

## In Memoriam: Everett F. Goldberg

Michael J. Kelly

Garrett Power

David S. Bogen

Thomas E. Plank

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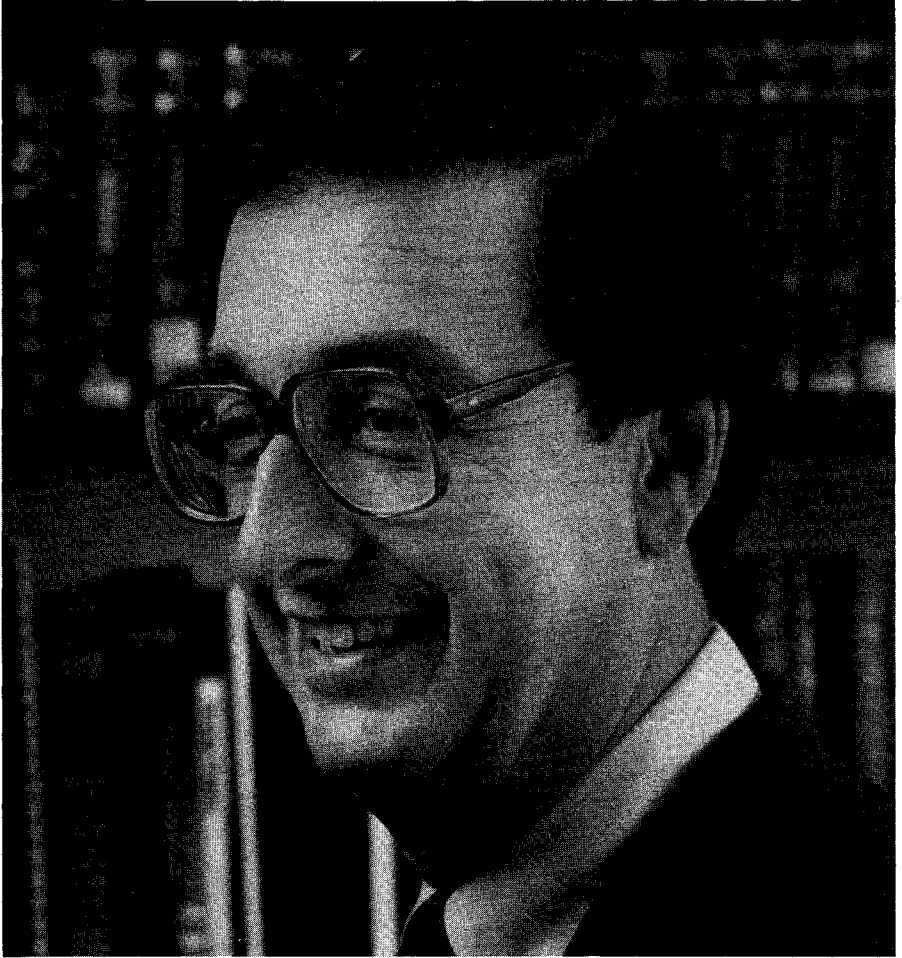
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## IN MEMORIAM: EVERETT F. GOLDBERG

MICHAEL J. KELLY\*

Everett Goldberg was Associate Dean of the University of Maryland School of Law from 1975 until 1986. We worked together closely and, since our offices were next to each other, we spoke together in one office or the other several times a day during all those years, often stretching into the evening when the background music in Rett's office, in season, was invariably the broadcast of an Orioles game. It was an untroubled and happy relationship and a particularly fortunate one for me. Rett was a cautious, careful, and deeply caring person who in important respects was both a foil for me as well as a vital contributor to the change and growth of the school to which we were both committed during those years.

In his unassuming and unpretentious way, Rett Goldberg played an enormously important role in the life of the law school, one that in retrospect seems significantly larger than it appeared at the time. The Associate Dean is responsible for assembling the curriculum and teaching schedule, as well as for taking a leadership role on issues related to teaching and the curriculum. Rett performed these responsibilities superbly, but his importance to the school was primarily a function of his character. It may seem odd to speak of virtue in this day and age, but Rett Goldberg was truly a virtuous man. He simply radiated integrity. His inherent decency, thoughtfulness, subtle sense of humor, respect for others, and deep commitment to the quality of the curriculum and teaching at the law school set a tone, a basic quality or atmosphere for the entire institution. What

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\* University Vice President, Georgetown University. Former Dean and Professor of Law, University of Maryland School of Law.

was the best about the law school during his time as Associate Dean was that he, and the values he represented, were the soul of the place.

