



GERALD T. BENNETT

TRIBUTES TO GERALD T. BENNETT

REMEMBRANCE OF GERALD T. BENNETT

I recently had the honor of delivering a eulogy at the memorial mass for Professor Gerald Bennett. I read portions of a letter written years ago. I was twice asked to support Professor Bennett's candidacy for the referenced awards. I understood the requests to have been made without his prior knowledge. I gave much thought to his role in fostering clinical education in general and trial skills courses in particular, his role as a leader in the Florida Bar, and, thus, his tremendous impact both within and outside the law school.

We developed an even closer relationship between the date of the letter and Professor Bennett's untimely death. My admiration and appreciation of him only deepened with the passage of time. He was unique. He was a powerful influence in my life and in the lives of a generation of Florida lawyers. I, like many others, will dearly miss my mentor and friend.

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Below are excerpts from the 1988 letter that Judge Morris wrote to support Professor Bennett's candidacy for the Roscoe Pound American Trial Foundation 1989 Jacobson Award:

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I have been requested to write to you in support of the nomination of Professor Gerald Bennett for the candidacy. I have known Gerald Bennett since 1970 when I was one of his students in the University of Florida College of Law Clinic Program. We had one of the first prosecutor programs in the country, in addition to well-established programs in criminal defense and civil law. He supervised me in court, as well as serving as one of my classroom instructors.

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Gerald Bennett has been the guiding force in the continued growth of these programs at the Holland Law Center. He, along with Professor James Pierce, has continued to enhance the concept of Trial Advocacy as a specialized field of legal education before graduation. University of Florida law students have been allowed to actively participate in hearings and trials because of the confidence the State Judiciary has in Professor Bennett and the quality of his programs.

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Professor Bennett has not limited himself to the law school setting. He is currently Chairman of the Criminal Procedure Rules Committee of the Supreme Court upon appointment by the President of the Florida Bar. He was recently appointed by the Chief Justice of the Florida Supreme Court to a fourteen-member commission on the use of discovery depositions in criminal cases. He has guided the Criminal Law Section of The Florida Bar in setting up NITA seminars for young assistant state attorneys and assistant public defenders with six months to eighteen months experience.

They participate in an extensive one-week program at the University of Florida and Stetson Law Schools offered on a yearly basis under the direction of Professor Bennett. Again, practicing attorneys and judges from throughout the state return to the law school setting to give guidance in these exercises. They attend because Gerald Bennett asked them to and because he has convinced them of their obligation to insure the trial competence of the next generation of attorneys. When he was Chairman of the Criminal Law Section of the Florida Bar, Professor Bennett made these programs part of our agenda. I have also served as Chairman of that same section, and can tell you that this program is ongoing and considered a central component of our obligation of service to section members and the public.

Professor Bennett teaches that lawyers have impact. He teaches that young lawyers, especially in the criminal law field, are often the models actually seen by the public in their interaction with the criminal justice system, as victims, witnesses, defendants and jurors. He reminds us that we have an obligation to be competent, to communicate effectively, to be worthy of the public trust and to meet our responsibility to safeguard the Constitution.

Such lofty lessons are natural coming from Professor Bennett. There is no looseness of thought or word. To be present in his class is to be party to clarity in legal analysis. The student sees not an answer but a means to arrive at reasonable, well-founded conclusions, the basis of the trial lawyer's art. He attracts students by his reputation. He holds them by his skill and obvious dedication to their educational betterment. He orients them by helping them to understand the link between lofty principles, legal ethics and effective practice in the trial setting.

Finally, he gives them encouragement and confidence by making them accomplish by doing. They are better law students, better future lawyers, and better people because of their association with this professor. What more can we ask or expect from a true legal educator?

—STAN R. MORRIS

MORE REMEMBRANCES OF JERRY BENNETT

The following are excerpts from the eulogy presented by Carl Schwait at the memorial mass of Professor Gerald T. Bennett on November 17, 1999:

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If someone was to ask you or me what we liked to read, we might say *Newsweek*; the newspaper; if you were pressed, you might say Stephen King or a Clancy novel.

Jerry loved the works of T.S. Elliot and, especially, of George Bernard Shaw, the eminent and prolific dramatist whose life spanned almost a century. Jerry particularly liked his works, *Pygmalion* and *St. Joan*. He enjoyed George Bernard Shaw so much that he dedicated his thesis for his master's degree to George Bernard Shaw.

