

# SOUTHERN JEWISH HISTORY

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Rachel Heimovics Braun, *Managing Editor*

Sandra Berman, *Primary Sources Section Editor*

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# The Hermans of New Orleans: A Family in History

by

Stephen J. Whitfield\*

In *Rabbis and Lawyers*, an important study of communal leadership, the historian Jerold S. Auerbach notes “the boundless admiration that Jews bestowed on American law” in accounting for the speed with which this particular minority achieved full citizenship.<sup>1</sup> In Auerbach’s version of this process, a commitment to the law—as a profession and as a source of moral authority—has been decisive in weaning American Jews away from the religious mandates of the Torah (and *its* laws). The bar, he argued, has thus accelerated the process of secularization that has framed the experience of modern Jewry. Other historians need not refer to the Hebrew Bible as a baseline, however, in order to underscore the significance of the legal profession as a booster rocket for the upwardly mobile. Membership in this profession has facilitated Jewish absorption into a robustly dynamic society that has afforded ample opportunities for advancement. The bar has certified achievement, and betokened privilege and prestige.

Ever since 1916, when Louis D. Brandeis took his place on the U.S. Supreme Court, a “Jewish seat” has usually been occupied. In the 1930s, and during the current term as well, Jews have proven themselves so adept at the bar that a pair or even a trio of them have served simultaneously on the Supreme Court. When no Jew is among the nine on the nation’s highest appellate court, the absence has been noted. In 1970 Senator Roman L. Hruska (R-Neb)

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tried to justify the nomination of a very undistinguished judge to the Supreme Court by asserting that "there are a lot of mediocre judges and people and lawyers. They are entitled to a little representation . . . We can't have all Brandeises, Frankfurters, and Cardozos," the Nebraska Republican pleaded. After Norman Mailer watched his attorney seek to spring him from jail in the aftermath of the 1967 march on the Pentagon, the novelist generalized that "there was no lawyer like a good Jewish lawyer."<sup>2</sup> (Bad Jewish lawyers do not seem to generate stereotypes and have attracted little historical interest.)

How the Jewish commitment to the legal profession has worked out over the course of a couple of generations can be illustrated through the fate of one particular family. Based for about eight decades in New Orleans, the Herman family is worthy of consideration in the light of Jewish history. That broader saga has been punctuated by totalitarianism, which constitutes the systematic violation of the human status, and which underscores the value that a vulnerable minority so commonly ascribes to law itself. However imperfectly, it represents a struggle to achieve the fairness in which a marginalized group invests its faith. This essay is intended to contextualize the Hermans within the ambit of the southern Jewish experience and within the larger framework of the Diaspora. The life of a family that has been devoted to the practice of law might therefore be inflected with meaning. Everyone knows that families form, fight, fragment; they expand and contract. They can sustain and strengthen but damage their members as well. Families can also be historicized.

#### *A Place and a Profession*

If a context does not come easily into focus for the history of postbellum New Orleans Jewry, however, the explanation may stem from the absence of any scholarly volume on the subject. The Civil War is where Rabbi Bertram D. Korn brings to a halt his indispensable 1969 account of the growth of the city's Jewish community. Something scandalous, it must be asserted, hovers over the failure of scholars to pick up the story where Korn's *The Early Jews of New Orleans* leaves off.

*Harry and David Herman (center) flanked by their sons,  
on the steps of Louisiana Supreme Court, New Orleans, 1977.  
Left to right: Fred, Maury, Russ, and their father Harry;  
David and his sons, Shael, Mark, and Avram.  
(Courtesy of Shael Herman.)*

That volume evokes the distant lineage of New Orleans Jewry. Its origins can be traced to the eighteenth century and to pre-American and non-British auspices, and the arrival of eastern Europeans at the end of the nineteenth century did not dwarf the earlier waves from the German states and from Alsace as decisively as in other parts of the United States. The community was just big enough so that Jewish marriage partners did not have to be sought or pursued elsewhere with the same intensity as smaller southern towns; families could therefore become easily entwined within New Orleans itself. Its Jews therefore often leave the impression that they identify primarily with the city, and much less so with a larger region, unlike many other southern Jews, whose

kinfolk may be more widely scattered. By 1958, one sociologist discovered, almost half of the city's Jews had been born in New Orleans; and of those who had been born elsewhere, another third had lived there for at least two decades. This was a stable community (or, according to its critics, a stagnant one). Legend and history conspire to give the Jewish people a reputation for wandering. But the Jews of New Orleans were scarcely more mobile than their gentile neighbors. According to the U.S. Census of 1960, four out of five residents of Orleans Parish had been born there.<sup>3</sup>

The failure of New Orleans Jewry to elicit full-scale research also runs the risk of overestimating the homogeneity of the region. Located in the Deep South, New Orleans has neighborhoods and atmospherics without their equivalent in, say, Shreveport or Jackson or Birmingham. In 1959, when the cosmopolitan journalist A. J. Liebling visited Louisiana to cover its politics for the *New Yorker*, he realized that "New Orleans resembles Genoa or Marseilles, or Beirut . . . more than it does New York." That distinctiveness produced what a Tulane University scholar called "narcissism."<sup>4</sup> It may also account for a certain insularity among the Jews of New Orleans, who might easily have sensed the singularity of their community when venturing outside. In the South the domination of Reform Jews whose roots could be traced to Germany has also tended to obscure the role of Zionism and the presence of eastern European Jews, of which this essay is intended to serve as a slight corrective. The origins of the Herman family would nevertheless hardly strike historians of American Jewry as eccentric, or require revision of the standard overview of transatlantic crossing to achieve upward social mobility.

In the Ukraine the surname was Germanofsky, and in 1900 two sons—Jacob and Samuel—crossed over to the New World. They got as far as Wayne County, Michigan. In that year Jake married Gertrude Siniawsky, also an immigrant from Tsarist Russia. They had five children: David, born in 1913 in Detroit; Harry, born in 1915; Rebecca, born in 1918; Ethel, born in 1920; and Morris, born in 1929.<sup>5</sup> The parents used Yiddish with one another, and the children spoke that language to their parents. The furniture business was then flourishing in Michigan; and though "more



*Gertrude and Jacob Herman and their five children, c. 1948.*

*Left to right: Morris, Harry, Ethel, Gertrude, Jacob, Rebecca, and David.*

*Morris is the only one who is still alive.*

*(Courtesy of Shael Herman.)*

than a whiff of socialism" could be discerned in the family,<sup>6</sup> it was primed for enterprise rather than for class struggle. Like most Jewish immigrants and their progeny, the aim was not to rise with their class but *from* their class instead. Jake was a cabinetmaker and a repairer of furniture, and he and his wife Gertrude moved to New Orleans. The U.S. Census of 1920 listed him as a cabinetmaker. A decade later, the census identified him as the proprietor of a furniture store. The city boasted significant commerce in antiques. Jews came pretty close to dominating this field of endeavor, with families like the Raus, the Manheims, the Brenners, the Shapiros, the Sterns, and the Waldhorns prominently doing business on Magazine and Royal streets in the French

Quarter. For instance, the father of Anne Levy, Mark Skorecki, was also a cabinetmaker and furniture repairman, who came to the city with his wife and two daughters after miraculously surviving the Holocaust. (How the family escaped from the Warsaw ghetto to reach New Orleans is the subject of a remarkable book that Tulane University historian Lawrence N. Powell published in 2000, *Troubled Memory*.) Anne Levy's husband, Stan, also owned an antique shop on Magazine Street.<sup>7</sup>