Institutions, like persons, have to discover how to recover from losses, particularly the loss of those, like Rett, who have played such a crucial role in the life of the institution. The greatest tribute to Rett would be sustaining, in the academic dialogue and debates that frame the continuing mission of the school, some of those virtues—both the deeply serious ones and the leavening virtue of not taking oneself so seriously—that Everett Goldberg contributed so generously to the law school's institutional character.

#### GARRETT POWER\*

When Everett F. Goldberg came to the University of Maryland School of Law as an Assistant Professor in 1967, he planned to specialize in public international law. Having completed a tour of duty as a Peace Corps legal advisor in Ethiopia during tumultuous times, he was intent on teaching and studying how the rule of law might be used to bring peace and order to international affairs.

The University of Maryland School of Law, however, had other plans for him. Upon his arrival he was impressed into service in the new and experimental Legal Method Program. The Program combined courses from the traditional first year curriculum with an introduction to the legal system which emphasized legal method and process. Professor Goldberg was a pioneer instructor in the Legal Method-Property course.

While concerned with legal issues less earth-shaking than those of international law, the course in Legal Method was of greater importance to the school and its students. In a seminar setting, small groups of students were taught how to think like lawyers. Judicial opinions were read, analyzed and synthesized; statutes were constructed and interpreted; legal research skills were mastered; "hands-on" instruction was given in legal writing.

Professor Goldberg proved to be a perfect choice as the teacher, the counselor, the drill-master, and the tutor. For two decades his probing mind and relaxed manner welcomed hundreds of students to the school and initiated them into the mysteries of the law. Legal Method-Property became a staple of the law school curriculum.

And not surprisingly, when a new teaching experiment was proposed several years ago, Professor Goldberg was once again a pioneer. The first year teaching program was supplemented with

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\* Professor of Law, University of Maryland School of Law.

Legal Theory and Practice courses, which involved students in clinical and classroom work that addressed the problems of poverty. Professor Goldberg collaborated with others on the faculty to create a course in LTP-Property that gave the students both theory and field experience in dealing with the housing problems of the urban poor.

Everett Goldberg was also a citizen who found a way to use the principles of law to address broader public concerns. Early in his career he was commissioned by the Environmental Protection Agency to consider the legal problems of dealing with acid wastes from Appalachian coal mines. His study should be required reading for the present generation of lawyers charged with handling cleanups of toxic wastes at Superfund sites. Mid-career he helped to franchise cable television services so as to assure public access and competitive rates. At the time of his death, he was driving in the fast lane on the "electronic highway." He was using his natural intelligence to consider the legal prospects for artificial intelligence.

This catalogue of Everett Goldberg's professional achievements at the University of Maryland Law School overlooks what was perhaps his greatest contribution. He had a very special position on the University of Maryland School of Law faculty. When it came to the most basic institutional issues of equality, fairness, and compassion, we looked to him for guidance. When he answered questions of conscience, rhetoric never trumped reality, the ends never justified the means, and fair was fair. He was our moral compass. He will be missed.

DAVID S. BOGEN\*

What I miss most is the laughter. Rett had a gentle sense of humor. He was amused by the foibles of humanity, including his own. An eager participant in the faculty lounge penchant for wordplay, Rett had a smile for everyone—and never a cruel or thoughtless word. In warm weather, clad in bicycle helmet, t-shirt, and shorts, he walked his bicycle down the long second floor corridor to his corner office. If you needed advice, you followed the path to that office, where he would listen patiently and elicit the critical considerations that helped you reach your own conclusions. And in the process, you found something to smile about and left with a lighter heart.

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\* Associate Dean, Professor of Law and T. Carroll Brown Scholar, University of Maryland School of Law.

