



THE HONORABLE MORRIS PASHMAN

## JUSTICE MORRIS PASHMAN—HUMANIST, ACTIVIST

*Hon. Richard J. Hughes\**

When Justice Morris Pashman reached the constitutional retirement age of seventy and consequently left the New Jersey Supreme Court, it was not surprising that there followed very widespread commentary in the press. The news and editorial references combined a note of sadness at the necessity of his departure with exultation and compliment upon his public and judicial career accomplishments. The press reflected a public pride in what will be his place in New Jersey history in various terms—"Reverence for the common man" (*Philadelphia Inquirer*, Sept. 29, 1982); "A Bulwark of the Court" (*Passaic-Clifton Herald News*, Sept. 27, 1982); "A Legendary Jurist" (*Bergen Record*, Sept. 26, 1982); "A Justice for All" (*Bergen Record*, Sept. 27, 1982); "A Workaholic Whirlwind" (*Bergen Record*, Sept. 26, 1982); "Court Will Lose an Individualist" (*Star-Ledger*, Sept. 19, 1982); "Administrative Skill as well as Judicial Excellence" (*Courtworks*, Fall, 1982); "Original, Dynamic and Compassionate" (*New York Daily News*, Sept. 28, 1982); as well as many others. As a fervent defender of press freedom under the first amendment, Justice Pashman would have spurned any pre-censorship of these compliments, as much as they must have made him blush.

While I associate myself entirely with all these encomiums, I particularly liked—perhaps because of my local prejudice—an editorial title in my hometown paper—"A Humanist at Law"—describing the Justice as one having "a keen appreciation of what life is like in the world outside the courtroom and the statute books." (*Trenton Times*, Sept. 29, 1982). I agree, for over the happy years of my judicial association with Morris Pashman, I have witnessed repeated examples of that "keen appreciation" in action.

Yet even here, I would add another description—"Activist." The entire career of Morris Pashman, in nonjudicial public office as well as on the bench, portrays a certain impatient restlessness, a zeal, an activism, in the quest for justice. A discontent with tradition-imbedded injustices, or with satisfaction with things "as they are." Morris Pashman has been a mover and shaker on behalf of sensible improvement for the common good.

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How many of our present blessings are traceable to such discontented activists, such as those patriots who once gathered in Philadelphia to declare our independence and later to write the Constitution under which we live—"The most wonderful work ever struck off at a given time by the brain and purpose of man."<sup>1</sup> Or consider other discontented activists, like Arthur T. Vanderbilt and his fellow agitators, such as Nathan Jacobs, Al Clapp, *et als.*, who railed for years against the decrepitude and built-in injustices of the old court structure, and who fought for its replacement in 1948 by our present splendid court system. A system of justice which Morris Pashman has served so well, and to whose place in history he has added his own personal dimension.

Because of my own scholarly limitations, I leave it to more able judicial historians to analyze and discuss the judicial opinions of Justice Pashman, which have left their own strong imprint on the law of our times. I would address another facet of his judicial life, nevertheless an important one.

One of the distinctive and most valuable reforms of our 1947 constitution was its placement of administrative responsibility for operation of all the courts in the chief justice, assisted by the Administrative Director.<sup>2</sup> It is against this background that I would mention my abiding gratitude to my former colleague Morris Pashman. No chief justice could have been better served than I, by the generosity and talent of this very good man. He made my official life much easier, and the reforms I strove for more achievable, for no responsibility—and there were many—that I imposed upon him, was met with less than an eager and efficient response. I footnote a documentation of some of this kind of involvement of Justice Pashman, both during and since my tenure as chief justice. How generous and instinctive was his readiness to serve the cause of justice and the public interest!<sup>3</sup>

No chief justice could accomplish this vast administrative mission without the active and generous involvement and assistance of his colleagues on the supreme court. And this sense of collegial support is not entirely due to the rule-making power of the court itself<sup>4</sup> which is essential to many administrative reforms. But, as well, to another unwritten factor which binds the members of the court together in cooperative effort for its continued high reputation among the juris-

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<sup>1</sup> Gladstone, *Kind Beyond Sea*, 127 N. AM. REV., Sept.-Oct. 1878, at 185.

<sup>2</sup> N.J. CONST. art. 6, § 7, para. 1.

<sup>3</sup> See *post* at app. 444-45 for a documentation of some of Justice Pashman's achievements.