The Herman family lived above the store, in a home at 2029 Magazine Street that was modest and comfortable. The youngest son, Morris, eventually entered the family business, J. Herman, and has remained an antiques dealer on Royal Street. His two brothers signed up for the law, which they envisioned as giving them dignity and status in the community. It is difficult to exaggerate the admiration that the learned professions could elicit in the Jewish community. Here is one instance. Among the most influential agitators of the past century was Saul D. Alinsky, whose work as a community organizer became the topic of the senior thesis that Hillary Rodham submitted to Wellesley College in 1969; and the vocation he invented also inspired the early activism of Barack Obama. Alinsky took a certain pride in making trouble. "To other people, I'm a professional radical," he once commented. But to his mother, Sarah, "the important thing is, I'm a professional."<sup>8</sup>

Growing up in the poor neighborhood known as the Irish Channel, Dave and Harry were the first in their generation to go to college. They managed to go on to law school despite the searing impact of the Great Depression. Dave graduated from Loyola University night school, and then from Louisiana State University Law School; Harry went to Loyola University and then Tulane Law School and entered private practice in 1936. Antisemitism in that era still had the power to sting, especially in the form of omission from the city's social clubs like Boston, Louisiana and Pickwick, and from the Mardi Gras krewes, including Comus, Momus, and Rex. The mere accumulation of wealth was less of an automatic assurance of high social status than elsewhere in the nation. Perhaps no American city was less ashamed of the class

distinctions that it cultivated, which led a Tulane University anthropologist to conjecture that the exclusion of Jews has historically operated as a normal function of "stable provincial society."<sup>9</sup>

Nonetheless Abraham Lazar (Abe) Shushan and Seymour Weiss served as key figures in the political machine of Huey P. Long, whose demagoguery did not tap into religious or even racial prejudice. Nor did antisemitism impede the aptitude of enterprising Jews in New Orleans for the import business (coffee, bananas), as well as for success in downtown retailing and real estate. Little if any evidence of discrimination has surfaced to mar the reputation of the admissions policies of LSU Law School in Baton Rouge or of Tulane Law School. Even in the 1940s, the city's most prominent law firms would often include a token Jew, preferably one stemming from a family (unlike the Hermans) with long-established roots in the city.<sup>10</sup> (The *yichus* of Judah P. Benjamin, Esq., of Bellechasse, Louisiana, could not be bequeathed to posterity. The "brains of the Confederacy" fled after its defeat, to practice law quite successfully in England. His only child, a daughter, had lived in Paris as early as 1843, and stayed there.) Some attorneys whose antecedents could be traced to nineteenth-century Germany and France (Dreyfous, Steeg, Danziger) were unimpeded in their rise to prominence in the city's bar. So complete was the absorption of this ethnoreligious group in the history of the Crescent City that in 1941 Rabbi Julian Feibelman could not discern "a distinct Jewish community in New Orleans. There is rather a distinct New Orleans culture of which the Jewish community is a part." The city and its Jewish minority were inextricably entwined. They went together, as a local adage has it, like red beans and rice. "Binx" Bolling, the narrator of Walker Percy's National Book Award-winning novel, *The Moviegoer*, is an Underground Man, alienated from his surroundings in New Orleans. No wonder that he feels "more Jewish than the Jews I know. They are more at home than I am."<sup>11</sup>

The Herman brothers did not create a partnership immediately after law school. Instead the pair worked as associates in other firms before creating Herman & Herman in 1947. Its practice was usually in private or civil law (such as real estate law

transactions, wills, and estates). Where there is a will, goes the saying, there is a lawyer to break it. The firm had virtually no criminal practice. The brothers complemented rather than duplicated one another. Dave liked to solve the problems of clients, making the law into a kind of social work. But Harry responded with a humane touch as well. A certain division of labor prevailed. The client who wanted sympathy was advised to go to Harry; whoever wanted to get a difficulty resolved preferred to match up with Dave. It was a matter of emphasis rather than contrast. Harry was more the attentive “people” person, Dave more the detached diagnostician. The waiting room of the offices of Herman & Herman was often packed.<sup>12</sup>

*Jake Herman in front of his furniture store on Magazine Street,  
New Orleans, c. 1950.  
(Courtesy of Shael Herman.)*

Yet, it was Harry Herman who helped found the American Trial Lawyers Association (ATLA),<sup>13</sup> whose ethos is undoubtedly an echo of the fierce colonial political cartoon: "Don't Tread on Me." And it was Dave Herman who became a juvenile court judge, seeing a chance to engage in what his oldest son described as "therapy," as a way of helping those down on their luck. In 1973 Joe Sanders, the chief justice of the Louisiana State Supreme Court, appointed Dave Herman judge ad hoc of the Orleans Parish Juvenile Court. By then Dave had already served twice on the Juvenile Court. But the experience of dealing with troubled families and children left him less idealistic and more embittered. He also tangled with black attorneys, like the flamboyant Lolis Elie,<sup>14</sup> who had helped organize a black boycott of downtown merchants in 1959. Receptive to the participation of the B'nai B'rith in negotiating the process of desegregation, Elie was dissuaded when a Chamber of Commerce representative told him: "Keep those goddamn Jews out of it." The antisemitism that the activist attorney discovered among white leaders was "vicious." Disenchanted with the progress toward racial equality in New Orleans, Elie could not bring himself during the turbulent 1960s to denounce the prospect of "armed rebellion."<sup>15</sup> By the middle of the following decade, Herman & Herman hired its first black law clerk, Ken Carter, whose uncle had hauled furniture for Jake Herman a generation earlier. Herman & Herman gave Ken Carter his first position after graduation from law school, in a state whose bar had managed to reject for admission every black applicant from 1927 until 1947.<sup>16</sup>

Racism proved so endemic that it took the Cuban missile crisis of 1962 to force New Orleans officials to agree to desegregate fallout shelters; the imminence of Armageddon was needed to alter "the southern way of life." Its adherents made racial purity an obsession. State law classified as black a citizen with "any traceable amount" of Negro blood. The region's Jews were less likely to be devoted to racial segregation than were other southern whites, and the Herman family fit comfortably within that generalization. It is worth noting that one of Dave's sons, Mark, cannot recall expressions of racial prejudice within his family (with the partial

exception of his mother Bertha, known as Bea). Herman & Herman welcomed blacks as clients and could arrange for loans when some banks were reluctant to do so.<sup>17</sup> Such gestures did not in themselves demonstrate liberalism; they were also fully consistent with the southern paternalism traditionally bestowed upon favored Negroes. Not that the city's blacks could easily find attorneys of their own race, if firms like Herman & Herman were unsatisfactory; as late as 1952, there were only two, though the general populace was 40 percent black.<sup>18</sup> Herman & Herman probably attracted a Jewish clientele somewhat greater than the proportion of Jewish residents of New Orleans, but the firm drew in as clients the brothers' Italian American and Irish American neighbors as well.<sup>19</sup>

#### *Faith and Fellowship*

Both brothers were Orthodox. They were active members of a synagogue, Congregation Agudath Achim Anshe Sfarad (United Brothers of the Sephardic Rite), which despite its name followed the Lithuanian Hasidic rite. Beginning in 1925 the shul was located in the Dryades Street neighborhood, at 2230 Carondelet Street, about seven blocks from the home where Harry and Dave grew up. They sang in the choir and even served separate terms as presidents of the shul. For a while Dave and Harry belonged not only to Anshe Sfarad but also to Chevra Thilim (the Society of the Psalms), a Galitzianer shul that was first located on 826 Lafayette Street. In 1949 Chevra Thilim relocated to 4429 South Claiborne, about two blocks from the household of Dave and Bea Herman and their children. In 1955 the congregation—one of six synagogues in the city—erupted into a dispute over the introduction of mixed seating. The majority, including the Herman brothers, claimed that “family pews” were consistent with the Orthodox status of the synagogue, which did not have a balcony upstairs for women. No *mehitza* should be permitted to separate the sexes, the majority argued.