At his memorial service, friends and family referred to Rett as nonjudgmental. No matter what you did or how ridiculous your ideas, Rett listened patiently and empathetically. But he had a keen sense of judgment when it was called for. Whether we were discussing First Amendment issues in cable television during the ball game rain delay or how to deal with student problems, his analysis was thoughtful and always helpful. He served ten years as associate dean, including one year as acting dean of the law school. He was deeply involved in the planning of the Thurgood Marshall Law Library and in the computerization of the school. He was also the acknowledged master at scheduling, satisfying both prima donna faculty and demanding students—a feat his successors can only admire.

For many years, Rett created the schedule with the help of magnets on a large green board, but he recognized the value of new technology. In addition to his role in the computerization of the school, he introduced his first year students to computers, taught upper class students computer law, and taught a seminar in which students had to create a computer program for an area of law—an exercise more important for the lessons it taught in legal reasoning than for its technology. With his understanding of the potential of technology, he worked closely with the computer development office to create a scheduling program ready for implementation when I began as Associate Dean. He was always ready with helpful advice for the novice, and I feel his loss even more keenly this winter while I try for the first time to put the academic schedule together without his aid.

Rett was always considerate of the needs of others. He was willing to teach at whatever time and in whatever room was most helpful. His only scheduling request was to be free during the early hours on Tuesdays and Fridays for tennis, a request that reflected both his zest for life and his gift for friendship.

Rett faced his illness courageously and calmly. After his first brain surgery and the five week coma that followed, he was initially disoriented, but he retained his marvelous sense of humor. Speaking with him about some event, I stupidly remarked that I was not sure when it occurred because the years seemed to blur together. Rett looked at me and said wryly, "Tell me about it!" If only I could, Rett. If only I could.

## THOMAS E. PLANK\*

I had the good fortune to know Rett Goldberg in several capacities over the last twenty-three years: as a teacher of Legal Method-Property, Property II, and Comparative Law; as Associate Dean when I taught Legal Writing and Legislation part-time at the University of Maryland School of Law (and when I assisted Rett one semester in Legal Method-Property); as a reviewer of an independent research paper in law school and two recent law review articles; as an advisor in my quest for a full-time teaching job; and as a friend sharing ideas and concerns. In all of these roles, Rett's essence was to give.

As a law teacher, Rett did not give us the answers. Indeed, at the end of our first year, our section—the first year class was divided into three sections by alphabet—gave him the award for the teacher most likely to answer your question with a question. But he did direct us to understanding.

One incident early in our Legal Method-Property course stands out. A group of us were trying to make sense out of a legal method writing assignment. At one point, we went to Professor Goldberg—he was always accessible—and told him that we could not figure out what was the majority rule and what was the minority rule for a particularly vital legal issue. His response, in a somewhat bemused and elevated manner: “I don’t care what the majority rule is and what the minority rule is.” What? As struggling beginning law students, we were taken aback. But that marked the beginning of our understanding. We began to see that analyzing the law was not some mechanical process, like adding up the states with different rules to see which rule was most prevalent. We also began to realize that much of being a lawyer is learning to live with nuance, ambiguity and, to the extent that one’s professional reputation is put on the line, paranoia.

Why was Rett such a good teacher? One reason was the subtlety of his approach. Another was the seemingly boundless generosity of his mind and his spirit. This became even more apparent to me after I finished law school. During his tenure as Associate Dean, I began teaching part-time at Maryland. As a beginning teacher, I struggled with the question, “What is a good teacher?” Although the demands

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\* Partner, Kutak Rock, Washington, D.C. Adjunct Professor of Law, George Mason University School of Law. A.B., 1968, Princeton University; J.D., 1974, University of Maryland School of Law.



on his time were tremendous, Rett generously spent hours with me to discuss what is good teaching and how one becomes a good teacher.

He told me that he did not know what made a good teacher, but he said, "Somehow a good teacher is someone who delivers the goods." Analytically, those words seem not to say very much. Yet coming from Rett, they had a special meaning: a good teacher is one who can help his students gain an understanding of the substance and process of the law that they did not previously have. Necessarily, this would be different for each student.

That Rett was able to "deliver the goods" so well is remarkable because of the tremendous range of learning styles and interests of his students. Those who liked to cruise in the stratosphere of fine analysis preferred a different approach from those who wanted to know what the law is and where to find it so that they can answer the concrete concerns of their client. Rett was able somehow to satisfy both. His advice about "delivering the goods" itself demonstrates his power to convey something meaningful to one who had a much lesser understanding.

