William P. Homans Jr.: A Life In Court

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Prologue

A criminal lawyer of great genius. A civil libertarian. A hero and role model for a generation of lawyers. An advocate committed to his clients and their causes. Yet a man unable or unwilling to insist his clients pay him. A man unable to manage the business aspects of his profession or his personal affairs. This was the enigmatic giant of Massachusetts legal lore.

William P. Homans Jr., descended from two of Boston’s most storied families that together had produced generations of illustrious surgeons, distinguished Harvard faculty, prosperous corporate lawyers and prominent politicians, spent most of his professional life in Boston’s grimy criminal courts defending society’s cast-offs, with little or no recompense. Raised on a gentleman's farm, this courtly patrician became unlikely guru to Boston’s progressive legal community and role model for the generation of activist lawyers that came of age in the 1960s. World War II combat veteran of both the British and American navies, Bill Homans was also first-responder of choice for anti-Vietnam War demonstrators who would write his phone number on their hands, knowing they could call him for legal assistance day or night. Hardened inmates at the state’s maximum-security prison enjoyed the company of this lifelong member of Harvard’s ultra-exclusive Phoenix Club when he joined them as an “observer” during the tumultuous guards’ strike of 1973.

Bill Homans’ story is one deeply rooted in the New England tradition of social activism, from anti-slavery leaders William Lloyd Garrison and Wendell Phillips, to N.A.A.C.P. founders Moorfield Storey and W.E.B. DuBois, to his own Aunt Mary Peabody, arrested at age seventy-three while leading a civil rights protest in the South. Homans was, as the Boston Globe profiled him, “that kind of quirky maverick that the harsh soil of New England has nurtured since it bore abolitionists and transcendentalists.”

But it is also the tale of one man’s instinctive capacity to empathize with persons who had traveled quite different paths than his, and to champion their causes as his own. The imperfections and weaknesses in his clients seemed to resonate loudly in his own being, perhaps because he saw small parts of himself reflected in them. It was the human condition, and not any all-consuming political ideology, that motivated Bill Homans’ work.

He was, in the words of a prominent member of the Boston Bar, a “bona fide cultural hero who gets more applications from law students who want to work for him than anyone this side of Ralph Nader.”

Homans was a one-of-a-kind, neither the clichéd noblesse oblige do-gooder nor a “movement lawyer” like William Kunstler, counsel in the infamous Chicago Seven trial, who would pal around with his radical clients and revel in the role of featured speaker at rallies. While he represented SDS Weathermen and Black Panthers, William P. Homans Jr. always remained William P. Homans Jr.—well-bred, from good Yankee stock, of Harvard, Hasty Pudding Institute, and Homans Lane. He was, as fellow trial lawyer Harvey Silverglate observed, far more respectable than he was radical. When left-liberal lawyers unofficially split into Old and New Left factions in the 1960s, Homans stood aside, revered by both.

In the backdrop of this story is the historic rivalry between the Boston Irish political class and the Brahmin elites (the term coined by Oliver Wendell Holmes Sr.), between the Roman Catholic immigrant newcomers and the Anglo-Protestant Mayflower set— a perennial contest for turf and power and cultural predominance that has so indelibly shaped Boston’s history, and is mimicked in its legal profession. The “white shoe” corporate firms were, until relatively recently, an enclave reserved for Harvard-educated upper-crust WASPs, with ethnicities relegated to small or solo trial practices or prosecutors’ offices.

Homans, destined for a prosperous career handling the affairs of his fellow Yankees, declined his birthright and chose instead to devote himself to “the least of these.” A lapsed Brahmin, he straddled the class divide while ushering his clients through as well, navigating effortlessly between the sedate Boston eating clubs and the back-slapping State House crowd (where he served a term in the legislature), the Brattle Street intelligentsia and the courthouse regulars feverishly chasing their
next case, the rich and famous yachting off of Martha's Vineyard and the grim lock-up at the Charles Street Jail.

Bill Homans stands in the line of great lawyers who, as Oliver Wendell Holmes Jr. put it, were willing to immerse themselves in the agonies of their times. The list includes both familiar and long-forgotten names. Philadelphia lawyer Andrew G. Hamilton came to the assistance of New York newspaper publisher John Peter Zenger, accused in 1735 of seditious libel for criticizing the Royal Governor. Following the chilling disbarment of the lawyers who initially appeared on behalf of Zenger, Hamilton stepped forward and successfully defended him at trial. In the process, he dramatically advanced both the cause of a free press and the right of a jury to nullify an unjust law.