The minority disagreed and, to resolve the schism, took the case all the way to the Louisiana Supreme Court. Affidavits were presented from chief rabbi of the British Commonwealth, and

from one of the two chief rabbis of the state of Israel. The verdict of the Louisiana Supreme Court in *Harry Katz et al. v. Gus Singerman et al.* was rendered in 1961 (127 So.2d 515), and smacked down the faction that advocated the segregation of men and women. Even though the charter of Chevra Thilim specified that services were to be conducted as they had been in Poland, the court ruled that Orthodoxy was not inconsistent with mixed seating, in part because no stable definition of the essentials of that branch of Judaism could be agreed upon. The donor of the original building for the shul had not stipulated that there be a *mechitza*, the court noted; and therefore Chevra Thilim was free to provide family pews if it so voted. The faction that sought separation of the congregants by gender was so incensed that the appellants wanted to make a federal case out of it. But in late October 1961, the Supreme Court denied a writ of certiorari (368 U.S. 15). In any event, a new Conservative congregation had already been formed in New Orleans three years earlier for those who wished to escape the turbulence that the lawsuit had generated at Chevra Thilim.<sup>20</sup>

Orthodoxy in the South was not historically as strict as its rabbis would have preferred. In Charleston, South Carolina, in the 1920s, for instance, a congregant of Brith Sholom Beth Israel estimated that as many as 60 percent of the businesses that members of the congregation owned were closed on the Sabbath. But piety alone may not have motivated the merchants, whose best gentile customers worked in the navy yards and the phosphate factories and did not get paid until Saturday night, anyway. Nor were Sunday blue laws widely enforced in Charleston, so that the imperatives of *shomer shabbos* did not directly conflict with the prospects of profitability. Orthodoxy in another southern port city was also indulgent. In New Orleans even those who professed to adhere to religious law did not stigmatize the choice of non-kosher food, or the habit of driving to *daven* on the Sabbath. The municipal moniker was, after all, the Big Easy, and Reform observance was spectacularly lax. It should come as no surprise that the first funeral that Rabbi Feibelman conducted, upon arriving at Temple Sinai in 1936, was of a congregant who died on Yom

Kippur (which coincided that year with the Sabbath). The deceased had not been in shul. That afternoon he had collapsed in the stands of the Sugar Bowl during a Tulane football game.<sup>21</sup>

Culturally and ethnically the Herman brothers felt themselves to be very Jewish. Like others whose ancestry was in eastern rather than in western Europe, the Hermans tended to look inward rather than outward. One visitor to the city observed that the daily lives of the eastern Europeans revolved around Jewish friends, charities, clubs, and organizations. "Their goals and values steer them away from the New Orleans social set," Eli N. Evans commented in 1973. "They resent . . . the aloofness of the German Jews, who seem to imitate the gentiles in their obsession with genealogy." The Hermans were drawn, for instance, to the Young Men's Hebrew Association, which had been founded in New Orleans in 1891 and was located on Clio Street. In 1948 the YMHA relocated to St. Charles Avenue and was renamed the Jewish Community Center. Harry Herman served on the boards of the JCC, the Jewish Federation, and the local chapter of the Zionist Organization of America. Dave Herman eventually served as treasurer of the local Jewish Welfare Fund, joined the board of directors of the local chapter of the Anti-Defamation League, and chaired the New Orleans Committee to Aid Soviet Jewry.<sup>22</sup> The chief civic commitment of the brothers, however, was the Communal Hebrew School, which they attended until becoming *b'nai mitzvah*. Such was the family's allegiance to the school, founded in 1918, that Bea Herman served as the president of its Mothers' Club. Harry served a term as the school's president, and his wife Reba served as its administrator.<sup>23</sup>

A measure of that loyalty was the Hebrew name, Ephraim, bestowed on Fred (born in 1950), one of Harry's sons. The Minsk-born Ephraim Lisitzky served as principal of the Communal Hebrew School, which offered an after-school program designed for pupils who were the same ages as in a heder. A prominent Hebraicist and poet, Lisitzky was well aware of "the insecurity and degradation that marked Hebrew teaching in America." The plight of such *melamdim* was not entirely ignored in New Orleans, where the Herman family showed its appreciation for what



Lisitzky had wrought. One of his pupils, Dave Herman's oldest son Shael (born in 1943), recalled his *moreh* in a poem titled "Eulogy," "teaching for 50 dollars a month/in good times/for nothing in bad ones," a scholar who "spoke with a heavy Polish accent/his voice always sounding like it/came through a cheap tape recorder/he begged softly/always for the sake of your people/your heritage/not to play baseball/when you had lessons."<sup>24</sup> The pupils tended to be children of families from Chevra Thilim and Anshe Sfard, and the education was coeducational. Rosalie Palter Cohen, for example, performed with academic distinction (presumably because baseball did not distract her), and grew up into perhaps the city's leading Zionist. Her father and her uncle happened to be in the furniture business. Shael Herman remembers that about half of his own classmates were female.<sup>25</sup>

He has speculated also that his father and uncle picked up from Lisitzky some sense of legal reasoning and, with his prodding, showed an aptitude for *pilpul*, seeing the Torah as a set of legal codes. One of the Herman brothers' contemporaries, Label Katz, was also a product of the Communal Hebrew School. Katz earned a degree in the law but did not practice it, preferring to invest in real estate. He became international president of the most durable Jewish organization in the United States, the B'nai B'rith, in 1959. In that same year Lisitzky published his autobiography, which is in part dedicated to Katz. No previous president of the organization, founded over a century earlier, had been so learned in Judaism; none before Katz had been capable of speaking fluent Hebrew.<sup>26</sup>

### *The Sons Also Rise*

The family tree that this essay now needs to climb is thick with foliage, if only because, as Charles Lamb once put it, "lawyers, I suppose, were children once." (This conjecture serves as the epigraph that Alabama's Harper Lee selected for her first—and only—novel, *To Kill a Mockingbird*.) Harry Herman and his wife, the former Reba Hoffman, had five children, of whom four became attorneys: Russ, Maury, Shelley, Fred, and Carey. (Shelley Herman Gillon became a city attorney in New Orleans, but then

abandoned the law for the sake of the theater.) In 1940 Dave Herman married Bertha Brainis, who had been born to Russian Jewish immigrants in East Baton Rouge in 1917. College educated, she became a medical technician and nurse. She and Dave Herman had four children: Shael, Mark, Sherril, and Avram, all of whom graduated from law school. (Instead of practicing as an attorney, however, Sherril became a nursery school teacher, first at the Communal Hebrew School, and then at the Isidore Newman School.)<sup>27</sup> Fred Herman suspects that the bar retained its allure not only because of the secure income that the profession could generate, but also because of the spillover effects of the religious respect for “the law of Moses.” “We were taught at an early age, not just us Hermans but also us Jews, to learn the law,” he noted. Nor could the collective memory of marginalization be entirely obliterated. “How do I get around the law that says I cannot work in this place, or get an education in that place?” many a Jew must have wondered. But in America, Fred Herman added, “the law can overcome social, racial and religious discrimination like nowhere else.”<sup>28</sup>

The national dream of civic inclusion has been expressed since the mid-nineteenth century in the form of public education; and the children of Harry and Dave Herman tended to attend public schools. The privileged alternative, the Isidore Newman School, was officially opened in 1904. It was formed to provide manual training for the children of the Jewish Children’s Home of New Orleans, but eventually appealed to the Jewish upper crust; and its scions generated an atmosphere that the Herman family deemed “snobbish.”<sup>29</sup> Primary school desegregation began in the fall of 1960 and instigated a crisis in public education, which Robert Sharenow adroitly evoked in a recent novel, *My Mother the Cheerleader* (2007). One of the white mothers who participated in the boycott was asked on local television how her young son would henceforth be educated. “I’ll learn ‘im myself” was the reply. Home schooling evidently did not provide much of an alternative to the troubles (both academic and racial) that the public school system confronted. Long before its dramatic deterioration, however, Edith Rosenwald Stern had established

the Metairie Park Country Day School, which also attracted well-to-do Jews.

