

## Tribute to William Reynolds

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### Recommended Citation

74 Md. L. Rev. 697 (2015)

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# William Reynolds

## BILL

GORDON YOUNG\*

One morning, at about three, I was up thinking about things, especially the responsibility of making these remarks about this exceptional colleague to mark the end of his full-time teaching career. Drifting back toward sleep, I heard this:

*“They could not have known what were they getting.”*

This message from my unconscious abruptly stopped any slide back toward dreamland. Who were “they” and what couldn’t they have known about?

Soon, I realized, I was imagining the people at our school who hired Bill, roughly on this spot in downtown Baltimore, though with great difference in architecture and décor, some forty-three years ago. They were the colleagues, in the ancestral sense, who hired him to cover the Contracts course after Lew Asper’s sudden death.

Well, let’s start with what they—or anyone perceptive—undoubtedly did know after an interview or two with Bill. He was smart—very smart—with the energy and charm that make a good classroom teacher: ambitious, personable, apparently a good person.

What couldn’t they have known?

What follows will attempt a partial answer to that. But, for starters, they couldn’t have known about the depth of his analytic abilities, or of his unmatched social intelligence, or the capacities of his heart.

Bill’s career—really his whole life—is made up of powerful, mutually reinforcing, parts. Like a large room lined with mirrors, the light in one part (say scholarship or practice) illuminates and energizes the others (say teaching or connections with the outside world).

So let’s get down to brass tacks.

### SCHOLARLY WORK

They couldn’t have known that Bill (along with his colleague Bill Richman) would write a foundational *Columbia Law Review* article on unpublished judicial opinions. This article brilliantly exposed injustice in

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the practices of federal courts, which—in the glow of the Warren Court—were the celebrated champions of justice. Bill and Bill’s collaborative work on this subject continued over the years and culminated in their Oxford Press book on that subject in 2013. This part of Bill’s career alone constitutes roughly thirty-five years of impressive scholarly pressure toward transparency and equality in our legal system.<sup>1</sup>

After the *Columbia* article, sometimes working with Bill Richman, sometimes on his own, Bill moved to the pinnacle of the very different and difficult field of conflicts of law. That is lawyers’ law if there is such a thing. What a satisfying, heady experience for him and what an asset for us.

The *Columbia* article, subsequent book, and his other writing on a very wide variety of subjects—legal process, contracts in the computer age—amount to five books and at least forty-five law review articles.

He is then, at the very least, among the best of the nationally admired scholars who have ever been at our school. And his social and collegial instincts are also apparent in his scholarly work. Partially as encouragement for us and partially for the fun of it, he wrote articles with Jana Singer, with our beloved John Brumbaugh, with me, and with many other friends and protégées, both on our faculty and outside.

#### PRACTICE AND OUTSIDE SERVICE

Bill has had an amazingly rich practice as “Of Counsel” at several Baltimore firms over the years, especially from 1992 to the present at Piper and Marbury, now DLA Piper. Virtually all of his cases were educational experiences for him, deepening his teaching and writing, as the latter, in turn, enriched his practice. He was always able to give me, and others, the best advice about how legal doctrines operated on the ground. And it must have been a frightening experience for litigators to see Bill and Shale Stiller coming at them as a team of opposing counsel.

Reading about Bill’s service to the bench and bar produces a sort of exhilarating exhaustion: active member of the American Law Institute, Head of the Maryland Judicial Institute for many years, memberships in countless law clubs. He knows and is admired by everybody. In fact he has taught practically everybody. That brings me to:

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1. Others on our faculty were also writing terrific stuff, despite no law school requirements that they do so. Peter Quint’s *Yale* piece and David Bogen’s wonderful and still foundational First Amendment articles are part of this naissance—not “renaissance,” for this was the first wave of national scholarship produced by faculty from our school.

## SERVICE IN THE LAW SCHOOL

*The Usual, but More and Better*

In endless self-studies, dean searches, the curriculum committee, and the appointments committee, Bill has not only served but has left his legacy in people we have and in the shape of our curriculum. Jana Singer told me recently: he was such a master-recruiter and ambassador for the school; and once he persuaded someone to join the faculty, he made sure that they succeeded and thrived.

*Special Service*

Over the years, any law school without a zillion-dollar endowment—particularly a public law school—faces problems forced by outside events. We are no exception. By virtue of Bill's efforts—and let me spread the gratitude a little—and those of Larry Gibson and Mike Millemann, we have benefitted from the wisdom and help of their many friendships on the bench, in the bar, and in the legislature.

## TEACHING

Bill, like his dear friend Don Gifford, would have trouble deciding whether he is more a scholar or a teacher. He loves both roles so very much. And, ultimately, those two dear friends and all of us, who teach and write about law, would recognize that there is no reason to choose and that the differences between those activities are smaller than one might at first imagine.

