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A TRIBUTE TO WILLIAM P. MURPHY: LABOR LAW TRAILBLAZER AND MAN OF UNFLINCHING PRINCIPLE

*Paul M. Secunda**

It is somewhat strange to write a tribute to a person that one has never had the pleasure to meet. Yet, I feel than I am compelled to write about a great man, William “Bill” Murphy, for in two significant ways he made my career as a law professor at the University of Mississippi School of Law a possibility.

As a *New York Times* article from 1962 notes, Bill started his career at the University of Mississippi School of Law in fall of 1953 and it ended unceremoniously in the summer of 1962.¹ At the commencement of Bill’s tenure at the University of Mississippi, de jure school segregation was in its most wide-ranging form and “the powerful forces of segregation controlled public life in Mississippi and effectively made it the ‘closed society.’”² In this social and political environment, Bill was not the most likely candidate to challenge this bankrupt way of life.

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¹ “A University of Mississippi law professor who has been the target of segregationists for several years has resigned to take a better position at the University of Missouri. William P. Murphy, attacked by legislators and others because he is a member of the American Civil Liberties Union, will become a full professor of law at Missouri Sept. 1. He has been at Mississippi since 1953.” N.Y. TIMES, Aug. 6, 1962, at 22.

² Charles W. Eagles, “Thought Control” in *Mississippi: The Case of Professor William P. Murphy*, 66 J. MISS. HIST. 151, 151 (2004) (citing JAMES W. SILVER, MISSISSIPPI: THE CLOSED SOCIETY (1964)).

He had lived his entire life in the segregated South and hardly knew any people of color as a child.³

Bill did not set out to disturb the status quo in Mississippi, but his and many other people's lives changed in 1954 with the Supreme Court's unanimous decision in *Brown v. Board of Education*,⁴ which famously held that "[s]eparate educational facilities are inherently unequal."⁵ That decision, of course, struck down Southern school segregation as unconstitutional under the Equal Protection Clause of the Fourteenth Amendment. Not surprisingly, the Southern states were outraged.⁶

A protégé of University of Mississippi Law School Dean Robert J. Farley, Bill worked with Dean Farley to fashion a moderate Southern response to the *Brown* decision. This was no easy task. But only six weeks after *Brown*, Bill took the bold move of outlining his ideas about how Mississippi could transition to a post-*Brown* world in a letter to the editor he wrote in the state's biggest newspaper, the Jackson *Clarion-Ledger*. Centered on the idea that the states were not free to ignore the valid decisions of the United States Supreme Court, he suggested instead Congress enact school desegregation legislation.⁷ Consistent with the states' rights movement of the time, Bill advocated that states were best able to implement integration and that the constitutional authority of the federal courts should be limited in such matters, unless the states proved unable to implement the constitutionally-necessary change in public education.⁸

³ *Id.* at 155.

⁴ 347 U.S. 483 (1954).

⁵ *Id.* at 495.

⁶ United States Senator James O. Eastland of Mississippi, for instance, stated at the time that *Brown* "strike[s] down all state laws which provide for racial segregation, and upon which the institutions, the culture and the civilization of the south was built." Eastland went on to say that, "The future greatness of America depends on racial purity . . . Who says the South will not win?" Eagles, *supra* note 2, at 155 (citing James O. Eastland, OXFORD EAGLE, June 3, 1954).

⁷ William P. Murphy, Letter to the Editor, CLARION-LEDGER (Jackson, Miss.), June 30, 1954.

⁸ *Id.*

Now with 20/20 hindsight from the fifty years of history that followed *Brown*, it may seem to us naïve to believe that the Southern states would have willingly destroyed the foundations of their own society. But Bill sought to make the transition as painless as possible for his fellow Southerners and he would not accept talk about the illegitimacy of the Supreme Court or its constitutional holdings. He argued that his approach was “rational and temperate . . . which men of good will should be able to agree.”⁹ Of course, he was mistaken in his optimism, but his adherence to the rule of law and to his principles, when many others sought to avoid the racial situation altogether, was not only praiseworthy, but utterly courageous.

Around the same time as *Brown*, a less known, but an equally important development from this author’s standpoint, was taking place in the area of federal labor law. Although the National Labor Relations Act¹⁰ had guaranteed private sector employees’ rights to organize and collectively bargain for twenty years, many in the South of that time thought that trade unionism was something akin to communism or even worse, since it seemed to promote racial equality.

As it happened, Bill had been hired by the University of Mississippi to teach labor law because he had relevant expertise in this area as a result of having been an attorney for the U.S. Department of Labor. The impetus for writing his first labor law article in the *Mississippi Law Journal* came with the passing of a “right to work” law by the Mississippi Legislature in February 1954. Such laws, as of the Taft-Hartley Amendments of 1947,¹¹ permitted states to prohibit by law employment agreements requiring membership in a union as a condition of employment.¹²

Bill did not set out to inflame fellow Mississippians with his law review article on right to work laws, but merely to explain how such statutes operated. As Professor Eagles notes, in Bill’s

⁹ *Id.*

¹⁰ 29 U.S.C. §§ 151-169 (2000).