Rett was always ready to help, even for former students long out of law school. During the last four years, he reviewed several drafts of two long law review articles I wrote, neither of which were on topics in which he specialized.<sup>1</sup> On one draft, he gave me comments in the morning before leaving for vacation so that I could meet a self-imposed deadline for mailing the draft to law reviews.

When I decided to seek a full-time law teaching job, Rett was the first person to whom I turned for advice. During this search, in a very unfavorable market for aspiring law teachers, Rett's support was invaluable. Through several years of my coming close but still not succeeding, Rett continued to encourage me. As I prepare now to leave private practice and begin a full-time law teaching and writing career at the University of Tennessee College of Law, I know that I owe much to Rett. My good fortune would not have been possible without his help, support, and inspiration.

I feel very blessed for the time that we spent together, for what Rett has given me over the years. It is very painful that he is no longer available in the way that he used to be. Yet, he is still available. Although we can no longer call Rett or stop by his office

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1. Thomas E. Plank, *Sacred Cows and Workhorses: The Sale of Accounts and Chattel Paper Under the U.C.C. and the Effects of Violating a Fundamental Drafting Principle*, 26 CONN. L. REV. 397 (1994); Thomas E. Plank, *The True Sale of Loans and the Role of Recourse*, 14 GEO. MASON U. L. REV. 287 (1991).

when we have a question or need advice or support, we can ask, "What would Rett have said?" or "How would Rett have approached this issue?" Because Rett gave us so much of himself, he is still with us, still encouraging us, still teaching us.

BRYAN ROSLUND\*

Professor Goldberg did much for the law school as an institution in his twenty-plus years as a professor. The memories of his accomplishments will remain at the law school with the faculty and staff. But he also made impressions on his students, and those students have taken what they learned from Professor Goldberg out of the law school and into other endeavors. It is the impression that Professor Goldberg made on his students that I would like to recall for a moment.

As a naïve first year student, just two short years ago, I had the good fortune of being assigned to Professor Goldberg's small section for Legal Method-Property. There probably could not have been a better introduction to law school and to the nature of legal thinking. First, Professor Goldberg had a relaxed and kind manner. A new school, new classmates, and a new subject matter were intimidating enough without the addition of a scowling professor. Professor Goldberg's quiet and disarming way of conducting classes cut back on the intimidation of the new environment rather than adding to it. He was genuinely interested in his students' well-being and was well aware that students learn better in a supportive—rather than confrontational—setting.

Professor Goldberg did not try to gloss over the complexity of the legal subject matter he was teaching. He took a steady and measured course through each topic. In class, we began the discussion of each case with the basics of defining exactly who was the plaintiff, who was the defendant, and what were the key facts that led to this particular dispute. Only then did we explore the case further to understand what each side was claiming and attempt to distill the court's holding. This consistent approach to each topic taught us the value of thinking about the details, the specifics, of every legal problem.

Attention to detail was one lesson I learned from Professor Goldberg, but the most important lesson that I took from those classes with him was the value of my own thinking. If there is one phrase students associate with Professor Goldberg's classes, it is "What do you think?" That was his standard way to begin the class discus-

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\* J.D., 1994, University of Maryland School of Law.

sion of a newly presented point. It was his standard response to students' questions in class. And as beginning students, our reply usually was an irritated, "If I knew what to think, I wouldn't have asked the question." But over time, Professor Goldberg led us to realize that maybe we did have the answers within ourselves.

In many ways, the phrase "What do you think?" illustrates Professor Goldberg's approach to legal education. He did not want his students to memorize a bunch of stale rules; he wanted us to engage the law with our own minds—to develop our own thoughts about issues and to develop the confidence to articulate our own views. His quiet kindness made us feel comfortable taking risks and expressing our thoughts about the law. Simply put, Professor Goldberg's main contribution to our legal education was not in teaching us property law, but in teaching us how to think confidently.

Through his special style of education, Professor Goldberg has left a mark not only on his students, but also on the legal community. As Professor Goldberg's students, we apply the confidence in our own views and the attention to detail that he taught us in our legal careers. To have confidence in what I think about the law makes the law my tool, and that will make me a better lawyer. Confident, thoughtful lawyers are a part of the legacy left by Professor Goldberg that does not remain within the walls of the law school.