

With All
Deliberate
Speed

With All Deliberate Speed

The Life of Philip Elman
An Oral History Memoir

by Norman I. Silber

*In Mr. Elman's words, based on
interviews at the Columbia University
Oral History Research Office*

The University of Michigan Press
Ann Arbor

Copyright © by the University of Michigan 2004

All rights reserved

Published in the United States of America by

The University of Michigan Press

Manufactured in the United States of America

© Printed on acid-free paper

2007 2006 2005 2004 4 3 2 1

No part of this publication may be reproduced, stored in a retrieval system,
or transmitted in any form or by any means, electronic, mechanical, or otherwise,
without the written permission of the publisher.

A CIP catalog record for this book is available from the British Library.

Library of Congress Cataloging-in-Publication Data

Silber, Norman Isaac.

With all deliberate speed : the life of Philip Elman : an oral
history memoir / Norman I. Silber.

p. cm.

Includes index.

ISBN 0-472-11425-5 (cloth : alk. paper)

1. Elman, Philip. 2. Government attorneys—United States—
Biography. 3. Lawyers—United States—Biography. 4. United States.
Solicitor General—Officials and employees—Biography. 5. Civil
rights—United States—History. I. Title.

KF373.E455A3 2004

340'.092—dc22

2004000619

For Nancy Aleinikoff Silber

ACKNOWLEDGMENTS

This project began more than twenty years ago and could not have been concluded without the kind help of many people. For their help and advice I thank Eugene Aleinikoff, Eric Freedman, Monroe Freedman, Lawrence Latto, Richard Posner, Eliana and Pasia Schonberg, Jeffrey Silber, Ronald Silverman, Roy Simon, and Robert Wald. A special debt is due Fran Layton and Ann Webster, formerly of the Wald, Harkrader firm, who first approached me with the idea of doing an interview series. Ronald Grele, Mary Marshall Clark, and Elizabeth Mason of the Columbia Oral History Research Office supported my efforts unflinchingly. Columbia University graciously permitted use of the portions of the original interviews that are reproduced here.

Ella, Tony, and Pete Elman spoke with me about Phil. Ella helped me to find material and persons who would be informative, and she encouraged my efforts to get the oral history into print. More than that, she helped me to better understand Phil. Most of the photos and papers that accompany the text come courtesy of Ella's personal collection.

Students in my legal history classes at Hofstra University School of Law offered interesting viewpoints that improved the manuscript. Research librarians at the law school, including Dominick Grillo, Patricia Kasting, Cindy Leigh, Connie Lenz, and Lisa Spar, responded generously to sometimes arduous requests. I thank Gary Moore, Nancy Grasser, Michelle Tumsuden, and student research assistants, for helping to put the manuscript into shape. I thank the Hofstra University School of Law for a research leave and other generous support. Phil Pochoda, Jim Reische, and the entire University of Michigan Press have treated the manuscript with sensitivity and care.

Hempstead, New York

NOTE TO THE READER

This book is written in the form of an autobiographical memoir: a subjective, hopefully informative and entertaining account that presents an unusual view of people, law, and legal institutions. It is in Philip Elman's first-person voice because it developed out of oral history interviews I conducted with Mr. Elman, and from our correspondence and conversations in later years.

The original interviews were conducted at the Columbia University Oral History Research Office during 1983 and 1984, so that references to the current occupations of people, or to the events of "today," refer to the period between July 1983 and June 1984. Columbia University holds the copyright in the interviews and has permitted me to use those portions of the interviews that are presented here. A discussion of the interviews and the evolution of the form of this manuscript is contained in the concluding chapter.

Each chapter contains a narration by Phil, followed by a commentary that combines interpretation with a glossary and references. The entries appear in roughly the same order in which Phil discusses the subjects to which the commentary refers. The entries are designed to be browsed or read after each chapter's narrative. Readers can consult the index at the back of the book at any time to locate people, subjects, or cases of interest.