

Quintin Johnstone

Curtis J. Berger†

It was yesterday—nearly thirty years ago—that I met Quint Johnstone. He was one of that extraordinary group of Gene Rostow's boys: Bickel, Bishop, Black, Bowman, Coker, the two Goldsteins, Lipson, Manning, Pollak, Summers, and Wellington, who had recently arrived at the law school to rebuild a faculty torn with bitterness and heavy with grief. I was back at Yale, on leave from my firm, enrolled as a graduate student, uncertain whether to pursue a full-time teaching career. The divisional program had newly been launched, and Quint, wanting to put some content into the divisional offerings in Property, asked me to help him. That invitation, which I quickly accepted, sealed my decision, shaped my career, and—not least of all—began a friendship and professional collaboration that have continued to this day.

What impressed me first about Q.J. was his cutting-edge attitude toward his field. Property instruction in those days was in the throes of a revolution, and Quint—doubtless inspired by McDougal—stood in the front-ranks. Today, we take for granted the importance of real estate finance and land development law to the study (as well as the practice) of real property. But Quint was one of those who saw this early, who conceived and built the land use and finance seminars which, for a generation now, have become staples in the Yale curriculum and are widely emulated elsewhere. What was notable about these offerings was their linkage to the real world. Quint did not (nor does he) view Property as the vehicle for airy speculation, but, rather, as the occasion for consummate lawyering—whereby one takes all his craft, his intelligence, his subject-matter command, and his ingenuity, and applies those attributes to the solution of the challenging problems before him. For demonstration, he brought to the school Ed Logue, the Master Builder of New Haven and Boston, and Marvin Kratter, the Master Syndicator, and delighted himself and his students in seeing how law, creatively applied, could rebuild cities and energize financial transactions. A student in one of Quint's classes felt, at once, the dynamism and opportunity in Property—one reason, and a good one, for becoming a lawyer.

Two mainstreams have irrigated Quint's intellectual enterprise. The first, that of Property, has yielded a real estate transactions casebook

† Lawrence A. Wien Professor of Real Estate Law, Columbia University School of Law.

(which he and I shared with Allan Axelrod), definitive studies of urban renewal and title insurance, and rich additions to the Yale curriculum. The second, that of the Legal Profession, has given us wonderful books on paralegals and on lawyers and their work. What has informed Quint's research has been an exacting attention to fact, a restless curiosity about how programs actually work and how professionals feel and behave, and an unusual capacity for creating a broad perspective from a mosaic of detail. Empirical study, even when "unscientific," is enormously demanding: one must be a collector, an evaluator, a discarder, even a patient fellow (Quintin?). It is a form of research that law academics have largely eschewed—in favor of more flashy, but hardly more enduring, discourse. One sees all around us intellectual edifices—grand and ambitious—whose footings crumble easily. Quint's constructs may seem more modest in their design, but one can be sure, if it's a "Johnstone," that he has built it on a sturdy foundation and that it will serve its users well.

What stamps Quint, and accounts for his legion of admirers, is that he is the *quintessential* professional. It was once said of me (while I was still in practice) that I would have done well as an academic if I had not succumbed to the filthy lucre. I can say confidently of Quint that he would have been a brilliant lawyer if he had not turned, instead, to legal education. On a faculty as large and accomplished as Yale's, there are—as there should be on every faculty—role models for many tastes. For a generation of Yale students, Quintin has personified what one must have to be a fine lawyer: freshness of spirit; absolute reliability; perfect judgment; the capacity to capture both the overview and the particular; clarity of expression; ceaseless energy; and a love for the enterprise.

I have never told him so, and, perhaps, this is not the forum, but Quint—more than any other man I have ever met—reminds me of my grandfather Taksen. Taksen was a man who was seldom voluble, who—to those who met him once—might have seemed almost peremptory and severe. But if one looked closely, one saw the eyes twinkle, and when one got to know the man—a privilege in my grandfather's case as in Quint's—one learned about friendship, loyalty, and compassion. So, too, with Quint Johnstone. He has that inner spirit that illuminates his work and associations and that makes saying farewell to his active career on the Yale faculty so bittersweet a moment for so many of his former students and colleagues.