Now, if I was to write a thesis on George Bernard Shaw it would probably be entitled "George Bernard Shaw: The Man." This is the title of Jerry's thesis: "An Analysis and comparison of Shavian Life Force Ethics and Thomistic Theocentric Ethics." Isn't that classic Jerry?

We do know three things about the thesis and its title.

1. You can picture Jerry relishing the researching and writing of the thesis, pounding it out on the typewriter many years ago;
2. Jerry was the only person who understood the meaning of the title;
3. We can agree he was the only person who could explain the meaning of the title and the thesis in a coherent fashion so we could understand it—in a car trip from here to Miami and back—and we would not want to miss one word of his explanation.

What we wouldn't do for two or three more minutes to listen to Jerry explain George Bernard Shaw.

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Jerry dedicated his life to not being bored, and he dedicated his career as an educator to ensure that his students were not bored. I never had a conversation with Jerry about this issue, but I would assume this may be the reason he taught courses not based on book learning. He specialized in the courses involving advocacy and trial practice, which meshed the reading of the law, with the thrill of representing a client, which then combined with the art and drama of the performance.

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You see, Jerry was *our* Renaissance man.

While most people walk the Earth trying to determine if the glass of life is half full or half empty, Jerry *knew* the glass of life was *always* full. Jerry never raised his voice, but his words were always heard.

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Jerry had a legion of followers, but never had to campaign to procure them.

Jerry had a large group of loving and dedicated friends, but he never imposed upon them.

Jerry was our teacher. Jerry was our colleague. Jerry was our neighbor. Jerry was our mentor. And, whatever group you fell into, Jerry became your friend.

So together, we say, to our beloved friend Jerry, we will miss you. And we say, for the final time, with grief in our hearts, but with our souls filled with the memories of this remarkable and magnificent being—thank you, Professor Bennett—thank you, Jerry, for a job so well done.

—CARL SCHWART

PROFESSOR GERALD T. BENNETT (1937-1999): NARROWING
THE GAP BETWEEN THEORY AND PRACTICE

With the recent loss of Professor Gerald T. Bennett the time has come not only to reflect and comment on his contributions to legal education and the practice of law but to also face the new millennium as students, educators, and lawyers alike with a commitment and resolve to narrow the gap between legal theory and practice as Professor Bennett did like no other.

As the State's preeminent educator of thousands of practicing trial attorneys, Professor Bennett has directly assisted his students to achieve a high level of skill, to appreciate the human dynamics of law, and to most effectively utilize the legal process to benefit a client's cause. Professor Bennett's contributions to law and the legal profession have consequently allowed more citizens to acquire justice than any one trial attorney could ever plead for.

Although critics have railed for years against the artificial separation of theory from practice,¹ it was Gerald T. Bennett who expended significant effort to actively bring the practice of law into legal education. As other writers have suggested, significant problems within the legal profession will only be successfully addressed if legal educators and practicing lawyers recognize that they are engaged in a common enterprise—the education and professional development of the members of a great profession.² Professor Bennett not only recognized this, he championed its cause.

For thousands of students over the years, it was Professor Bennett who synthesized the various bodies of substantive and procedural law, introduced the unwritten lessons of advocacy, and taught them to think of legal matters and issues from the beginning of their development rather than from the end perspective of an appellate opinion. He accomplished that which other legal educators must strive for.³

“To study the phenomena of law in society without books is to sail an uncharted sea, while to study law without clients is not to go to sea at all.”⁴ As Gerald T. Bennett was known for his breadth of knowledge in fields other than law, including literature, woodworking and sailing, the above quote struck me as a most appropriate reflection and commentary on Professor Bennett's contributions to the Clinical Education Programs at the University of Florida Levin College of Law which have placed students in various State Attorney and Public Defender Offices as well as the continued professional development and training during the State Attorney/Public Defender Training Seminars hosted by the College of Law

1. See, e.g. Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907 (1933); Jerome Frank, *Both Ends Against the Middle*, 100 U. PA. L. REV. 20 (1951).

2. ABA Task Force on Law Schools and the Profession, *Narrowing the Gap*, LEG. EDUC. & PROF. DEV. 4, 4-5 (1992); see also R.J. Uphoff et al., *Preparing the New Law Graduate to Practice Law: A View from the Trenches*, 65 U. CIN. L. REV. 381 (1997).

3. See, e.g., William P. Quigley, *Introduction to Clinical Teaching for the New Clinical Law Professor: A View from the First Floor*, 28 AKRON L. REV. 463 (1995).