Most of the Herman cousins went on to Tulane University, which despite its reputation as a party school has long attracted an academically serious coterie of undergraduates as well. Thus the student body has ranged from Dekes to geeks. For example, among those entering Tulane in 1960 with Shael Herman was Sander L. Gilman (class of 1963), who became an influential authority on German Jewish intellectual history and in 1995 was elected president of the Modern Language Association. But as late as the 1960s, when the proportion of Jewish undergraduates was probably higher than almost anywhere else in the South, the Tulane curriculum included no course devoted to Jewish history or religion or languages. An entire program in Jewish Studies would come later.

Though historians know Jews to be wanderers susceptible to eviction and more open than other peoples to the prospect of flight, the Herman first cousins—the children of Dave and Harry Herman—demonstrate the opposite tendency. Not only did all the males become lawyers; neither the males nor the females distanced themselves from New Orleans when they went off to college, and all the members of that generation remained in the city after completing their education. Thus the first two generations of native-born Hermans mostly retained their loyalty not only to the law but also to the Crescent City itself. Perhaps that rootedness, that rather fierce allegiance to New Orleans, reflects its own insularity, a characteristic that also includes the city's tiny Jewish community (which has hovered at 1 percent of the population for many decades). In 1953 an estimated 9,100 Jews lived in the city. Even though the average household size was three persons (above replacement level), five years later the figure only rose to 9,500, or about 2 percent of the white population.<sup>30</sup> (Immediately after Hurricane Katrina, the Jewish population dropped to about 7,800, served by nine synagogues, or less than 1 percent of the population of Orleans and Jefferson parishes.) By 1958 three out of every four adult males in the Jewish community fit the categories of professional, proprietor, or manager. One of those self-

employed residents, Jake Herman, passed away in 1956; his widow Gertrude Herman died a decade later. By the 1960s the median family income of New Orleans Jewry had doubled that of the American populace itself.<sup>31</sup> Soon another generation of Hermans would enter the adult ranks of New Orleans Jewry. Space permits mention of only two members of this cohort.

*Pairing Off in the Profession*

The oldest son of Harry and Reba Herman, Russ, graduated from Tulane University in 1963 and from its law school in 1966. He ultimately became a senior partner in the firm of Herman, Herman, Katz & Cotlar. Its other partners have included his brother Maury and Russ's son Stephen, whose wife Karen K. Herman later became a criminal district court judge in the city. After serving as president of the Civil Justice Foundation in 1987 and 1988, Russ Herman became national president of ATLA in 1989. The membership of ATLA consisted of about sixty-five thousand product liability and personal injury lawyers.<sup>32</sup> They are the attorneys who could convince jurors that drug companies neglected to show due diligence in the manufacture of their sometimes lethal products, that the Ford Motor Company had dangerously designed its Pinto, and so forth. That field of specialization has helped provoke controversy over the function of law itself, and whether the representation to which corporations are fully entitled is compatible with the need to honor the ideals of justice. In early 1973, for instance, a sniper named Mark Essex climbed onto the roof of the Downtown Howard Johnson's Hotel in the French Quarter and then proceeded to murder eight persons and wound another seventeen before getting gunned down. Were the operators of the hotel negligent in failing to anticipate that a terrorist could climb the stairs and get onto the roof? Was hotel security sufficient against the threat that an urban guerrilla posed? Russ Herman did not think so, and in six consolidated cases spearheaded a legal team that represented, among others, the parents of a honeymoon couple whom Essex had killed. In the summer of 1975, a jury found the plaintiffs' case persuasive. Total damages were awarded in the high six figures.<sup>33</sup>

*Three generations of Hermans, New Orleans, 1949.*

*Jacob and Gertrude Herman, seated in the center of the middle row, surrounded by their children and grandchildren.*

*Back row, left to right: Rebecca Herman Zuckerman, Robert Mason, Ethel Herman Mason, Reba Hoffman Herman, Harry Herman, Morris Herman, and David Herman. Middle row (l to r): Bess Herman Bavly, Jacob, Gertrude, and Bertha Brainis Herman.*

*Seated in front (l to r): Russ M. Herman, Maury A. Herman, Fay Zuckerman, Shael Herman, and Mark Herman.*

*(Courtesy of Shael Herman.)*

As Jerold Auerbach pointed out in an ambitious social history of the legal profession, personal injury lawyers emerged a century ago in a struggle to level somewhat the playing field that made corporate profits paramount. Without such attorneys, luckless victims of chicanery, carelessness, and heartlessness had no recourse in the courts, which is why the most respectable elements of the bar (and the companies that hired them) vilified personal injury law and deprecated the contingency fees that were necessary to any chance of success in litigation. That very many of the "ambulance chasers" were Jews, whom upper-crust Protestants tended to exclude from the prestigious law firms that served a corporate clientele, only reinforced the stigma that was historically attached to negligence claims.<sup>34</sup> "Representatives of the most ancient race of which we have knowledge [are] coming up to be admitted to the practice of law," one worried attorney warned in 1916. But lacking "the incalculable advantage of having been brought up in the American family life," they "can hardly be taught the ethics of the profession as adequately as we desire."<sup>35</sup> Such sentiments in that era were commonplace.

Even as discrimination against Jewish attorneys eventually vanished, Russ Herman has been in a sense a legatee of that history. He actively resisted Congressional efforts to limit the damages awarded in malpractice suits and the fees that tort attorneys can collect. "It is grossly unfair, under the American system of justice, for professionals, be they lawyers, doctors or others who reap maximum economic and social benefits," Herman told the *New York Times*, "to limit their own responsibility for damages that they cause their innocent patients or clients." Those who practice "medicine ought to be defensive," he added, "as should [members of] every profession."<sup>36</sup> A little over a decade later, he won the ATLA's highest award, as a "champion of justice." Herman has been listed among the nation's top five hundred litigators. In 2007 he served as the lead negotiator for the plaintiffs in reaching a \$4.85 billion settlement with Merck, which such attorneys attacked because of the effects of Vioxx.

The case that generated the greatest national publicity involved the greatest historical damage to public health. The

cigarette as a specimen of mass production and mass consumption is little more than a century old. In the era when Jake and Sam Herman reached the shores of the United States, for example, physicians rarely encountered a patient who suffered from lung cancer. But with the extraordinary popularity of cigarettes, a pandemic resulted, and the correlation has been known to medicine for over half a century. The resultant deaths have been of a magnitude that dwarfs homicides and suicides, plus the terminal illnesses caused by alcohol and HIV and illegal drugs, *combined*.<sup>37</sup> At mid-twentieth century about one in every two Americans smoked. But so obvious are the consequences of such an addiction that at the beginning of the current century only about one in five Americans still smokes. Litigation against the tobacco behemoths forced them to reveal their efforts to mislead the public and to conceal the terrible effects of cigarettes. Lawsuits exposed a record of extraordinary corporate cupidity at the expense of the common good, including consistent and systematic deceit through disinformation campaigns. Among the attorneys bringing such lawsuits was Russ Herman. He achieved a spectacular victory in 2004 when he served as lead trial counsel in a case in Civil District Court in Orleans Parish, and won a jury verdict of \$591 million in *Scott v. American Tobacco, et al.* He also represented class-action plaintiffs in the negotiations that pitted attorneys working on behalf of smokers and states presenting Medicaid-related claims against the tobacco companies.<sup>38</sup>