Bill has taught twenty-four courses, with content often greatly differing among them. These include: Conflicts, Contracts, Antitrust, and Tort law. Just as recently as 2011, when he had been here only forty years, he received the Faculty Member of the Year Award from Student Bar Association. No surprise: I've seen Bill teach in his impressive, highly interactive way.

I don't think that, these days, any of us is really a purely Socratic teacher—if ever that were more than an aspiration. But Bill, along with Don, and our former colleague, David Super, comes closest to doing so artistically and effectively as anyone I've seen. A parade of students over the years has told me what a wonderful teacher and person is Bill.

All of us fear getting out of touch with our students and people of their generation as we age. But Bill, in his last year, still connects. I know someone close to a bright, first-year student who, I'm told, raved and raved about her Contracts teacher. I looked up the section to discover who taught it. Yep, you guessed it.

## FINALLY

There are the things that cross-cut teaching and collegiality. Bill's ability to connect with a wide variety of people as the individuals they are, wishing them happiness and doing what he can to help it happen for them.

He has supported the scholarship of colleagues, sometimes by reading and commenting, sometimes just by offering to coauthor a piece as a way of energizing a new colleague's scholarship. He has helped many colleagues and students get through professional and personal crises. His love for our recently lost Kathy Vaughns is an example of this, just one in a wide and thick web of true friendships.

So as this talk is ending, let me try to answer my original question. What did they get back then in 1971 and what have we had with Bill and still do have?

I would say that Bill is a dean of the school in the way that Shale (and perhaps Bill too) is a dean of the Maryland Bar. To be sure there is no title of that sort on the wall. But—starting sometime relatively soon after he replaced Lew Asper—Bill became a dean here in that honorific sense, backed by accomplishment and ability, and this continues so to this day.

In any conversation about the truly foundational people at our law school—starting with its first professor, the visionary David Hoffman, in 1813, moving through Mike Kelly, who brought us into a new era, and many others—Bill remains on the very shortest list.

**WILLIAM L. REYNOLDS, THE LEGAL POLYMATH**

SHALE STILLER\*

A polymath is an expert on many different subjects. The term is often used to describe a person equally literate in the sciences and the arts.

Bill Reynolds is not a Leonardo da Vinci, a Galileo, a Maimonides, or a Michelangelo. But he has been a *rara avis* in the professional world of law during most of the past half-century. Law, medicine, and the other professions are dominated today by the specialist. In law, the bewildering galaxies of statutes, regulations, administrative rulings, and judicial opinions have made it difficult, if not impossible, for even the brightest of lawyers to move about in different fields of law. Thus, I submit, the notion of a legal polymath has become a virtual oxymoron.

Bill Reynolds's career challenges that conclusion. Harken to the list of subjects he has taught in his amazing forty-three-year career at the

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University of Maryland Law School, for at least twenty of which he has held one of the most distinguished endowed chairs at the school:

Contracts	Comparative Public Policy and Law Reform
Constitutional Law	Torts
Conflict of Laws	International Business Transactions
Legal Method/LAWR	Legal Profession
Antitrust	Basic Business Concepts
Art Law	Legal History
European Union Law	Income Taxation
Legal Process	Federal Jurisdiction
Business Associations	Remedies
Civil Procedure	
E-Commerce	

I am tempted to write that no other professor at any American law school has taught such a diverse array of courses. I cannot prove it, but until someone who has the time to communicate with every law school in the country disproves my conclusion, I will proclaim it loudly, or, to put in legalese, the virtually irrefutable presumption is that Bill Reynolds is the nonpareil legal polymath.

But Professor Reynolds's talents go further than mere diversity. In my fifty-two-year (and still counting) tenure as an Adjunct Professor at the Law School, I have not known a single professor with the following additional six qualities:

1. He has actively served "Of Counsel" to outside law firms, so that he is well aware of the practical aspects of the practice of law, not just the academic aspects. For example, he worked closely with me on the celebrated Maryland School Finance case, *Hornbeck v. Somerset County*, 295 Md. 597 (1983). His practicality was also demonstrated during the semester we co-taught Federal Jurisdiction. At the end of the course, one of the students, in submitting the anonymous evaluation form, wrote: "The course was excellent, even though Professor Reynolds was too practical and Mr. Stiller was too academic."

2. His scholarship has been impeccable. It has been frequently cited by others. He has written five books, including a leading casebook on Conflict of Laws. His most recent book, written with Professor William Richman, *Injustice on Appeal*, published by Oxford University Press, describes the manner in which the federal courts of appeals have, perhaps out of necessity, short circuited the consideration given to many federal appeals. The book delineates how the circuit courts of appeal have evolved into tribunals where there often is no oral argument and where staff

attorneys write the majority of opinions, with a perfunctory sign-off by a judge.

Listen, for example, to these comments made by Marin K. Levy, a distinguished professor at Duke Law School, and one of the leading experts on appellate practice:

Over the past thirty years, no one has contributed more to this field than two court scholars together—William M. Richman and William L. Reynolds. . . . *Injustice on Appeal* stands as one of the most comprehensive and thoughtful accounts of the largest problem facing the federal judiciary today.

