

# Washington Law Review

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Volume 56 | Number 2

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3-1-1981

## Dedication to the Honorable Charles Horowitz

Betty B. Fletcher

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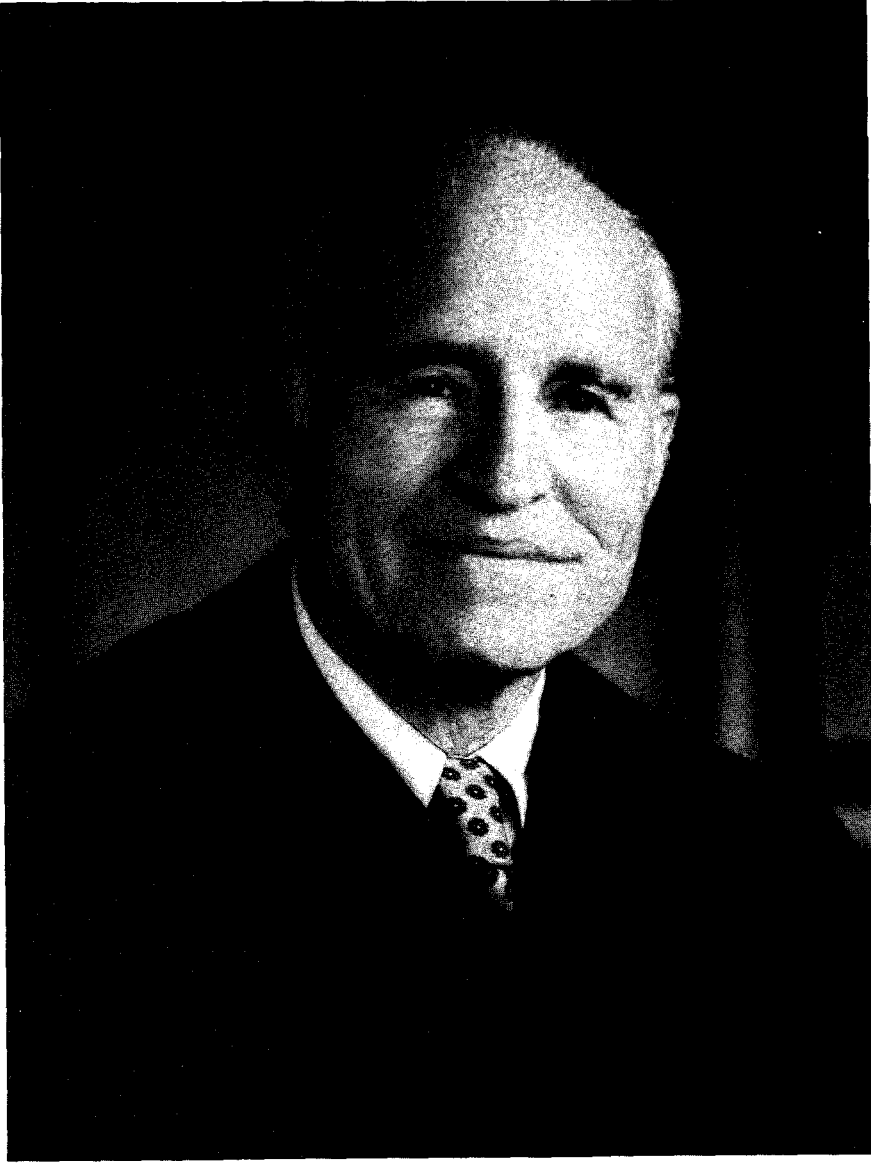
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Betty B. Fletcher, Dedication, *Dedication to the Honorable Charles Horowitz*, 56 Wash. L. Rev. 162 (1981).  
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CHARLES HOROWITZ

