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Milton D. Green

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# *In re Jacoby*

*Milton D. Green\**

It is perhaps the fate of most law professors who retire to merely fade away. It is only those who are held in the highest esteem by the student body who are accorded the honor of having an issue of the Law Review dedicated to them. I congratulate Professor Jacoby upon receiving this recognition. I know that it is richly deserved. I know this not because I have been closely associated with him in his professional career but because I am familiar with his reputation as a scholar and a teacher, and because I have had some opportunity to get to know him during my one visit to Case Western Reserve and during his visits to San Francisco. Although usually separated by hundreds of miles, we have been fellow workers in the field (or should I say vineyard) of Civil Procedure and have naturally become familiar with each other's work. I consider it an honor and a privilege to have been asked to make a few comments on this occasion.

My basic comment is that with the retirement of Professor Sidney B. Jacoby, Case Western Reserve is losing a great teacher. Those who are steeped in the lore of Civil Procedure may argue that this is merely a legal conclusion or opinion, and they could be right. However, I intend, in what follows, to furnish a bill of particulars which, although incomplete, will give some idea of what I mean by a great teacher.

A reputation for greatness in the teaching profession presupposes adequate training and experience. On that score there can be no doubt of Professor Jacoby's qualifications. He comes to the classroom with professional degrees from both domestic and foreign universities and with a wealth of experience in the theory and practice of law, both here and abroad, on three levels: local, national and international.

In addition to the qualifications mentioned above, a reputation for greatness in the teaching profession is built upon three things: scholarship, which is measured by the quality and quantity of the individual's published work; teaching ability, which is measured by the opinions of students, alumni and colleagues; and the essential human qualities of the individual.

Of the three, scholarship is the easiest to measure. The books, articles and other written materials of the teacher are available for perusal and study. It is not too difficult to obtain the opinions of others, experts in the field, to evaluate the teacher's work.

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Measuring teaching ability is much harder. One reason for this is that there is no direct relationship between scholarship and teaching ability. Some eminent scholars are poor teachers, and vice versa. The ability to teach is the ability to communicate with the students—not merely the communication of data, but of understanding. It is also the ability to inspire students to strive to achieve their maximum potential. The best source for determining the quality of the teaching ability of a teacher is the opinions of the students who are, we hope, being taught. They are certainly able to form an opinion as to which of their teachers are the best, which are the worst, and which are in between. They have little basis, however, for comparing a teacher's ability with teachers in the same field but in other schools. Moreover, their appraisals may not be entirely accurate due to the fact that what they are judging may be popularity rather than ability. Also, a tough teacher may not be fully appreciated until the student graduates and learns from experience in the profession how much he owes the teacher. Another source for determining the quality of the teaching ability of a teacher is the judgment of his colleagues. Valuable as this is, it is not as reliable as student or alumni opinion because colleagues rarely sit in on one another's classes, and hence their opinions are generally based on hearsay, intuition, hunch, or the general regard in which they hold the individual.

The third ingredient in judging greatness is the essential human quality of the individual, which is a very complex thing, and difficult to describe, let alone evaluate. It includes character and integrity, but much more. It includes devotion to the task at hand; it includes sincerity; it includes sympathy, empathy, and "caring" for the students, and a sense of sharing in their accomplishments. It includes many other subtle qualities which go to make up a warm personality, one which attracts rather than repels students.

On all scores Professor Jacoby has distinguished himself. His books and articles in the fields of his expertise have enriched the literature of the law. His reputation as a classroom teacher, as I gathered it by sampling student and faculty opinion when I was a visitor at Case Western Reserve, is quite secure. To all of those who know him—students, colleagues and friends—it is unnecessary to recall that beneath that academic facade there dwells a warm, gentle, lovable, understanding human being.