthetics of Snobbery*, HORIZON, Winter 1965, at 50, 53.