Such lawsuits honor, at their best, what Edmond Cahn called “the sense of injustice,” the recognition of a wrong, the violation of trust, the denial of dignity, the anger at unfairness due to inequities of power and wealth. Cahn, a New Orleans-born legal theorist with degrees earned entirely at Tulane, achieved fame while teaching jurisprudence at New York University. He acknowledged that “the sense of injustice” can be misapplied and misdirected; “it is finite and fallible.” Nonetheless it also addresses the needs of “the weak [and] the insecure”; and absent the Populism that flourished in the South roughly a century ago to decry the concentrations of political and economic privilege, lawyers like Russ Herman and his partners have increasingly stepped

into the breach. The extreme unlikelihood of a jacquerie has shifted to such attorneys much of the responsibility of challenging the entities listed on the stock exchanges. It cannot be coincidence that the Republican Party has made tort reform, with caps on the damages that juries might award plaintiffs who claim to have been the victims of corporate and professional malfeasance, integral to its agenda. "The Bushes and lawyers have been at odds for years," Herman explained to the *New York Times* in 2000. One year earlier liability lawyers donated \$2,751,862 to the Democrats, and all of \$2,800 to Republicans.<sup>39</sup>

Russ Herman's first cousin Shael has, if anything, carved out an even more remarkable career. He is the only figure in this family history who converted the law from a professional service into a subject of scholarship. He may well have come to the vocation of the law less directly than his brothers and cousins did, due to the formidable versatility that he displayed, first precociously, then persistently. Shael had considered becoming a clarinetist, for example, and in 1957 was studying music at Xavier College, the black Roman Catholic institution, with the clarinetist of the city's opera company. In the next room, he recalled, was Ellis Marsalis, who was about a decade older; he was studying composition. Herman later played in a pickup band with a trumpeter named Wynton Marsalis, and also joined by invitation much older black jazzmen at Preservation Hall in the French Quarter. (In 1961 Allan and Sandra Jaffe, who had transplanted themselves from Pennsylvania, joined local art dealer Larry Borenstein to found Preservation Hall to perpetuate the city's musical legacy, in a building that had once housed slaves.) Herman belonged to a Dixieland band, the New Leviathan Oriental Fox-Trot Orchestra, an annual favorite at the New Orleans Jazz and Heritage Festival. (The orchestra can be heard playing on the soundtrack of Woody Allen's 1994 film, *Bullets over Broadway*.) Herman has played classical clarinet as well. But while remaining a member of the musicians' union, he foresaw no suitable way to make a living at it. The U.S. Census of 2000 vindicated that decision: Louisiana had one of the nation's lowest percentages of employed musicians and other artists.<sup>40</sup>



That reluctant conclusion undoubtedly held for poetry as well. In 1974 the prolific cultural critic Richard Kostelanetz argued that certain literary reputations were much inflated through the politics of critical malpractice, while other, mostly younger writers were unjustly neglected. On Kostelanetz's list of poets suffering such a fate was Shael Herman.<sup>41</sup> The poet Miller Williams concurred. Most famous for having delivered the inaugural poem in 1997, when Bill Clinton took the oath of office, Williams once commented that, despite having coedited a volume titled *Southern Writing in the Sixties*, he was uneasy about connecting "regional" literature to aesthetic judgment. "I don't like to say who the best writers are in the Southeast because that sounds as if you're removing them from competition with writers as a whole," he explained. "When I say, for example, that Shael Herman, who happens to live in New Orleans, is one of the best poets around without a book, I mean in the United States."<sup>42</sup>

That statement is not entirely accurate, because *Offshoots*, with an introduction by Marcus J. Grapes, was privately printed in New Orleans in 1967. Herman's poetry did earn him a slot at the Bread Loaf Writers' Conference in Middlebury, Vermont, five years later. Having earned a master's degree in English at Tulane, with a thesis on Faulkner, Herman might have enjoyed a stellar career as an academic in liberal arts and in literature in particular. While he was still in high school, his poetry had been anthologized; and he had won a scholarship to Tulane because he had earned the highest grades in the city's public schools. But, as though a magnetic needle were directing him, he found his way into the law.<sup>43</sup> He did not define his position within it narrowly, however. It is, after all, a learned profession. In the year that Kostelanetz's book appeared, Herman served as a fellow in the law and humanities at Harvard.

Thus his career somewhat resembles the virtuosity of the Delta planter Will Alexander Percy, the author of *Lanterns on the Levee* (1941) and a cousin (and foster parent) of the future novelist Walker Percy. Will Alexander Percy was an attorney as well as a litterateur, whose *Selected Poems* the firm of Alfred A. Knopf published in 1930. "He took up a legal career only because it was the

expectation for most male Percys," historian Bertram Wyatt-Brown noted; but in fact Will Alexander Percy "intensely disliked legal practice."<sup>44</sup> Nor did he show any scholarly historical curiosity about the intricacies of the law. Here he stood in contrast to Shael Herman, who moreover demonstrated an extraordinary facility for foreign languages (French, Spanish, Portuguese, Italian, German, and Hebrew). Drawing on Latin, Herman worked his way back into Roman and medieval law and then forward into European Union codification. He became the only American member of the European Academy of Private Lawyers, headquartered at Italy's University of Pavia. Herman has taught and lectured widely abroad, and has been a visiting fellow at Wolfson College (Cambridge University) and at the Max-Planck-Institut in Hamburg. In collaboration with a law professor at the Hebrew University of Jerusalem, Herman has published on such subjects as the transition from mandatory law (under British rule) to Israeli law. Herman's collaborator, Gabriela Shalev, later became the Israeli ambassador to the United Nations. Though he was a partner in the New Orleans law firm of Sessions & Fishman from 1981 until 1990, he worked primarily as a law professor, first at Loyola, from 1971 to 1978, and then at Tulane from 1978 to 1981 and 1990 to 2005, where he had earned a J.D. in 1969.

In *A Streetcar Named Desire*, even the vulgarian Stanley Kowalski knows enough to inform his wife Stella that "in the state of Louisiana we have the Napoleonic Code." He interprets it to mean that "what belongs to the wife belongs to the husband and vice versa." Not until 1980, however, did the commonwealth of Louisiana finally abrogate a law that made husbands the "lords and masters" of all property that married couples jointly held. Kowalski may well have misunderstood the Napoleonic Code. But then, as Stella and her sister Blanche speculate, to be Polish is "something like Irish," but perhaps "not so — highbrow."<sup>45</sup>

He would have benefited from the scholarship of Shael Herman. While teaching a variety of subjects in law school, he became a key expositor of the continental influence upon the law in Louisiana, which is unique among the fifty states in its adherence to the Napoleonic Code. However Louisiana's version is much long-

er, he explained, with more than 3,500 articles compared to 2,281 in the French code of the First Empire. Herman specialized in exposing the roots of the civil law within the tradition of the Roman law (as opposed to Anglo-American systems). He also joined in panels that have sought to adapt the code to modern conditions in such fields as family relations, inheritance, and property. He nevertheless asserted its enduring relevance in a world in which many European nations play by the rules that his own historical scholarship has illuminated. Louisiana is therefore linked to Europe in a way that no other part of the United States is. "As long as we're different," Herman explained to the *New York Times*, "we might as well capitalize on it."<sup>46</sup> By 2005, when he retired from Tulane Law School, he was responsible for more than seventy publications in civil and comparative law (in French, Spanish, and German, in addition to English), some on abstruse technical subjects such as prerogative writs. Introducing the *Festschrift* in his honor, Vernon V. Palmer noted not only Herman's "formidable talent for speaking foreign languages" but also the absence of "any outer edge to his intellectual interests."<sup>47</sup> More than other members of his family, Shael Herman enlarged the definition of the law as a learned profession.

#### *The Trauma of Totalitarianism*

In 1965 he wed a Newcomb College graduate (class of 1965), Helen Yomtov. Not surprisingly she is also a lawyer. After earning her J.D. from Loyola, Helen Herman clerked for the chief justice of the Louisiana Supreme Court and then taught at Loyola Law School from 1981 until 1986. From 1989 until 1997 she served as dean of students at Tulane Law School. But Helen Herman's origins link the family that she married into to the most horrible chapter of modern Jewish history, and indeed the most ghastly suffering undergone in the entire duration of the Diaspora. She was born during the Second World War on a farm in Volkach-am-Main, within the system of German labor camps.<sup>48</sup> How her family managed to survive the Holocaust became the subject of her mother's oral history, a master's thesis that Helen Herman transcribed, edited, and submitted to Tulane University in 2002.