4. Charles Henderson Miller, Founder of the University of Tennessee Legal Clinic and Former Professor Emeritus, University of Tennessee College of Law; see also Douglas A. Blaze, *Deja Vu All Over Again: Reflections of 50 years of Clinical Education*, 64 TENN. L. REV. 939 (1997).

over the years. It has been through these aspects of legal education that young lawyers have been best able to understand their professional responsibility within the reality of legal practice. As Oliver Wendell Holmes, Jr. wrote in 1881, "The life of law has not been logic: it has been experience."⁵

A great debt of gratitude is owed Gerald T. Bennett and at this juncture it can best be paid by continuing the efforts he made in properly educating our students in the law and in striving to make justice a reality for a society which relies on its Court system and the lawyers which practice within it to address the needs of its citizens. We must face the changing times of law and legal education with the lessons he has taught.⁶

On a more personal note, I will forever remember his kind nature, gentle spirit, intellectual honesty and vision. I was among the fortunate to serve as a student in his lecture class, an intern in his clinic, a young lawyer at his State Attorney/Public Defender Seminar, and a colleague of his as an Adjunct Lecturer at the University of Florida Levin College of Law. For his guidance and friendship, I will be forever grateful.

—CRAIG C. DETHOMASIS

5. OLIVER WENDELL HOLMES, JR., *THE COMMON LAW* 1 (1981); see also F.M. Pinguelo, *The Struggle Between Legal Theory and Practice: One Law Student's Effort to Maintain the "Proper" Balance*, 1998 BYU EDUC. & L.J. 173.

6. Roy T. Stuckey, *Education for the Practice of Law: The Times They Are A-Changin'*, 75 NEB. L. REV. 648 (1996); see also Bob Dylan, *The Times They Are A-Changin'*, BOB DYLAN SONGBOOK (M. Witmark & Sons, 1968).

MEMORIAL TO GERALD T. BENNETT

Jerry Bennett was my friend and colleague. He was a great teacher, a careful, meticulous scholar, and an able administrator. Just as important to me, however, Jerry was an outstanding clinician. He believed passionately in the value and importance of clinical legal education.

I shared Jerry's passionate commitment to the goal of balancing our curriculum so that students could learn essential skills of practice beyond analysis and precise expression. We worked together for more than twenty-six years to establish and develop high quality clinical legal education courses and programs here at the Levin College of Law. I worked the law office professional skills beat. Jerry blazed the trail in litigation skills.

What an impressive litigation skills curriculum Jerry developed for this College. Jerry embodied the self-reflective learning model that clinical legal education seeks to develop in law students. He worked tirelessly to develop effective ways to understand and articulate the action theories for the skills that comprise the litigation arts. The large enrollment classes that he taught as part of the Trial Practice course he developed were exquisitely crafted and presented. So were the classes in his intensive training course that preceded students going into the field for the criminal law extern programs that Jerry directed.

Jerry broke trial tasks into their simplest action components and then presented theories that would predictively generate effective results. His methods were creative and entertaining. I recall one exercise where he would toss a Nerf football randomly to members of his class. Students, upon catching the ball, were required to phrase a question quickly in the format Jerry designated as either open, closed, or leading. His students enjoyed this exercise and also developed the core and critical skill of framing questions purposefully and effectively. His students left his classes with frameworks they could, and did, use to prepare and evaluate trial events, the first step on the road to learning to learn from experience.

Jerry recognized early that more steps are necessary for learning skills because simply knowing action theories does not suffice. Repetitive practice opportunities with feedback are essential to develop skill competencies. Jerry accomplished this by designing his trial practice and clinic courses to provide ample opportunities for students to perform and receive feedback. Jerry worked tirelessly to develop these performance and feedback opportunities. He created effective lab classes that walked students through the component stages of trials. He spent thousands of hours on weekends at the courthouse as his students conducted the full trials that capped his trial practice courses.

Jerry and I attended an advanced teacher training course sponsored by the National Institute for Trial Advocacy [NITA] at the Harvard Law School in April of 1978. Jerry built on this experience to create workshops in which he trained the able lawyers who taught his trial practice labs in the subtle but critical arts of providing effective feedback to law students. He managed to send several of his key adjuncts to NITA trainings. He also pioneered the awarding of CLE credit in Florida for these training sessions. I finally followed his lead twenty years later, starting to train and use skilled mediators to help me teach a large section course in negotiation, and I looked to Jerry's experience and materials when I launched this effort.

