

## Center for Judicial Accountability, Inc. (CJA)

---

**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Friday, April 26, 2019 10:21 AM  
**To:** 'jfucillo@nysba.org'  
**Subject:** "A Lesson of History" -- NYSBA President Elect Greenberg's speech, on April 18, 2019, at the 55th Charles Evans Hughes Lecture

**TO: Joan Fucillo, New York State Bar Association/Senior Messaging and Communications Specialist**

This follows up my voice mail message, left moments ago, regarding your piece "*A Lesson of History*" about New York State Bar Association President-Elect Hank Greenberg's speech on April 18, 2019 at the 55<sup>th</sup> Charles Evans Hughes Lecture, held at the New York County Lawyers Association: [https://www.nysba.org/News/A Lesson of History/](https://www.nysba.org/News/A_Lesson_of_History/).

I do not see any link to the speech itself – or to any video. Kindly advise where these may be found.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewatch.org](http://www.judgewatch.org)  
914-421-1200

# A Lesson of History

By Joan Fucillo

*"Is it not clear that the Government cannot be saved at the cost of its own principles?" - Charles Evans Hughes*

One of the darkest days in the history of the New York State Legislature was the catalyst for a lively and informative address, delivered to a packed house by NYSBA President-elect Hank Greenberg, in defense of the rule of law and the role of bar associations in protecting it.

The occasion was the 55th Charles Evans Hughes Lecture, held at the New York County Lawyers Association (NYCLA) headquarters in New York City on April 18. The history lesson concerned five state Assemblymen elected in 1919 on the Socialist party line, and the State Assembly's refusal to seat them when the Legislature came into session on January 7, 1920. Assembly Speaker Thaddeus Sweet claimed that, as Socialists, the men were committed to the overthrow of the government. He called for a trial and an immediate voice vote on his resolution.

Most Assembly members did not dare speak up. It was the height of the post-World War I "Red Scare" that was gripping a nation experiencing unemployment, inflation and a series of violent strikes. Scapegoating anarchists, communists and radical leftists - mainly foreigners - was a political calculation made in the name of patriotism.

The opposition was mobilized by Charles Evans Hughes, then president of NYCLA and a past president of NYSBA. In 1920, Hughes had already been New York governor, an Associate Justice of the U.S. Supreme Court and a presidential candidate and was one of the most respected lawyers in the country. Appalled by the Assembly's actions and the reluctance of anyone in state government to right this wrong, Hughes saw it as his duty to lead the charge against this grave affront to the rule of law. Within 48 hours, Hughes wrote an open letter to Sweet condemning the Assembly's actions. The letter sent shockwaves across the state and inspired the organized bar to take action.

There were heated debates - Sweet had many allies at the bar - but the Bar of the City of New York condemned the Assembly's action as "un-American." The City Bar resolution, passed on January 13, stated in part that excluding the Socialists from the Legislature, "if successful, must destroy the rights of minorities and the very foundations of representative government."

NYSBA at its Annual Meeting supported the view that the Assembly acted inappropriately and during the floor debate Hughes called the Assembly's actions Bolshevistic. The actions of the bar associations made front page news across the country.

The Assembly held a "trial" of the five Socialists. Hughes came armed with a petition signed by some of the most prominent lawyers in New York. When he marched to the front of the packed room demanding to be heard, he was refused the floor and barred from participation. Hughes nevertheless circulated the petition and the scandal continued to shock the conscience of the nation.

The trial lasted 21 days; the Socialists lost. The governor called a special election for the seats, and the Socialists won - but when the Socialists presented themselves to be seated, the Assembly voted to expel three of them and the remaining two resigned in solidarity.

Individuals lost the day, but the rule of law won. As Greenberg has put it, "Hughes and his allies took a pin to the balloon of the red scare."

"There is nothing new under the sun," Greenberg has noted. "People unhappy with their lives will look for scapegoats, usually those seen as 'the other.'"

Hughes's courage and leadership has informed Greenberg's deeply held beliefs about the role and the power of bar associations. What is most important, "is taking a principled stand, even on controversial issues. If an issue goes to the essence of our constitutional democracy, the organized bar needs to come forward. It takes courage. In 1920, no one in that fight was thinking 'will this be good for the organized bar?'

"In times of crisis, we need to seize the opportunity to influence public events on such fundamental issues as American governance, democracy and the rule of law. We have made a difference. We can make a difference."



One Elk Street, Albany , NY 12207

**Phone:** 518-463-3200 **Secure Fax:** 518.463.5993