The recollections of Ida Tenenbaum Yomtov were preserved on tape, to recount how the German occupiers of Siedlce (about fifty miles east of Warsaw) ordered her and her husband David, along with the town's other Jews, to report at the Umschlagplatz (transfer place) on August 22, 1942. Those who were shot that day were intentionally wounded, so that they would die of the heat, die of thirst, or simply bleed to death. Those who were not shot were less lucky; they were deported to Treblinka. But the Yomtovs, who had been married in 1940, and who lost their parents to the Final Solution, went into hiding rather than report at the Umschlagplatz. They also made an astonishingly counterintuitive decision, which was to flee to the west, to enter the Third Reich itself, and with false papers to try to pass as Polish laborers whom Nazi Germany needed for its war effort.<sup>49</sup> They managed to pass as "Aryans." Born into an assimilated family, Ida Tenenbaum had been educated in Polish schools, and her fair complexion undoubtedly saved her life. David looked more "Jewish" but still somehow managed to pass. The couple worked for the next two years on a farm and in a flour mill in Obervolkach, alongside Russians, other Poles, and French prisoners of war.

The Yomtovs slept in a hayloft. When their daughter was born in 1943, Ida and David knew that their child would not survive unless she was given over to a German couple, the Hoffmans. They could take care of her in a nearby village. After the Allied invasion of Western Europe, civilian morale as well as military discipline in the Reich began to collapse. In the chaos the Yomtovs were able to recover their infant daughter and flee from the farm.<sup>50</sup> After V-E Day (May 8, 1945), they became displaced persons. A son, Bernie, was born in 1946. In Frankfurt David learned of changes that the United States Congress was making to loosen up immigration law, and in 1949 HIAS (Hebrew Immigrant Aid Society) placed the family on the list to come to the United States. When they learned that they were to get visas, "we were dumbfounded," Ida Yomtov recalled. "If you had told us that the sky was falling, that a hundred pounds of gold were to fall at our feet, we would have believed it as much."<sup>51</sup> Sometimes the law can work in favor of refugees and displaced persons.

But what happens when the rule of law is utterly absent, when procedural niceties are defied, and when justice is merely — to quote the cynical Thrasymachus in *The Republic* — “the interest of the stronger”?<sup>52</sup> The logical terminus of lawlessness is called totalitarianism, which took the form of both left and right in roughly the middle of the twentieth century. Both versions afflicted the Herman family.

Any historical assessment of the faith that Jews placed in the opportunity and the comfort of American society needs to be weighed against the totalitarian alternatives that emerged in the twentieth century. For example, the memoirs and personal histories of the Stalinist terror in the Soviet Union during the 1930s and 1940s, produced in increasing numbers, provide conclusive evidence that the Gulag Archipelago stands beside the Holocaust in scale of cruelty and death, in barbaric assault upon the human status. Totalitarianism serves as the very definition of utter lawlessness, of gangsterism in power. Stalin’s rule was twice as long as Hitler’s; the numbers of those sentenced to death through torture, starvation, slave labor and anonymous murder were far larger in the USSR than in Nazi-dominated Europe. Both dictators made no distinction in terms of their victims. Hitler murdered millions of non-Jews aside from those killed in the course of military action in the Second World War, and many Jews were among the millions herded into the camps that the Soviet Union established after the Bolshevik Revolution, a system consolidated under Stalin.

One of those Jews was Victor Herman, an American whose father Sam settled in Michigan amid the mass migration from tsarist oppression at the turn of the twentieth century. Such flight from what Lenin had called “the prison of nations” was typical. Born in Detroit in 1915, Victor Herman enjoyed a pleasant if not idyllic boyhood. Sam Herman (Jake’s brother) was a Communist committed to the union movement, a political profile that was far from bizarre among the impoverished Jewish immigrants of that generation. He became unemployed at the outset of the Great Depression, however; and in 1931 the family moved to the Soviet Union. There, in the “workers’ paradise,” joblessness did not

officially exist; and the Ford Motor Company agreed to build a factory there. The Hermans lived in the American village of Gorky, believing that they could help construct socialism with the technical skills that they had learned in the West. Although Victor's formal education had ceased after Detroit, he trained himself as a marksman and athlete, and he achieved celebrity for a parachute jump that set a world's record. Feted at the Kremlin, he became known as "the Lindbergh of Russia." Victor Herman's father, still devoted to the Soviet dream despite the purges, converted the family's passport to a Soviet document. Victor remembered protesting this decision. But he was under age and thus lost his American citizenship.<sup>53</sup>

The next eighteen years proved horrifying. In 1937, the Soviet regime extinguished the American village and arrested Victor without explanation. His first day in Gorky Prison hit him hard and constituted a searing violation of his identity and dignity. The rest of his term there was typical of the experience of many in the Soviet Union. Daily he crouched in loathsome filth in isolated silence and endured an interrogator's vicious beatings every night, on top of the dangers of disease amid air almost too foul to breathe. Yet, however terrible this ordeal was, his fate darkened with a standard ten-year sentence as a *zek* (prisoner) in the labor camps to the north. To work in the Kolyma camps, in northeast Siberia, for example, meant that, with temperatures dropping to a negative 50 degrees Celsius, the *zeks* worked sixteen hours a day, using pickaxes to chip off gold ore, hauling it in wheelbarrows. The prisoners had to sustain themselves on a diet of 400 grams of bread, a slice of salty herring, and what passed for soup. Those who collapsed and died were readily replaced by others, who became walking skeletons, plagued by pellagra or bloody diarrhea, with their frostbitten fingers and toes oozing pus and blood.<sup>54</sup>

What Victor Herman managed to endure resists comprehension. As a "political," he was assigned the most arduous physical labor. Often from five in the morning until nearly midnight, seven days a week, he felled trees, hauled logs, and dug in phosphorus mines. Nature was remorseless: swarms of bedbugs prevented

sleep, and nighttime temperatures dropped well below zero. But representatives of our species were worse: guards tortured him in the “isolator,” and sadistic criminals ruled in the bunks, mutilating and murdering their fellow prisoners with whimsical abandon. “Spies, traitors, counter-revolutionaries, Jews, professors—they are all alike,” one criminal warned Herman. “We give them hell.” Most oppressive was the incessant, unrelieved hunger. A potato was a luxury; sometimes “soup” was ladled directly into his cupped hands because no bowls existed. One *zek* bit off another’s lip to snatch a smear of food. Herman ate tree slugs and devoured huge rats that thrived on the human carcasses dumped in the outhouse. Perhaps only the concentration camps and the extermination camps of the Third Reich offer comparable instances of the debasement below which human existence is not known to sink. Yet somehow Victor Herman lived. The most fiendish of the camps to which he was sent was considered an extermination camp, because no one was expected to fulfill the work assignments. Eighteen *zeks* were once sent into the marshland to collect wood; only Herman returned.<sup>55</sup>

The desolation and degradation of the Gulag Archipelago did not crush his rage or his will to prevail. The miracle of his resilience certainly stemmed in part from his athlete’s body. His canny intelligence also improved his chances—but the opportunity to exercise his mind was limited in the frozen wastes. Without firm political beliefs, he was uninspired by hopes for a world in which such tyranny would be unknown. The other *zeks* did not express ideals of fraternity. Herman’s Jewish knowledge and awareness were thin. He was apparently not animated by any belief in God’s ultimate mercy, nor was there any reason to harbor such a faith. Rarely has the social texture of camp life been depicted so bleakly as in his haunting memoir, *Coming Out of the Ice: An Unexpected Life* (1979), which mentions no solidarity among his fellow Jews. However mystifying and implausible his survival, it helps validate the theory that Terrence Des Pres advanced in *Survivors: An Anatomy of Life in the Death Camps* that an elemental, biological drive characterized those prisoners who outlasted everything that torment and hatred could contrive.