Jerry took very seriously the obligation that clinicians have to ensure that the lawyers used to help teach students discharge this important

responsibility competently. I recall several instances when he had to make hard but necessary decisions to remove trial practice adjuncts who were not doing an effective job in their important teaching role. I also remember hundreds of conversations where we discussed and debated how to make sure that extern supervisors take the time to help students learn from their field of experience. Jerry developed systems and approaches that presaged accreditation standard guidelines for this form of clinical legal education. In short, he made his criminal law extern clinics the best possible learning experiences for his students, and a credit to this faculty.

Throughout all this, Jerry continually innovated. He became the clinic's technology expert, an interest launched by his fascination with computer-simulated evidence. He did more work for the Florida Bar's Criminal Law Section and the American Bar Association than I can imagine, and the details of, as well as his honors for, this work will doubtlessly be chronicled elsewhere. Of particular interest to me was Jerry's work developing the first NITA advanced trial lawyer training program and directing its successful launch and several follow-up years here in Gainesville.

I recall our mutual joy at the first program while we watched a feisty Miami lawyer and an elegant British barrister demonstrate extraordinarily effective cross-examinations of the same witness in the same scenario. Although their approaches could not have been more different, they each traveled on the same action theories that Jerry ably taught to his trial practice and clinic students. I also recall our mutual happiness during these initial advanced trial skills sessions as we observed that while the faculty of distinguished litigators did demonstrations that made your eyes tear with their effectiveness, the best jobs critiquing student performances were done by faculty who were clinical legal educators.

Jerry was my mentor on trial practice in Florida after I made my way here from Colorado and Iowa in 1973. I continually ran questions of trial strategy by him as I supervised my in-house family law clinic. I was never disappointed with the depth and quality of his knowledge, and his eagerness to share it in helpful and useful ways.

Clinical legal education at the at the Levin College of Law has lost a great innovator and contributor.

—DON PETERS

A TRIBUTE TO JERRY BENNETT

With the passing of Jerry Bennett on November 13, 1999, the law school lost a professor, a colleague, and most importantly, a friend. For 31 years the college enjoyed the presence, influence, and commitment of Jerry Bennett. We will never be able to replace him.

When I think about the life of Jerry Bennett, the words of King Solomon come to my mind. King Solomon of Ancient Israel has often been noted as one of the first great legal minds. King Solomon, in reflecting upon the meaning of life, once wrote, "Then I realized that it is good and proper for a man to eat and drink, and to find satisfaction in his toilsome labor under the sun during the few days of life God has given him—for this is his lot." (Ecclesiastes 5:18). Jerry Bennett loved his job.

For three decades Jerry taught Trial Practice and Criminal Clinic. Like a potter creating a priceless piece of art, Jerry would mold students into being litigators—knowing when to gently massage the students with his kind words of encouragement and when to light the fire of the kiln under the students so that they would become strong and determined.

In a culture that is swimming in apathetic mediocrity, Jerry Bennett stood above the crowd, both literally and figuratively. His giant 6'7" frame would immediately draw the attention of everyone in the room. It was not his physical height, however, that would continue your focus upon him; it was the breadth and depth of his intellect, mixed with his kindness and contagious joy for life.

Some professors teach best through their writings, others through their lectures. Jerry taught best through his life. Budding litigators who hallow the halls of the University of Florida could learn about professionalism by merely observing the life of Jerry Bennett. He worked hard at his job. He took tasks that others would avoid. He assisted when someone would need help. Jerry loved the unlovable and helped those whom others could not help. Jerry thought of others first.

King Solomon also wrote, "There is a time for everything, and a season for every activity under heaven: a time to be born and a time to die, a time to plant and a time to uproot, . . . a time to weep and a time to laugh, [and] a time to mourn and a time to dance." (Ecclesiastes 3:1-4). I feel the emotions surrounding all of these events when I reflect upon the passing of Jerry. I mourn as I enter the Bailey Courtroom, where Jerry taught Trial Practice for so many years and where I found him collapsed on that fateful September morning, two months ago. I weep as I pass his now empty and darkened office where I enjoyed so many conversations with him, as he would twirl his pencil around his fingers as he spoke about literature, politics, religion, golf, sailing, students, and the legal profession. But, I also laugh as I remember his funny stories, his broad smile, and his good heart. And most importantly, I dance in celebration in remembrance of a man that lived his life to the fullest.

Good-bye my friend until that day that we stand together in the courtroom of the angels.

—J. PATRICK SHANNON