<sup>4</sup> See N.J. CONST. art. 6, § 2, para. 3.

dictions of the country. The dichotomy of this sense of pride in the court, and a certain humility in embracing opportunities for reform, has served the people of New Jersey exceedingly well since they created and put their trust in our court system back in 1947. They repeated that sense of trust in adopting the constitutional referendum for unification of the courts in 1978.

Like Justice Pashman, I miss, very much, my membership on the court.<sup>5</sup> I am sustained, as no doubt he will come to be, by recalling the happy relationship among its members, not always in agreement on decisions, to be sure, but always together in matters of principle. And always especially invigorated on the morning of each new argument or conference day. We all knew that day would be happy, busy, meaningful, open, trustful, friendly, and would achieve something of worth. Do many vocations or life activities hold much more than this?

I sense that Chief Justice Wilentz leads much this kind of court. To him and his associate justices, facing the large challenges of the years ahead, I send my respectful best wishes. And to my colleague and friend, Morris Pashman, let me voice two of the most beautiful thoughts of human expression—"Thank you" and "Shalom."

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<sup>5</sup> See Sinding, *Conscience of the Court*, 12 N.J. REP., Nov. 1982, at 18.

*Chairman, Preliminary Family Part Planning Committee*

Justice Pashman is serving as Chairman of this small Committee, composed of trial judges, to begin to plan for the implementation of recently enacted legislation which would create family courts in each county. The plan extends beyond the new legislation and extends to the possibility of a constitutional amendment which would authorize the creation of a family part of superior court.

*Speedy Trial Coordinating Committee*

Justice Pashman has been involved in this effort since its inception. As an extension of his involvement in criminal administration, he continues to be involved at an administrative policy level in the sensitive issues of jail overcrowding and recent death penalty legislation.

*Probation Planning Committee*

Justice Pashman, serving on the Committee which Justice Clifford chairs, has been deeply involved during the last year in planning the judicial conference which will focus on the reform and reorganization of probation services in New Jersey.

*Matrimonial Litigation Committee*

In December, 1978, Chief Justice Hughes appointed Justice Pashman, together with Justice Sidney M. Schreiber and Justice Worrall F. Mountain, as a Committee of three to begin what was to be an extensive review of matrimonial practice in New Jersey. In the summer of 1979, that small Committee submitted an interim report which was essentially fact-finding and provocative in nature. A larger Committee, also chaired by Justice Pashman, was charged with addressing the specific problems cited in the interim report and making detailed recommendations. In the summer of 1981, the Final Report of the Committee on Matrimonial Litigation was released. As an extension of his administrative work in matrimonial litigation, Justice Pashman worked closely with the bar to resolve the delicate issues associated with the requirement for written fee agreements in matrimonial cases. This effort culminated with the adoption of N.J. Ct. R. 1:21-7A.

*Pretrial Intervention Committee*

Justice Pashman's involvement in this area has, like matrimonial and mental commitments, combined active involvement in administration as well as case law. In the summer of 1981, the Pretrial Intervention Committee issued its Final Report.

*Justice Complex*

Justice Pashman was appointed by Chief Justice Hughes as the representative from the court to oversee the design of court facilities in the Justice Complex. Working with then Deputy Director Peskoe and more recently, with Assistant Director Nallin, he continues to be actively involved in this work.

*Committee on Relations with the Media*

Justice Pashman has served as a member of this Committee whose purpose is to foster positive relations with the press.

*Civil Case Management*

Recently, the focus on individualized management of civil cases began to take shape. Justice Pashman serves in a consultant capacity to trial judges and the Administrative Office of the Courts who are working together to devise a meaningful experiment in the management of civil cases.

*Budget Impasse Committee*

Justice Pashman assisted this "impasse" Committee in developing N.J. Cr. R. 1:33-5, which is a vehicle for administrative resolution of budgetary disputes arising between county budget officials and the assignment judges.

*Task Force on Mental Commitments*

Justice Pashman's involvement in this area dates back to his days as assignment judge in Bergen County where, on his own initiative, he authorized periodic hearings for mental patients. Soon after his elevation to the Supreme Court, he assisted Chief Justice Hughes in formulating the 1974 administrative directive which required periodic reviews of all patients committed involuntarily. Subsequently, N.J. Cr. R. 4:74-7 was adopted and Justice Pashman served as Chairman of a Task Force on Mental Commitments to monitor the implementation of the mental commitment review program.

*General Equity Case Equalization*

Justice Pashman has served as an informal liaison with general equity judges to implement case equalization in the North Jersey counties. He first worked with the counties of Bergen, Hudson, and Passaic to develop a solution for the unequal caseload in these counties. Subsequently, he worked with Essex and Union to effect a similar equalization.