*Front and back book jacket  
of Victor Herman's book*

*Back jacket pictures include top, Herman with his two daughters reunited in the U.S. in 1976. Middle left, Herman with his wife, Galina, in 1949. Middle, right: a few weeks after Herman's release from hard labor camp. Bottom: Herman teaching parachute jumping in Russia in 1936.*

Released in 1948, Victor Herman was sentenced—again without any official explanation—to exile in Siberia. There he met his wife Galina, with whom he shared the joy of raising two daughters. But the NKVD intensified the anguish of exile by forcing the family to live in the forests, in near isolation. One idea sustained him: *America*—the memory of it, the promise of it. In 1955 a Moscow military tribunal informed him that “no case exists,” that Herman’s eighteen years in the region of ice had not



been based on verifiable charges. The lawlessness of the Stalinist system could not have been more evident; “justice” was indeed the interest of the stronger. The family was permitted to leave Siberia and live in Kishinev, the Moldavian city where a notorious pogrom had erupted in 1903.<sup>56</sup> (A century ago, the massacre of about four dozen Jews could arouse what was then called the “conscience” of humanity.) Herman managed to contact his first cousin to initiate the process of repatriation, by writing a letter to him. The envelope was addressed to “Dave Herman, New Orleans.” No street address was provided, though the addressee might have been identified as an attorney (“Esquire”). Memories have faded. But despite such meager information, the post office delivered the letter. Suddenly, by belonging to a family whose New Orleans branch practiced law, Victor Herman had some hope of enjoying what the political philosopher Hannah Arendt called “the right to have rights.”<sup>57</sup>

Dave Herman visited his first cousin in Moscow in 1968. When they hugged one another, the former *zek* recalled: “I wept, calling up tears and feelings that I did not believe were still in me.”<sup>58</sup> Thus was inaugurated the process by which he might dare to dream of returning to his native land. Not long thereafter he was working in Kishinev as a translator when Shael and Helen Herman, visiting on an Intourist tour, managed to meet him in Kiev in the Ukraine—from which the family had fled to America at the dawn of the century. Bureaucratic obstacles were exceptionally difficult to overcome. But in 1976 Victor Herman succeeded in returning to Michigan, where his sister Rebecca was still living. He stayed for nearly a month in the New Orleans home of Shael and Helen Herman, when their younger daughter, Dara, was three years old. (When Dara Herman became a mother, her memories of him were fond enough to name her daughter Vivian, partly for Victor Herman.) Fifteen months after his return to Michigan, his daughters rejoined him, and soon thereafter his wife. He later coauthored a study of the Soviet Union, where he had lived for forty-five years. But within two years of repatriation, so easily had he adapted to national habits that he filed a lawsuit against the Ford Motor Company. Herman asked for \$10 million

*Shael and Helen Herman with their two daughters, 1989, New Orleans.  
Seated to the left of her father is Dara Yomtov Herman, age 16.  
Jordana Leigh Herman, age 20, is standing to the left of her mother.  
(Courtesy of Shael Herman. Photograph by Matt Anderson.)*

in damages, for having abandoned him in Gorky. The lawsuit was unsuccessful, and he died in 1985, at the age of sixty-nine.<sup>59</sup> In 1996 CBS adapted *Coming Out of the Ice* into a made-for-TV film, starring John Savage as Victor Herman. The cast also included Ben Cross and Willie Nelson.

If the Jewish experience of dislocation, estrangement, and disaster constitutes a microcosm of the modern condition itself, a special place should be accorded to the testimony of Victor Herman and to the oral history of Ida Yomtov. Too many cries in the night have been muffled for their voices not to be heard—a duty

that historians are equipped to assume. The primary sources that Victor Herman and Ida Yomtov provide also echo the particularly Jewish fear that the sociologist Daniel Bell traced to the ancient world, where the Israelites had tasted the bitterness of the Babylonian exile and the Assyrian conquest: without *halacha* or law, passions are unleashed that can turn humanity into predatory animals.<sup>60</sup> Law can thus mean more than assure its practitioners economic comfort and social status. Law can also fortify a bit the very fragile membranes of civilization. The New Orleans branch of the Herman family lived secure and peaceful middle-class lives, under the rule of law. Opportunity entailed blessings. Such good fortune should not, however, allow a question to be dodged that Keats posed in one of his last letters, before tuberculosis felled him at the age of twenty-five. "Is there another Life?" he wondered. "There must be," he concluded, because "we cannot be created for this sort of suffering."<sup>61</sup>

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## NOTES

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<sup>1</sup> Jerold S. Auerbach, *Rabbis and Lawyers: The Journey from Torah to Constitution* (Bloomington, IN, 1990), ix.

<sup>2</sup> Quoted in William H. Honan, "Roman L. Hruska Dies at 94; Leading Senate Conservative," *New York Times*, April 27, 1999; Norman Mailer, *The Armies of the Night: History as a Novel, the Novel as History* (New York, 1968), 236.

<sup>3</sup> Leonard Reissman, *Profile of a Community: A Sociological Study of the New Orleans Jewish Community* (New Orleans, 1958), 28; Kent B. Germany, *New Orleans After the Promises: Poverty, Citizenship, and the Search for the Great Society* (Athens, GA, 2007), 22.

<sup>4</sup> A. J. Liebling, *The Earl of Louisiana* (New York, 1961), 68; S. Frederick Starr, *New Orleans Unmasked* (New Orleans, 1985), 42-43.

<sup>5</sup> Fifteenth Census of the United States, 1930, Orleans Parish, Louisiana.

<sup>6</sup> M. Shael and Helen Y. Herman, interview conducted by author, August 19, 2009; Shael Herman, Brookline, MA, e-mail to author, October 26, 2009.

<sup>7</sup> Jane W. Ravid, Newton, MA, e-mail to author, December 26, 2009; Lawrence N. Powell, *Troubled Memory: Anne Levy, the Holocaust, and David Duke's Louisiana* (Chapel Hill, 2000), 435.

<sup>8</sup> Eric Norden, "Interview: Saul Alinsky," *Playboy*, March 1972, 64.

<sup>9</sup> Quoted in Eli N. Evans, *The Provincials: A Personal History of Jews in the South* (New York, 1973), 229–230, 231; Starr, *New Orleans Unmasked*, 135, 153, 157.

<sup>10</sup> Shael and Helen Herman interview, August 19, 2009.

<sup>11</sup> Julian B. Feibelman, *A Social and Economic Study of the New Orleans Jewish Community* (Philadelphia, 1941), 134; Powell, *Troubled Memory*, 367; Walker Percy, *The Moviegoer* (New York, 1967), 88–89.

<sup>12</sup> Shael and Helen Herman interview, August 19, 2009.

<sup>13</sup> Hon. Lindy Boggs, "Harry and David L. Herman Honored in New Orleans," *Congressional Record*, 129 (January 31, 1983), n.p.).

<sup>14</sup> Shael and Helen Herman interview, August 19, 2009.

<sup>15</sup> Quoted in Kim Lacy Rogers, *Righteous Lives: Narratives of the New Orleans Civil Rights Movement* (New York, 1993), 89–90; Shael and Helen Herman interview, August 19, 2009; Robert Penn Warren, *Who Speaks for the Negro?* (New York, 1966), 32.

<sup>16</sup> Jerold S. Auerbach, *Unequal Justice: Lawyers and Social Change in Modern America* (New York, 1976), 266.

<sup>17</sup> Alice L. George, *Awaiting Armageddon: How Americans Faced the Cuban Missile Crisis* (Chapel Hill, 2003), 70; Germany, *New Orleans After the Promises*, 4; Shael and Helen Herman interview, August 19, 2009.

<sup>18</sup> Warren, *Who Speaks for the Negro?*, 41; Powell, *Troubled Memory*, 371.

