

HERBERT JOSEPH HARTZOG

By Samuel H. Goodman

Herbert Joseph Hartzog, a distinguished member of the Bar of Northampton County for more than a half-century (1907-1958), died on December 26, 1958 at the age of seventy-seven years.

Mr. Hartzog was born November 3, 1881, the son of the late Israel T. and Martha C. (Welker) Hartzog, of Topton, Berks County, Pennsylvania. He was educated in the South Bethlehem High School, Bethlehem Preparatory School, Lehigh University (BA, cum laude, 1904), and the University of Pennsylvania Law School (LLB, 1907).

Mr. Hartzog began his practice in association with the late Judge J. Davis Brodhead. Shortly after admission he was recognized as a leader among his contemporaries at the Bar. Most of us remember him as a civil practitioner, representing important banking and business interests and handling the estates of many prominent families. Yet, in his early years, he was active in the criminal courts, serving as chief defense counsel in the notorious Moline murder case which attracted state-wide attention.

Although he never sought elective office, Mr. Hartzog early in his career was solicitor for the school districts of the boroughs of South Bethlehem, Northampton Heights, and Fountain Hill. With the consolidation of the boroughs into the City of Bethlehem in 1917, he became the solicitor of the newly-created City school district, serving in that capacity for a period of thirty-four years. He handled many cases of first impression which are now landmarks in the field of school law. Among these cases was Brown Case, a cause celebre, involving the discharge of a married dental hygienist of the school district on the ground of "incompetency" after she became pregnant. Mr. Hartzog persuaded our appellate courts that the discharge was lawful and proper. The teachers' association represented by a former chief justice of Pennsylvania intervened in the litigation and sought review by the Supreme Court of the United States on constitutional grounds. Although that august tribunal refused certiorari, the following dissenting opinion appeared in the "Talk of the Town" column of the June 12, 1943 issue of *The New Yorker* magazine:

"We disagree with the Pennsylvania State Supreme

Court, which has decided that a teacher may be dismissed as incompetent when she has a baby. Teachers, it seems to us, owe it to themselves and to their pupils to have babies at any time, thus giving expression to their passionate and creative natures. A good many of the dead spots in elementary education are caused by the unfertilized female, who brings on a drought in her classroom comparable to her own inward dryness. Not all spinsters are tense and stuffy, but a lot of them are, and the teaching in the lower grades shows it. Mrs. Brown, the mother in the Bethlehem Baby Case, was dismissed as "incompetent". A parent ourself, we resent the notion that incompetency begins with parenthood. The opposite is nearer the truth. Our own competency dates from the birth of our child; from that day forth we have been able to handle whatever came along and to instruct anybody in any subject, easily and competently."

Mr. Hartzog was active in the affairs of his community. He rendered long service to St. Luke's Hospital as a trustee since 1933 and as president of its board. He was a trustee, vice president, and later president of the board of the Moravian Seminary and College for Women; president of the Bethlehem Rotary Club; a member of the Board of Benchers of Northampton County for many years, and president of our Bar Association; a director of the Visiting Nurse Association, Bethlehem Community Chest, Y.W.C.A., Lehigh Valley Blue Cross, Union Bank and Trust Company of Bethlehem, and Saucon Valley Country Club. He was devoted to his alma mater, having been president of the Lehigh University Alumni Association and president of the Chapter House Association of his college fraternity. He was a devout member, vestryman and treasurer of the Cathedral Church of the Nativity.

Mr. Hartzog exemplified the highest traditions of our profession. Primarily a legal scholar, he was a prodigious worker and had the art of apt expression. He was a polished gentleman, charming in manner, engaging in conversation, and steadfast in his ethics and ideals. He enjoyed a warm family hearth with his personable wife, the former Ada F. Worsley, two married daughters, Mrs. Richard Wengren, of Wellesley, Massachusetts, and Mrs. John P. Wiener, of Sarasota, Florida, and six grandchildren, all of whom survived him.

In his passing, this Bar, the community and his family have suffered an irreparable loss.