## DEDICATION TO THE HONORABLE CHARLES HOROWITZ

Betty B. Fletcher\*

Those of us who have had the privilege to know and work closely with Charles Horowitz are most gratified that the *Washington Law Review* is dedicating this issue to him. It is particularly fitting from the standpoint of the law school and the law review, for he received his undergraduate degree and his law degree from the University of Washington. In law school he was both the honor graduate of the class of 1927 and president of the student board of editors of the law review (today's counterpart to the "Editor-in-Chief"). Since that time he has continued a close and loyal relationship to the *Review* and to the school. Initially in 1932-33, under Dean Alfred J. Schweppe, and intermittently in later years he found time to serve as Lecturer in Law, teaching contracts, conflicts of law, mortgages, corporations, and partnerships. He has also contributed many articles to the *Review*, scholarly in approach, exhaustively researched, and eminently suitable as a reference for practicing lawyers as well as for scholars.<sup>1</sup> He has been an interested participant in the life of the school and a constructive supporter of its programs. In his frequent service as a moot court judge, for example, he always expends the extra effort to criticize the students' performance thoughtfully and constructively.

Charles Horowitz, the oldest of several children, born in Brooklyn of newly immigrant parents, came to Seattle with his family when he was still a small child. From an early age he helped in the family support by selling magazines, newspapers, and selling candy in a theater, and later

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\* Circuit Judge, United States Court of Appeals, Ninth Circuit.; A.B., Stanford, 1943; LL.B., University of Washington, 1956.

For many years the author and Justice Horowitz enjoyed a close association in private practice.

1. *Uniform Trustees' Powers Act*, 41 WASH. L. REV. 1 (1966); Book Review, 24 WASH. L. REV. 77 (1949) (E. POLISHER, ESTATE PLANNING AND ESTATE TAX SAVING (1948) & M. SHATTUCK, ESTATE PLANNER'S HANDBOOK (1948)); *A Practitioner's Guide to Estate Planning in Washington*, 22 WASH. L. REV. 155 & 23 WASH. L. REV. 17 (1948); *Disregarding the Entity of Private Corporations*, 14 WASH. L. REV. 285 (1939) & 15 WASH. L. REV. 1 (1940); *Conflict of Law Problems in Community Property*, 11 WASH. L. REV. 121 (1936); *Riparian and Appropriation Rights to the Use of Water in Washington*, 7 WASH. L. REV. 197 (1932). Law student Horowitz was also a prolific scholar. Note, *Eminent Domain—Production and Supply of Electric Power—Public Use*, 2 WASH. L. REV. 201 (1927); Note, *Municipal Corporations—Governmental Powers—Proprietary Powers—Ultra Vires Torts*, 2 WASH. L. REV. 136 (1927); Note, *Payment—Presumption of Payment—Proof of Payment by Circumstantial Evidence*, 2 WASH. L. REV. 54 (1926); Note, *Banks and Banking—Principal and Agent—Apparent Authority—Actions for Deposits*, 2 WASH. L. REV. 49 (1926); Note, *Charities—Liability for Servant's Negligence*, 1 WASH. L. REV. 282 (1926); Note, *Contracts—Whether Filling in Amount of Blank in a Contract of Guaranty Was a Material Alteration*, 1 WASH. L. REV. 148 (1925).

he provided for most of his own education. His brilliant mind, scholarly bent, solid educational background at the University of Washington, and qualities of character sought by the Rhodes Trust earned him a Rhodes Scholarship upon his graduation from the law school. At Oxford University he did honor to himself and the University of Washington by earning his B.A. in Jurisprudence with first-class honors, an exceptional achievement.

He returned to Seattle to practice law with the firm that today is Preston, Thorgrimson, Ellis and Holman, but which for many years was known as Preston, Thorgrimson and Horowitz. Now, upon his retirement from the supreme court of the state, he has returned to the firm as counsel.

Among lawyers during his forty years of practice he became a living legend. His thoroughness in preparation, his scholarly yet imaginative and innovative approach to the solution of legal problems, and his unflagging energy and enthusiasm to the task were marvelled at. Neither partners nor associates could match the routine 6:00 a.m. arrival or the disciplined attack on the tasks at hand. Opposing lawyers were hard-put to respond to his exhaustive and well-researched briefs, his compelling arguments, and the pace and verve of his advocacy.