<sup>19</sup> M. Shael and Helen Herman, interview conducted by author, August 14, 2009.

<sup>20</sup> *Ibid*; Shael Herman, e-mail, October 26, 2009; Irwin Lachoff and Catherine C. Kahn, *The Jewish Community of New Orleans* (Charleston, SC, 2005), 8, 72, 123; Irwin Lachoff, New Orleans, e-mail to author, January 7, 2010; Kent Greenawalt, "Hands Off!: Civil Court Involvement in Conflicts Over Religious Property," *Columbia Law Review*, 98 (December 1998), 1890–1892.

<sup>21</sup> Jeffrey S. Gurock, *Orthodoxy in Charleston: Brith Sholom Beth Israel and American Jewish History* (Charleston, SC, 2004), 24–25; Julian B. Feibelman, *The Making of a Rabbi* (New York, 1980), 324.

<sup>22</sup> Evans, *Provincials*, 239; Shael and Helen Herman interview, August 14, 2009; Boggs, "Harry and David L. Herman," *Congressional Record*, n.p.

<sup>23</sup> Fred Herman, interview conducted by author, October 30, 2009.

<sup>24</sup> Ephraim E. Lisitzky, *In the Grip of Cross-Currents*, trans. Moshe Kohn and Jacob Sloan (New York, 1959), 294; Shuly Rubin Schwartz, "The Loneliness of the Long-Distance Hebraist: The Life and Dreams of Aron Shimon Shpall," *American Jewish Archives Journal*, 61, 2

(2009), 132, 133-134; Shael Herman, *Offshoots* (New Orleans, 1967), 42, 43; Lachoff and Kahn, *Jewish Community of New Orleans*, 68, 109.

<sup>25</sup> Larry A. Neuman, "The History of Zionism in New Orleans: Its Emergence and Its Development until 1948," unpublished paper, 1964, 2-3 (copy in possession of author); Ravid to author, December 26, 2009; Bobbie Malone, "Ruth and Rosalie: Two Tales of Jewish New Orleans," *Southern Jewish History*, 1 (1998), 123, 127, 128-129, 131; Alice Yelen, "Cohen, Rosalie (b. 1910)," in *Jewish Women in America: An Historical Encyclopedia*, ed. Paula E. Hyman and Deborah Dash Moore (New York, 1997), I, 249-5; Shael and Helen Herman interview, August 14, 2009.

<sup>26</sup> Lisitzky, *Grip of Cross-Currents*, v; Deborah Dash Moore, *B'nai B'rith and the Challenge of Ethnic Leadership* (Albany, NY, 1981), 240-241.

<sup>27</sup> "Bea Herman, Jewish Community Leader and Fundraiser," obituary, in e-mail from Adam Herman, Ann Arbor, MI, to author, February 9, 2004; Fred Herman, New Orleans, e-mail to author, December 28, 2009; Shael Herman, Brookline, MA, e-mail to author, January 4, 2010.

<sup>28</sup> Fred Herman, e-mail.

<sup>29</sup> Shael and Helen Herman interview, August 19, 2009.

<sup>30</sup> Reissman, *Profile of a Community*, 11, 12, 19.

<sup>31</sup> *Ibid.*, 21, 22-23; Fred Herman, e-mail.

<sup>32</sup> Barry Meier, "Lawyers Work to Publicize Risks in Household Products," *New York Times*, October 14, 1989, 31.

<sup>33</sup> Gordon Gsell, "Defense Begins in Sniper Suit," *New Orleans Time-Picayune*, June 17, 1975; Gsell, "Howard Johnson Suit Defense Is Concluded," *New Orleans Time-Picayune*, June 18, 1975; "Jury Will Get Sniper Damage Suits Today," *New Orleans Time-Picayune*, June 19, 1975; Gsell, "Defendants Liable in Hotel Case," *New Orleans Time-Picayune*, June 20, 1975; Gsell, "Sniper Victims' Parents Testify," *New Orleans Time-Picayune*, June 25, 1975; Gsell, "Closing Arguments Heard in 6 Howard Johnson Suits," *New Orleans Time-Picayune*, June 17, 1975; "\$275,000 Awarded to Sniper's Victims," *New York Times*, July 3, 1975.

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<sup>35</sup> Quoted in *ibid.*, 100.

<sup>36</sup> Quoted in Martin Tolchin, "Concern Over the Costs of Malpractice Liability," *New York Times*, November 5, 1989.

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<sup>38</sup> Barry Meier, "Record Legal Fees Loom as Major Issue in Tobacco Deal," *New York Times*, June 23, 1997.

<sup>39</sup> Edmond Cahn, "The Consumers of Injustice" (1959), in *The World of Law*, ed. Ephraim London (New York, 1960), II, 585-590; Leslie Wayne, "Trial Lawyers Pour Money Into Democrats' Chests," *New York Times*, March 23, 2000.

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<sup>42</sup> Louis Gallo, "Interview: Miller Williams," *Books: A New Orleans Review*, 1 (April 11, 1974), 2-3.

<sup>43</sup> Janice E. Russo, "Lad of Many Talents Chooses Legal Profession as Career," *New Orleans Times-Picayune*, November 21, 1960.

<sup>44</sup> Bertram Wyatt-Brown, *The House of Percy: Honor, Melancholy, and Imagination in a Southern Family* (New York, 1994), 203, 260.

<sup>45</sup> Tennessee Williams, *A Streetcar Named Desire* (New York, 1947), 23, 34-35; Lis Wiehl, "Louisiana Begins to Slip Its Legal Ties to France," *New York Times*, October 13, 1989.

<sup>46</sup> Wiehl, "Louisiana Begins to Slip Its Legal Ties"; Shael Herman, *The Louisiana Civil Code: A European Legacy for the United States* (New Orleans, 1993), 2-3, 20-21.

<sup>47</sup> Vernon Valentine Palmer, ed., Foreword to *Companions and Crossroads: Essays in Honor of Shael Herman*, in *The Tulane European and Civil Law Forum*, 21 (2006), i.

<sup>48</sup> Helen Yomtov Herman, Introduction, "The Worst of Times: Recollections of a Polish-Jewish Survivor" (Master's thesis, Department of History, Tulane University, 2002), 2.

<sup>49</sup> Herman, "Worst of Times," 20-21, 22.

<sup>50</sup> *Ibid.*, 24-25, 30-31.

<sup>51</sup> *Ibid.*, 280.

<sup>52</sup> Plato, *The Republic*, ed. and trans. Francis MacDonald Cornford (New York, 1945), 18, 19.

<sup>53</sup> Victor Herman, *Coming Out of the Ice: An Unexpected Life* (New York, 1979), 6-77 passim; Walter H. Waggoner, "Victor Herman, Exile in Soviet," *New York Times*, March 29, 1985.

<sup>54</sup> Herman, *Coming Out of the Ice*, 105-140 passim; Leon Aron, "The Problematic Pages," *New Republic*, September 24, 2008, 37.

<sup>55</sup> Herman, *Coming Out of the Ice*, 143-287 passim; "From Russia and Rats," *New Orleans States-Item*, May 23, 1977.

<sup>56</sup> Herman, *Coming Out of the Ice*, 293-338 passim.

<sup>57</sup> *Ibid.*, 345-346; Hannah Arendt, *The Origins of Totalitarianism* (New York, 1951), 296.

<sup>58</sup> Herman, *Coming Out of the Ice*, 347.

<sup>59</sup> Shael and Helen Herman interview, August 19, 2009; Lena Williams, "A Former American Exile Awaits Daughters' Arrival from Russia," *New York Times*, May 29, 1977; Frank J. Prial, "Ex-Soviet Worker is Rebuffed," *New York Times*, June 14, 1978; Waggoner, "Victor Herman."

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<sup>61</sup> John Keats to Charles Brown, September 28, 1820, in *The Selected Letters of John Keats*, ed. Lionel Trilling (New York, 1951), 275.