Quintin Johnstone*

Ralph K. Winter, Jr.†

In preparing these remarks, I was struck by how difficult it is to compose an effective retirement speech. This was not the case because of the subject, whom I have known and liked for years and who has surely left his mark, but because of the ambiguous nature of the event. The retiree, after all, is not through working, but only through going to faculty meetings; Quintin will continue to prosper. The ambiguity of the occasion thus left me uncertain about whether to cheer or to wail and wondering what the audience and, most of all, the retiree expects. I then realized that I was confusing a retirement speech with a eulogy. My problems were over. What the hell, if Quintin wanted a eulogy, he should have done something about it.

In talking about Quintin, I must note that his career was marked by the pursuit of two lost causes. The first is Yale basketball. He has probably been the most loyal fan the basketball team has had over the years, displaying by his steady attendance at home games a compassion for the hopeless shaped by a touch of masochism.

The second lost cause led to an event which is part of the legend of the school. Quintin has persistently sought to increase the number of people teaching in the area of property law at Yale, that is, to see that a second person was hired. He has been successful in that venture on only one occasion.

Many years ago, at a meeting of the Governing Board, a spirited but inconclusive debate was taking place over whether to hire a graduate of this school who was interested in teaching property law. Many faculty who remembered the fellow expressed doubt about his potential as a law teacher and as a scholarly contributor in the property area. However, Quintin took the floor and spoke eloquently and passionately about his being the lone property teacher at the school and of the need for more people in that area. He persuaded the Board of the importance of the field and of the contribution that the person in question would make to the study and teaching of property law. He carried the day. Thus was

* Much of this Tribute was delivered at a retirement dinner in honor of Professor Johnstone, May 10, 1985.

† Circuit Judge, United States Court of Appeals for the Second Circuit; Professor (Adjunct) of Law, Yale University.

Charles Alen Reich invited to become a member of the Yale Law faculty. The rest is history.

Quintin's retirement may be good for him, but it will surely weaken the school. It will, for example, leave major administrative gaps. He has worked tirelessly as Chairman of the Admissions Committee, a post which, I can attest from personal experience, entitles one to long hours of reading files, endless meetings to deal with suggestions for changes in the process, and daily crises, real or imagined. In return for this, one gets the indifference of one's colleagues, the hostility of activist students, and the undying enmity of the 3-4,000 students, and their 6-8,000 parents, who are not admitted annually. I wouldn't say this matches watching every home basketball game at Yale, but it is certainly close to it as a thankless task.

Quintin also served for some years as Chairman of the Graduate Committee. He was, on those occasions, the heart and soul of the graduate program. His accomplishments were genuinely extraordinary and went far beyond being efficient in the paper-moving sense. When I first came on the faculty, the graduate program was very controversial, even to the extent that many favored its abolition. Because Quintin was not only efficient but also discriminating in the goals he set and in the students he selected for admission, he brought about a substantial improvement in the program. More importantly, he legitimated it by quieting the apprehension that the program served no academic function. As Chairman of the Graduate Committee, Quintin was compassionate in his dealings with graduate students, caring about their progress and working to see that they were placed in teaching positions throughout the country.

It hardly needs emphasizing that Quintin's retirement leaves an even bigger hole in the curriculum than in the administration. You may not realize it, but there are a number of courses taught at Yale Law School that are not essential to a legal education. I will forego naming them, not because of the fear of offending colleagues, but because of time limitations. Those are, in any event, not the courses that Quintin taught. Real property, land finance and conveyancing, and land planning are subjects that have a professional and academic significance essential to a law school curriculum. For years, the school has been dependent upon him to fulfill these needs, and, because he has done that so well, has rather taken the fulfillment of these essentials for granted.

Those days are now gone. Indeed, the simultaneous retirement of Quintin and Joe Bishop must be, in terms of number of students taught each year, the equivalent of a loss of 20% of the faculty.

Quintin is also one of the few law professors who has thought systematically about the role and shape of legal education itself. His career was

marked from the beginning by the perception that legal education and the legal profession are somehow related. At Yale, however, holding that particular perception amounts to taking quite an intellectual risk. Quintin was more concerned with the relation of legal education to the profession than any other member of the faculty, save perhaps Geoffrey Hazard. His teaching and his publications involve both a concern about and a study of the profession. His book, *Lawyers and Their Work*, was a factual analysis of the legal profession in two countries. At another level, Quintin was also concerned with the relationship of the school to the organized bar. He prepared a survey for the Connecticut Bar Foundation of the changing trends in the profession, which was quite influential within the state and around which a statewide conference was organized.