He also instilled a confidence and loyalty in his clients that few lawyers match. This trust was not misplaced. He was prompt and indefatigable in his service and all-consumed in exploring and analyzing and researching ways to solve clients' problems and win their cases. Yet, when appropriate, he would counsel and caution and persuade his clients to forego what he considered an unwise course or an unfair advantage. From time to time in the best tradition of the profession he had occasion to represent the unpopular, even the despised. His acceptance of the representation was unhesitating and the representation unstinting. It was not without drama, on occasion requiring both courage and honor. I have particularly in mind an occasion when lawyer Horowitz discovered that his client carried a gun that he proposed to use on the judge and opposing counsel, if their relentless questioning and what he perceived as fundamental unfairness persisted. Horowitz persuaded the client not only that he must surrender the gun but also that the judge must be told of the incident before the trial could continue.

I've mentioned Charles Horowitz' service to the law school. He was equally dedicated to improvement of the profession and the bar association. After long years of service on committees and on the board of trustees of the Seattle-King County Bar Association (then the Seattle Bar Association), he served as its president in 1957-58. During his term as president he organized the special study groups known as "sections," bringing lawyers together to share skills and to seek further education and

law reform in their discrete areas of concern. These sections became a model for the program later adopted by the state bar association. He spurred the development of the lawyers' referral service. The Bar Bulletin, started during his term as president, was his idea. These are but examples of the enduring programs his imagination and energy and leadership have brought to the legal community and the public. I mention a few of his other significant contributions to the profession, but the list is far from complete. He has been a member of the National Conference of Commissioners on Uniform State Laws, co-chairman of its Special Probate Committee formulating the Uniform Probate Code, and for the last ten years chairman of the Joint Editorial Board for the Uniform Probate Code. He has served many years as a member of the Judicial Council of the State of Washington and as a trustee of the King County Law Library. In addition to his contributions to the law review, he has written many articles on law-related subjects.<sup>2</sup>

Though they are equally praiseworthy, I speak not to his contributions to the broader community, his religious community, his family, his friends and his colleagues.

Other contributors to this volume discuss Justice Horowitz' contributions as a judge to the substantive law and jurisprudence of Washington. I therefore speak to a different little-known aspect of his court years.

In 1969, after forty years in private practice, he accepted an appointment of the newly created court of appeals, sworn in by his close friend and client, William O. Douglas. Because of his scholarly bent, Charles Horowitz found the prospect of appellate judging an exciting challenge and a welcome change. He accepted, too, the challenge of helping make the new court a respected and prestigious body. The quality of his leadership on that court and the excellence of his opinions on any merit scale surely called for his appointment to the Supreme Court of Washington when, as happened, several vacancies occurred. But the appointment never came. He won his seat on that court by election, not by appointment. So this quiet, intensely private man had to submit to the painful process of a state-wide campaign for election without the comforting status of "incumbent." I find this a singular act of courage. He did this not only to vindicate his sense that exceptional performance on the intermediate court, as an institutional matter, deserved recognition, but also to seek

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2. See, e.g., *Values and Decision-Making: Some Observations on the Role of Non-Legal Factors in the Appellate Process*, WASH. APP. PRAC. HANDBOOK § 3.4 (1980); *Some Observations on the Relationship Between the Courts and Executive and Administrative Agencies in State Government*, 3 J. LEGAL PROFESSION 11 (1978); *Judging Judgments*, 7 GONZ. L. REV. 1 (1971); *Guides for Resorting to Commercial Arbitration*, 8 PRAC. LAW. 67 (1962); *Buy and Sell Agreements Under the Internal Revenue Code of 1954*, 28 PAC. NORTHWEST UNDERWRITER 104 (Oct. 1954).

an opportunity to bring to bear his knowledge of the law and his feel for its development on the enormously important issues, many of constitutional dimension, that come to the supreme court. It was the culmination, a proper rounding-out, of a wonderfully rewarding career, public and private. It brought to the Supreme Court of Washington one of the ablest jurists ever to sit. He has set a standard for the court that will serve it well. He has done honor to us all, and by the dedication of this volume the *Law Review* honors him.