. . . .

It would be difficult to overstate the significance of Richman's and Reynolds's contribution with this analysis.

. . . .

Richman and Reynolds have offered invaluable knowledge about, and insight into, the federal courts.<sup>2</sup>

These comments were not written hastily in an obscure law review. Professor Levy's review appears in the May 2014 issue of the *Yale Law Journal* and is backed up with 169 footnotes.

3. Bill has not felt the constraints of private lawyers who appear regularly before the appellate courts but are wary of publically criticizing judges and their opinions. His criticisms are never pejorative but always hit the mark. His voice was "unbuttoned," or, to use one of his favorite words, "uncabined."

4. The volume of his public scholarship is simply amazing. I know of at least forty law review articles he has written, many of which have been cited in judicial opinions. Like the breadth of his teaching, his articles are equally diverse in their subject matter. But there is one other feature of Bill's scholarship which is not so apparent. Many articles written by other scholars have the following footnote on the first page. "I also thank Professor William L. Reynolds . . . for his assistance." "The author is deeply indebted to many friends, particularly Professor William L. Reynolds . . ." "The author wishes to thank William L. Reynolds for his guidance and encouragement . . ." "A very special thank you is also due to Professor William L. Reynolds for being an exceptional jurist, mentor, and friend." Words such as these appear in articles scattered over many years, dealing with such topics as Indian Tribal Law, Maryland Conflicts Law, Art Law, and the Law of Cyberspace.

5. To this author, perhaps the most extraordinary aspect of Bill's scholarship has been the creativity manifested in so much of his scholarship. Unlike some authors who simply delve into a topic and

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2. Marin K. Levy, 123 *YALE L.J.* 2386, 2390–2402 (2014).

analyze all of the judicial opinions dealing with that subject, many of Bill's articles have tackled extremely difficult and complicated problems. For example, one of his most recent articles, co-authored with Juliet M. Moringiello, a Professor at Widener University School of Law, explores the influence of cyberspace on traditional legal rules.<sup>3</sup> Very few professors have the energy and the gumption, especially in the twilight of their careers, to tackle such a difficult subject.

In that article, Bill deals with the question of whether there is something so special about the world of cyberspace that "renders the long-settled rules" in the law no longer relevant. He discusses recent Supreme Court decisions which create a "new territorialism" in resolving procedural matters and asks whether those rules have any relevance to cyberspace. He asks: "How do I find you if you are everywhere and nowhere?" He addresses these issues in dealing with cyberspace and e-commerce: electronic contracts, long-arm jurisdiction, interstate defamation, revenge porn, internet privacy, interstate taxation, and regulatory jurisdiction. Blending new areas of commerce into old bottles of wine is a daunting task, but the depth of that task has never daunted Bill Reynolds. I venture to say, not with very little hesitation, that this path-breaking article will frequently be cited, as questions involving the relationship of e-commerce to historic concepts of law must be analyzed by legions of courts and lawyers.

6. Bill's reverence for the University of Maryland Law School has also been remarkable. When another faculty member has taken ill, on more than one occasion the Dean has requested Bill to fill in and teach the course. Bill is always the first choice, not only because he is the most willing to step into the breach, but also because his ability to assimilate the knowledge of a somewhat alien field has never deterred his eager mind. He has served in many leadership capacities within the School and has been a substantial contributor on any committee he was asked to serve. He has been a mentor to most of the faculty as well as to deans. His community-minded approach became evident many years ago when he served for three years as the President of the University of Maryland Senate, as well as in other roles such as membership on University Search Committees for the Vice President for Academic Affairs and the Vice Chancellor for Development. He has lectured frequently at the annual meetings of the Association of American Law Schools, the American Bar Association, the National Child Support Association, the Eastern Regional Inter-State Child Support Association, the Maryland Judicial Institute, and many other law schools. He is certainly one of the two or three most widely known Maryland faculty members on the national and international scene.

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3. Juliet M. Moringiello & William L. Reynolds, *The New Territorialism in the Not-So-New Frontier of Cyberspace*, 99 CORNELL L. REV. 1415 (2014).

From his early days as a Phi Beta Kappa graduate of Dartmouth College and his cum laude record at Harvard Law School to his 42 years of teaching and scholarship, Bill Reynolds is yet another shining example of the wisdom of Oliver Wendell Holmes' eternal advice to a group of Harvard undergraduates in 1886:

[A] man may live greatly in the law as well as elsewhere; that there as well as elsewhere his thought may find its unity in an infinite perspective; that there as well as elsewhere he may wreak himself upon life, may drink the bitter cup of heroism, may wear his heart out after the unattainable.<sup>4</sup>

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4. OLIVER WENDELL HOLMES, *The Profession of The Law, in* COLLECTED LEGAL PAPERS 29, 30 (The Lawbook Exchange, Ltd. 2006) (1920).