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Tribute to Alfred Hill

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IN MEMORIAM

TRIBUTE TO ALFRED HILL

*Harold Edgar**

Alfred Hill, a great legal scholar and one of Columbia's treasures for nearly 50 years, died in 2015 at the age of 98. The *Columbia Law Review* honored him on his retirement from active teaching in 1991,¹ but Al continued to write important work even into the twenty-first century.² Having joined the Faculty in 1962, Al published many of his most important articles here,³ and his work is still the acknowledged starting point on most of the problems he addressed, even after the passage of many years. At the time of this writing, a check on Lexis shows that since 2011, other scholars have cited 19 different Hill articles 107 times in various law reviews,⁴ the earliest article published in 1953,⁵ the most recent in 2002.⁶ These treat a wide range of topics in civil procedure, conflicts of laws, constitutional law, corporate law, criminal law, federal courts, and torts. "It is submitted that"—to use a phrase Al often wrote,⁷ usually to

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1. Faculty Resolution, Professor Alfred Hill, 91 Colum. L. Rev. 227 (1991); Harold L. Korn, Tribute to Alfred Hill, 91 Colum. L. Rev. 229 (1991); Henry Paul Monaghan, In Honor of Alfred Hill, 91 Colum. L. Rev. 231 (1991).

2. See, e.g., Alfred Hill, In Defense of Our Law of Sovereign Immunity, 42 B.C. L. Rev. 485 (2001); Alfred Hill, Some Realism About Facial Invalidation of Statutes, 30 Hofstra L. Rev. 647 (2002) [hereinafter Hill, Some Realism].

3. See Alfred Hill, The Bill of Rights and the Supervisory Power, 69 Colum. L. Rev. 181 (1969); Alfred Hill, Breach of Contract as a Tort, 74 Colum. L. Rev. 40 (1974); Alfred Hill, Constitutional Remedies, 69 Colum. L. Rev. 1109 (1969); Alfred Hill, Defamation and Privacy under the First Amendment, 76 Colum. L. Rev. 1205 (1976); Alfred Hill, The Inadequate State Ground, 65 Colum. L. Rev. 943 (1965); Alfred Hill, The Law-Making Power of the Federal Courts: Constitutional Preemption, 67 Colum. L. Rev. 1024 (1967).

4. Citations to Alfred Hill Scholarship, LexisNexis, <http://advance.lexis.com> (under "Secondary Materials," select "All Law Reviews and Journals"; then follow "Advanced Search" hyperlink; then search in search bar for "Alfred w/2 Hill"; then select "Date is after" from the drop-down menu under "Date"; then enter "Jan. 01, 2011" in the field below; then click "Search").

5. Alfred Hill, The Erie Doctrine in Bankruptcy, 66 Harv. L. Rev. 1013 (1953)

6. Hill, Some Realism, *supra* note 2.

7. See, e.g., Alfred Hill, The Forfeiture of Constitutional Rights in Criminal Cases, 78 Colum. L. Rev. 1050, 1056, 1066, 1079, 1080, 1082, 1096 (1978); Alfred Hill, The Judicial Function in Choice of Law, 85 Colum. L. Rev. 1585, 1586, 1587, 1593, 1620, 1628,

signal legal doctrine or scholarship gone astray—this range and durability is truly extraordinary. Indeed, I can think of no contemporary legal scholar who did noteworthy work in so many different fields.

Although Al was an immensely important scholar, I want to recall him as a teacher. We served together on the Faculty for many years, but the impression he made on me as a classroom performer was indelible. I knew at the time that his Columbia appointment had been one of a kind. Invited to visit from Northwestern, Al's first two classes in corporate law earned standing ovations from his students. Standing ovations at the end of a single class? By corporate law students? At Columbia? Really? Yet it's true.⁸ Understandably, the Faculty immediately invited Al to stay forever.

For most of his career, Al taught Torts, sharing the course with Willis Reese, also a legendary classroom teacher, with each of them teaching the entire class for seven weeks of the standard fourteen-week semester. I am sure that most students' memories of who taught what in law school fade pretty quickly, but I'll wager that few if any who participated in those Torts classes have forgotten the experience. Al went first and taught the basics of liability for negligent conduct: who owed duties to whom, causation, and the kinds of harms that are actionable. Al's special gift was finding humor in the bizarre, as he moved around the podium with comic timing worthy of a Charlie Chaplin. We laughed so hard it hurt. But it wasn't just strange facts from odd cases. He asked questions and then more questions about the judicial opinions we studied, often suggesting both by comic gesture and inflected quotation that some judicial reasoning would compel absurd results—and he reveled in absurd results—if the language were taken to its logical conclusion. He loved the law, but gave no deference to those who had expounded it, a stance quite different from faculty who taught selected cases as vehicles for distilling law's content and likely direction. And Al refused to give the "right" answer, repeatedly asserting that "some say yes, and some say no" was about all you could say on many issues.

Although Al wrote important articles on torts issues, the particular issues he taught first-year students were not his scholarly focus. In Federal Courts, his scholarship and teaching fully overlapped. In the 1960s, many more academics than today wrote for the courts, illuminating doctrine's first principles, and showing ways law might desirably evolve, if only judges and Justices paid heed. Al was a superb practitioner of that style of writing.

More than most of the Columbia faculty at that time, Al used the classroom as a laboratory to test his own emerging scholarly ideas. His encyclopedic knowledge of the background law meant he could illuminate difficult cases, and identify the path that led to the problem that

1635 (1985); Alfred Hill, *The Political Dimension of Constitutional Adjudication*, 63 S. Cal. L. Rev. 1237, 1246, 1255, 1256, 1260, 1271, 1272, 1276, 1296, 1299, 1302 (1990).

8. Korn, *supra* note 1, at 229.

interested him, and then ask whether a doctrinal move—one that we students did not know was intended for his next article—made sense. He'd turn it this way and that, like a jeweler searching for flaws in a gemstone. If he thought the issue really important, it might appear in two or three classes in succession, as he grappled with slightly different formulations. ("Didn't we study that last week?" was occasionally heard.) Al was pure academic. He made no pretense that he was teaching skills that might make you a more effective lawyer, although of course he was, by showing what it meant to engage fully with legal texts. Participating with him in understanding law, both how it got that way and how it might be made better, was a privilege, both for me, and for the literal thousands of students he taught at Columbia.