¹¹ *Id.* §§ 141-144, 172-187.

¹² *Id.* §164(b).

article on “The ‘Right to Work’ Statute,”¹³ “[he] wanted lawyers to understand how labor unions sought security, the arguments for and against such security measures, the origins of right-to-work laws, and the litigation that the laws had caused.”¹⁴ Murphy’s commentary on these laws was unusually astute and he proved prescient when he observed that “a cheap, docile labor supply” in the South would attract industry which would inevitably lead to the rise of unionism in the region.¹⁵ Indeed, in the last decade as Mississippi has been successful in luring the likes of Nissan, Toyota, and other large corporations, Bill’s prediction about the eventual increase in unionism in this state no longer appears far-fetched.

Bill also realized, and stated more expressly in later writings, that the White power structure in Mississippi of the time was utilizing “right to work” laws to bolster the rights of business to the detriment of workers and to make unionization more difficult.¹⁶ In a book review a few years later in the *Mississippi Law Journal*, Bill wrote that, “neither sustained experience nor objective study will support any ‘devil’ theory of unionism.”¹⁷

Significantly, Bill used his position of prestige at the law school to state that labor unions were “legitimate, respectable, and important” institutions for the development of the South.¹⁸ Although unions are still anathema to many in this region, his writings helped to raise the level of the dialogue immensely on this controversial topic.

Over the next few years, because of Bill’s advocacy for justice in the schools and workplaces of the South, his career

¹³ William P. Murphy, *The “Right to Work” Statute*, 26 MISS. L.J. 39 (1954).

¹⁴ Eagles, *supra* note 2, at 162.

¹⁵ Murphy, *supra* note 13, at 60.

¹⁶ Eagles, *supra* note 2, at 163 (citing Murphy, *supra* note 13, at 60) (“[Right-to-work laws were] one manifestation of an effort by Southern business and political leaders to obtain the benefits of industrialization without at the same time acquiring the disadvantages and evils, real or fictional, of labor unions.”).

¹⁷ William P. Murphy, *Review of The Practice of Unionism by Jack Bardash, and AFL-CIO: Labor United*, by Arthur J. Goldberg, 28 MISS. L.J. 170, 171 (1957).

¹⁸ *Id.* at 171.

paid dearly. His ideas were attacked by rabid segregationists.¹⁹ He was a heretic to his people and had to either conform to the racial status quo or leave the state. Leave the state he did, and Mississippi was lesser for it.

Even after Bill was forced to resign from the University of Mississippi in 1962, and then left the University of Missouri to join the law faculty at the University of North Carolina,²⁰ he continued to be a pioneer in the area of American labor and employment law. He was a member of the esteemed Labor Law Group of law professors that wrote many path-breaking casebooks in the areas of labor, employment, and employment discrimination law. He was also past president of the National Academy of Arbitrators and a well-regarded labor arbitrator, who heard cases throughout the country.

So, quite simply, Bill Murphy, a man I never met, is not only an inspiration to me, but a trailblazer who made it possible for me to write freely about civil rights, labor, and employment issues in the Mississippi of today. Without his moral convictions and his vision, my ability to continue the fight for workers' and students' rights would be unlikely to take place in this venue. In thanking Bill for his lifetime of achievement, I can only echo our mutual friend, Eric Muller, a professor of law at the University of North Carolina-Chapel Hill, who wrote shortly after Bill's passing: "If life ever deals me a chance to show the courage of my convictions, as it twice did Bill, I hope I will do it with my friend's silent guidance and blessing."²¹

Actually, I can go one step further than Professor Muller and state emphatically that I am truly embarrassed and

¹⁹ For instance, Professor Eagles notes that Murphy was attacked by the future leader of the White Citizens' Council, William J. Simmons, in a letter to the editor responding to his proposal. *Id.* at 159 (citing William J. Simmons, Letter to the Editor, CLARION-LEDGER (Jackson, Miss.), July 5, 1954). The White Citizens' Council is "an upscale, politically connected version of the Ku Klux Klan that formally renounce[s] violence but preach[es] white supremacy and the illegitimacy of *Brown*." Eric Muller, *The Embodiment of Academic Freedom*, CHRON. HIGHER EDUC., Dec. 7, 2007, at B11.

²⁰ John R. Bradley, *A Salute to William P. Murphy*, 77 MISS. L.J. 923, 928 (2008); George Cochran, *The Political Takeover of a Law School: The Real Tragedy of the Bill Murphy Story*, 77 MISS. L.J. 931, 936-37 (2008).

²¹ Muller, *supra* note 19.

disturbed by the way the University of Mississippi treated a man of Bill's stature and integrity all those years ago in the name of racial purity. At least for my own part, I offer this tribute as a way to posthumously apologize for the unconscionable manner in which Bill was treated by this institution so many years ago and hope that his example will continue to be a shining light for those, like me, who believe in a Mississippi of the future.