DOCUMENTS OF THE GENERAL FACULTY

REPORT OF THE MEMORIAL RESOLUTION COMMITTEE FOR WALLACE MENDELSON

The special committee of the General Faculty to prepare a memorial resolution for Wallace Mendelson, professor emeritus, government, has filed with the secretary of the General Faculty the following report.

Sue Alexander Greninger, Secretary
The General Faculty

IN MEMORIAM
WALLACE MENDELSON

Wallace Mendelson, professor emeritus from the Department of Government at The University of Texas at Austin, died on November 19, 2004, at age 93. Mendelson was born in Des Moines, Iowa, on September 25, 1911, the eldest of three children of Morris and Marion Humann Mendelson. His father, a retail merchant, owned several clothing stores throughout the state. On December 2, 1942, Wallace married Margery Rosen, who had been a journalism major and a student in his politics class at the University of Missouri during the academic year 1940-41. Their union produced two sons, Wallace B. Mendelson and Roger H. Mendelson. Both sons became medical doctors. Roger has one son, Benjamin Wallace Mendelson.

Mendelson attended public schools in Des Moines, graduating from high school in 1929. Matriculating at the University of Wisconsin, he majored in political science and received his B.A. in 1933. He then enrolled in the law school at Harvard University and received his LL.B in 1936. Returning to Des Moines, he practiced tax law for two years. Then in 1938, he entered the Ph.D. program at his alma mater, the University of Wisconsin, and received his doctorate in political science in 1940. Astonishingly, he completed his Ph.D. in two years. Upon completion of his degree, Mendelson taught one year, 1940-41, at the University of Missouri and one year at the University of Illinois, 1941-42.

Mendelson’s academic career was interrupted by World War II. When the United States entered the war, he resigned from the University of Illinois and joined the Army Air Force as a second lieutenant in the Judge Advocate General’s Office. At the same time, he taught navigation to fledgling airmen. Leaving active service in 1946, he joined the Air Force Reserves, attaining the rank of lieutenant colonel. Mendelson enjoyed one more association with the military when he was invited to attend the Air War College in 1965, receiving the Air War College Diploma in 1966.

Wallace Mendelson returned to academe in 1946 when the political science department of the University of Tennessee offered him a position as assistant professor. Rising to associate professor and then professor, he remained at Tennessee until 1957, when he accepted an offer from the Department of Government at The University of Texas. With a highly distinguished career in teaching, publication, and public service, Mendelson retired in 1991.

Wallace Mendelson was a caring teacher, and if he sometimes seemed impatient with students who he thought did not care, he lavished generous and continuing concern on those who did. He was an exacting taskmaster but also an inspiring and sympathetic intellectual companion. He had strong beliefs, and they colored and shaped his teaching. One of these beliefs was that there were both probity and continuing authority in legal and constitutional principles, and he scorned judicial activists and other self-proclaimed authorities who sought to impose political or legal preferences on judicial precedent. A second tenet was his abiding faith in the democratic principle, an unwavering conviction that the people have a rightful, and ultimately successful, capacity to govern themselves.

These convictions guided his teaching, and his students were always aware of them. He was often very emotional in discussing civil rights cases and the injustice of racial discrimination in America. It was
Mendelson who succeeded C.P. Patterson as the government department’s voice and conscience in constitutional law, and he played that role for a generation.

His courses—American Constitutional Development, his mainstay at the undergraduate level, and graduate seminars, such as Great Judges—were unfailingly well attended. His lectures were rigorous, well organized, and thought provoking, and he expected his students to be ready to take part in the discussion. Those whom he personally guided and assisted had nothing but the highest praise and gratitude for their experiences with a master teacher.

Mendelson wrote or edited a dozen books and well over 100 book chapters and articles in such journals as the Harvard Law Review, the American Political Science Review, and the Journal of Politics. His first publications, which were on the subject of tax law in the Wisconsin Law Review and Michigan Law Review in 1937 and 1938, came soon after he completed his law degree at Harvard and while working on his Ph.D. at the University of Wisconsin. With his doctoral degree in hand, Wallace’s academic trajectory was interrupted, as it was for so many at that time, by the onset of World War II.

When Wallace left the Army Air Corps for civilian life at the University of Tennessee in 1946, he resumed his scholarship with a new direction in research and publication that was to shape his subsequent career. He turned his attention to American constitutional development and judicial decision-making, specifically the role of judges in pursuing “activism” as against “restraint” through deference to elected political bodies. Indeed, Mendelson became one of the foremost defenders of judicial self-restraint, especially as articulated in the approach of Supreme Court Justice Felix Frankfurter.

Mendelson’s position was succinctly described by one of his former graduate students, Robert Clinton, writing in memoriam in PS: Political Science and Politics, a publication of the American Political Science Association: According to Mendelson, the only way to preserve democratic government under law and avoid the alternative of government by men is for judges to respect the historically anchored meanings of constitutional words and phrases, resisting the temptation to regard such phrases as infinitely malleable or manipulable in accordance with changing belief.

The Constitution and the Supreme Court, first published in 1959 and in print through seven editions, was Wallace’s first book. As a textbook principally for undergraduate students in university courses on American constitutional development, it was highly successful, but it was his work on the role of judges that brought Wallace distinction in the world of legal scholars.