James Otis openly challenged Royal authority in a fiery five-hour oration denouncing the despised Writs of Assistance, the open-ended licenses granted customs officials to search colonists anywhere and at anytime. He did this before the very judges appointed by the King in whose name the writs were issued. The Fourth Amendment right against unreasonable searches and seizures is Otis' direct descendant.

John Adams, believing deeply that every accused is entitled to a vigorous defense, withstood scathing public disapproval and threats to his own safety and livelihood to defend the British soldiers who killed five protesters in the “Boston Massacre” of 1770. The jury acquitted the captain and all but two of his men. In the middle of the next century, Salmon P. Chase and Roger S. Baldwin were defending runaway slaves and those who aided them, challenging the “Peculiar Institution” decades before the Civil War. Chase came to be known as “The Attorney-General of Fugitive Slaves.”

The most famous of this assemblage left a lucrative practice as a railroad lawyer to represent the great socialist figure Eugene V. Debs and his American Railway Union in the pivotal Pullman Strike of 1894. Clarence Darrow would etch the icon of “people's lawyer” into the American psyche, and his representation of John Scopes, the Tennessee high school biology teacher prosecuted for teaching evolution in the 1925 “Monkey Trial,” presaged the culture wars of our times. His impassioned summation in the “thrill murder” trial of teenagers Nathan Leopold and
Richard Loeb enthralled the nation and changed the way many thought about capital punishment.

Described as a “Clarence Darrow-like defender of poor and black people” by progressive historian Howard Zinn, Homans demurred to such comparisons with characteristic modesty—he once told an interviewer that he was no Clarence Darrow, but conceded that people did “gravitate to me.” Like Darrow, whom he greatly admired, there was no client, case, or cause too unpopular to scare him off. Homans understood all too well what Darrow meant when he spoke of “standing in the lean and lonely front line facing the greatest enemy that ever confronted man—public opinion.”

From the War Against Fascism in the 1940s to the political witch hunts of the 1950s to the civil rights and anti-war struggles of the 1960s and 1970s, Homans stood center stage. Innumerable persons facing the bleak prospect of imprisonment or worse are forever in his debt. And his lifelong campaign against capital punishment remains, like Darrow’s, his most lasting legacy. While the Brahmin caste always thought of themselves as “the undisputed arbiters of the public good,” Bill Homans truly lived that reality.

That he achieved what he did in spite of the personal demons he fought everyday, and which visited so much anguish on family, friends, and associates, testifies to his indomitable spirit and unrelenting devotion to the principles he espoused. His was not an easy road. He suffered deep bouts of depression, abused alcohol, smoked incessantly, and egregiously mismanaged his finances. Handling so many cases at his frenetic pace compromised his mental and physical health, distanced him from his children, and led to the disintegration of his second marriage. But, ironically, it was also his work that sustained Bill Homans in his bleakest moments, and it is the life he lived in court that is the central focus of this volume.

It can be said of Homans that his clients benefited far more from his work than he ever did personally. They had the brilliant and committed professional on their side. Family and friends often experienced a different, darker person. The mystery is how he could be so focused, so confident, so together in court, when he was so troubled, so torn, sometimes so distraught, outside that venue.
Biography should serve not just as a lens to observe the subject's times, but to illuminate our own as well. Frederick Douglass often remarked that freedom is a constant struggle, and Bill Homans' career has an all too obvious resonance to us. Whether it's the right to vigorously resist an immoral war, or the fight to preserve our privacy against increasingly sophisticated government intrusion, or the daily endeavor to constrain the vengeful forces in our criminal justice system, or the protection of reproductive choices of women and their doctors—truly his causes are today's causes.

A personal note

Some years ago when I was casting about for a new scholarly direction, I fastened on the idea of a biography. The first name that came to mind was Bill Homans, whom I had known (but not well) years before when I was in practice as a civil rights lawyer. But why him?

Over the time that I have worked on this book, that question has been answered hundreds of times over. William P. Homans Jr. radiated a nobility of purpose that absolutely captivated everyone he touched. His coterie of protégés stretches across time and space—people for whom he remains, so many years after his passing in 1997, the inspiration for their work.

Psychologists tell us that nothing just randomly "pops into our minds." Bill Homans, as the pages that follow attest, has more than earned his place in our collective memories.

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