Quintin's positions on policy issues within the school also reflected his belief that legal education and the profession are related. He never shared the prevailing attitude that our students are so good that it doesn't matter what they study or what they do during their three years at the Yale Law School. Nor did he share the conviction that the school should restrict contacts between potential employers and consenting students or that the students ought somehow be prevented from seeking employment at odds with the prevailing ideological dogma of the faculty.

Quintin's concern over the profession was by no means the limit of his views on legal education. He was, within the institution, a strong supporter of empirical work and interdisciplinary approaches to law. He also felt responsibility to the world at large. He thus served as Dean of the Haile Sellassie, now Addis Ababa, Law School in Ethiopia from 1967 to 1969 in an effort to let others draw upon his experience and ideas about legal education.

Quintin often adopted the demeanor of the country cousin, thus taking advantage of the widespread view of the faculty that the area between the Hudson River and the West Coast is largely uninhabited wilderness. Although he has never, to my knowledge, claimed to have grown up in a prairie log cabin reading law by a fire, neither has he strongly denied it. In fact, I have seen the Johnstone homestead, a large house virtually on the University of Chicago campus. Notwithstanding his adopted demeanor, his dedication to professionalism and to the study of legal education and his support of interdisciplinary and empirical work reflect the sophistication of a graduate of the University of Chicago and its law school.

As a person, Quintin was always candid with his colleagues and never one to leave doubt or mislead about where he stood. This was the natural result of native honesty and a non-manipulative approach to people. He was a source of tart but understated humor and no respecter of intellec-

tual posturing. He has been a major stone in the foundation of the school and one that will not be easy to replace. That is the mark of a successful career and of this school's great obligation to him. And it is the reason that we are sorrowful in seeing him retire but fully appreciative of having had him as a colleague. If you want more than that, Quintin, it will have to be in a eulogy.

Quintin Johnstone

James A. Thomas†

Quintin Johnstone's role at Yale Law School has been substantial and somewhat paradoxical. There is no doubt that he has left his mark upon generations of students who, themselves, will attest that they learned not only substantive law under his tutelage, but also something of the discipline necessary for true scholarship. At the same time, Quintin has steadfastly maintained his own approach to law teaching along with his own unspoiled personality. That personality, he is the first to admit, has not always been attuned to the harmonics associated generally with membership on the Yale Law School faculty.

His colleagues and other scholars will speak of his impressive scholarly achievements. I will only say that I have been amazed by the consistency of reports from alumni who praise the effectiveness of his teaching. Many give him predominate credit for the early development of their practitioner's skills. It is Quintin Johnstone the man, rather than Professor Johnstone the scholar, of whom I wish to speak.

Although he delights in his reputation for being a demanding teacher and tough grader, Quintin has been, in fact, a caring and sensitive individual. On a number of occasions when serious problems arose concerning the adequacy of academic performances by students, it was he who found a way to permit the students to prove themselves. Often the solutions required considerable extra work on his part. But then, he has never been one to complain about extra work. Quintin Johnstone is the only law professor I have known whom one might consistently expect to find in his office at 7:00 a.m. or earlier.

Often Quintin Johnstone used his direct manner in a fashion that would mask his considerable sense of humor. He could be so forthright that a student dealing with him would become convinced that he was a tyrant or a curmudgeon or both. After several follow-up contacts, however, the student would begin to realize that Quintin cared deeply about excellence and that his straightforward approach reflected genuine concern for the student's education. The student would sometimes also be surprised to get a glimpse of a wit that secretly dwelled within this all-too-serious person.

In fact, in his last years of teaching, Quintin Johnstone was beginning

† Associate Dean, Yale Law School.

to be found out. He began to be discovered as the soft and caring human being that he really is. Do not mistake what I say as suggesting that he ever tolerated less than competent performance. His high standards for academic performance were, to my knowledge, never compromised. But I say, with some personal delight for having been associated with him, that underneath a crusty, serpentine exterior there lies a warm and sensitive individual. Quintin Johnstone the man has been supportive and dependable to me in my counseling of students in need. I thank him for it.