His book, Justices Black and Frankfurter: Conflict in the Court (1961), secured attention far beyond the usual academic venues and was widely reviewed in law reviews, political science journals, and newspapers, with philosopher Sidney Hook writing a piece in The New York Times. Former U.S. Attorney General Francis Biddle, who later reviewed the book in the Harvard Law Review, wrote to Wallace, in a letter dated July 20, 1961, expressing his “real delight” in reading Black and Frankfurter. “It is beautifully written, and you pose, I think, with as much objectivity as possible, the problem of the rift between the two groups in the Supreme Court, clearly enough for any intelligent laymen to understand and to see the implications. I hope Justice Frankfurter liked it…” Some other reviewers, however, thought Mendelson less balanced. Indeed, Murray A. Gordon, in the Columbia Law Review, found the book “so polemical” that it “could be retitled: Frankfurter si: Black no.”

As between the “activist” tradition reflected by Justice Hugo Black and the tradition of “judicial self-restraint” embodied by Justice Felix Frankfurter, Mendelson clearly stood with Frankfurter. But even as Mendelson “would appear to line up with Frankfurter,” writes Rocco Tresolini, in the American Political Science Review, Justices Black and Frankfurter “rises far above the level of the ordinary academic treatise…. There is good history here and unobtrusive learning as well as disciplined and thoughtful evaluation. Moreover, Professor Mendelson has the stuff of the artist in him.”

Mendelson went on to edit two volumes on Justice Frankfurter in 1964 and to author, among other titles, The American Constitution and the Judicial Process (1980) and Supreme Court Statecraft (1985). His books also include Discrimination (1962), based on the 1961 Report of the United States Commission on Civil Rights, of
which Wallace was editor-in-chief. The five volume Report addressed the issues of racial discrimination in voting, education, employment, housing, and justice, and it stands today as a major historical document in the struggle for Civil Rights in America.

In addition to his teaching and voluminous publications, Professor Mendelson found time to contribute frequently to civic activities and functions on state and national levels. While at Tennessee, he served as a consultant to the Tennessee Constitutional Convention, the National Labor Relations Board, and the Tennessee Municipal League. At Texas, he was consultant to the American Civil Liberties Union of Central Texas (1966-1970), the National Endowment for the Humanities (1974-1980), the U. S. Senate Select Committee on the Judiciary (1976), and Project '87, a joint undertaking of the American Historical Association and the American Political Science Association to prepare for the 200th anniversary of the U. S. Constitution. Moreover, Mendelson served as the regional representative of the U. S. Commission on Civil Rights from 1961 to 1963 and, as mentioned earlier, was editor-in-chief of the commission’s five-volume report. From 1953 to 1954, taking leave from the University of Tennessee, Mendelson served as an assistant to Supreme Court Justice Felix Frankfurter. He also served a brief stint as assistant attorney general in 1973 under Elliott Richardson, who after five months as attorney general in the midst of the Watergate crisis refused to fire Special Prosecutor Archibald Cox and submitted his resignation to President Nixon. Mendelson served on various committees of several political science associations and was elected president of the Southern Political Science Association in 1968.

In his professional life and public service, Mendelson particularly treasured his association with Justice Frankfurter, who had been his teacher and mentor in law school at Harvard. Indeed, one of his proudest moments was the invitation from Frankfurter to serve as his assistant to study the issues involved in Brown v. Board of Education, the great 1954 school desegregation case. Mendelson retained a personal relationship with Frankfurter until the latter’s death in 1962 and wrote the article on Frankfurter in the Encyclopedia Americana. On a whimsical note, that close relationship was no doubt deepened by Justice Frankfurter’s fondness for Margery Mendelson’s cheesecakes.

Wallace Mendelson was a very private person, but he had two passions: devotion to his family and commitment to the law. He involved his wife, Margery, who was trained in journalism and politics, in his research and in the writing and editing of his books and articles. He was immensely proud of his two sons, and although he would have preferred that one or both follow him into the law, he supported them unstintingly in their pursuit of medicine. Mendelson resisted naming either of his two sons after Justice Frankfurter, but he did give them abbreviated forms of the names of Supreme Court justices as second names. Wallace was given “Brand” for Justice Brandeis, and Roger was given “Hugh” for Chief Justice Hughes.

There was another side to Mendelson, known only to his family: he was a handyman around the house. From his youth, he loved to tinker with things electrical and mechanical. At one point, his mother believed he would become an engineer, but the attraction of the law won out. Yet he never lost the urge to fix things. He performed almost all repairs at home. He also learned carpentry and loved to make useful items for the house. His masterpieces were a combination desk and two chests of drawers for his sons’ bedroom.

His family, his colleagues, and his former students will always hold Wallace Mendelson in the highest regard.

This memorial resolution was prepared by a special committee consisting of Professors Robert L. Hardgrave, Jr. (chair), William S. Livingston, and Karl M. Schmitt.

Distributed to the dean of the College of Liberal Arts, the executive vice president and provost, and the president June 9, 2009. This resolution is posted under "Memorials" at: http://www.utexas.edu/faculty/council/