

MARYLAND LAW REVIEW

VOLUME 63

2004

NUMBER 4

© Copyright Maryland Law Review 2004

Tributes

TRIBUTES TO PROFESSOR ALICE BRUMBAUGH

ODE TO ALICE B. UPON HER RETIREMENT

ALAN D. HORNSTEIN*

The dulcet voice of Alice B.,
In Criminal Law and Property,
Will echo down these hallowed halls
From here to near' eternity.

She tells of land that's held in fee,
And homicide and burglary,
And other legal principalls
That send her students up a tree.

When taught by Alice Austin Brumbaugh,
Students hardly ever slumbaugh.

In Property, she asks, "Who'll take
After the funeral and the wake?"
And so, the students she drives mad
With Rollo, her loyal rattlesnake.

In Criminal Law, she'd not partake
Of diamonds hot or maybe fake.
She teaches not the latest fad
And gives her students not a break.

Oh, Alice Austin Brumbaugh
You've taught students beyond numbaugh

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

Though she'll become emerit?,
In these halls there still will be,
We hope for many years to come,
The sight and sound of Alice B.

In Criminal Law and Property,
She'll teach it all, from A to Z,
To students smart and students dumb
And do it all so easily.

You leave us filled with wondaugh,
Alice Austin Brumbaugh.

ABRAHAM DASH*

I came to the University of Maryland Law School over thirty-three years ago and was especially fortunate because my first office was just across the hall from Alice and John Brumbaugh. I say especially fortunate because it meant my introduction to the law school, in the first several months, was filled with *civility*, graciousness, and courtesy, and with a lot of assistance and eventually a wonderful friendship. This is a small part of what I owe to John and Alice.

Over the subsequent years, I recall the many times my wife and I enjoyed the sparkling dinners with John and Alice followed by an evening at the theatre, always as *their* guest. John and Alice were an amazing team, an inspiration to all who knew them. Their collective value to our school is incalculable. However, Alice in her own right has contributed so much to our school that space and time limits me to mentioning only a fraction of what we owe to her.

It is indeed an honor to be asked to write this acknowledgement of Alice, but as a colleague of ours has said, it is “. . . a pity that the person who knew her best is no longer with us to write about her with his customary elegance and grace . . .” John Brumbaugh would have used the right words, even an appropriate poem, that would be worthy of Alice. Instead, I will do my best to note just some of Alice's many contributions to our University.

Professor Alice Brumbaugh the Teacher

I have known no one who is more devoted to teaching and to her students than Alice. Her teaching load was (and is) a legend at the school; and the courses she has taught are the difficult ones—Property, Estates & Trusts, and later in her career, Criminal law as well.

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

Each semester, the numbers of students she trained and taught were in the hundreds, more than any of us. I can remember, during a rare semester, when I thought I had more exams to grade than Alice, and gleefully boasted to her about it, only to learn that she still had more.

However, more significant than the teaching load, and numbers of students is, of course, the quality of her teaching. The excellence of Alice's teaching is also a legend. The test of a teacher's ability to reach her student is what former students remember, years after they graduate, and what memories they share with their classmates and others. Over the years, when I met former students whether they graduated ten, twenty, or thirty years ago, they always ask about four or five professors and Alice is always one of them. Their comments are affectionate, kind and appreciative of what she taught them. It is with time and maturity that they come to realize the quality of what she instilled in them.

In all the years I have been teaching, I am constantly made aware of Alice's popularity with students. Repeatedly, when students ask to meet with me but do not know where my office is located, I ask ". . . do you know where Professor Alice Brumbaugh's office is . . ." Invariably, they would say yes, and I would tell them that I am just across from her office, or two doors down, whatever it was that year. I never had a student who did not know where Alice was located nor fail to make kind and complimentary remarks about her.

Professor Alice Brumbaugh's Service to the University

Alice's knowledge of our Law School, her "institutional home," was and is of immeasurable value; she is virtually irreplaceable. There has never been an Academic Associate Dean who could make out the academic schedule without Alice's help and input. Her knowledge of the curriculum, past and present, is unrivaled, and has earned the gratitude of every Associate Dean we have had over the years.

It is to Alice that every student goes, who has a question on curriculum, or who wishes counseling on matters academic and personal. She is literally, always there, ready and willing to help, advise, or comfort.

There is no way to measure the value of Alice as our Principal Faculty Academic Advisor to the students and the Dean's office, except to say we would be institutionally at a loss without her. We are indeed fortunate that, even in retirement, Alice is still here as our Principal Faculty Academic Advisor.

Alice has been Chairman (not chairperson—she has little patience with such terminology) of the Administrative Committee for as

many years as I have been a member. This Committee, which deals with the emotional and difficult decision concerning students in academic or disciplinary difficulty, requires a very special person as its chairman and Alice was this very special person. Her sense of justice and fairness was always controlling when the committee made its decisions. Her institutional loyalty insured that the work of the committee was fully documented and its decisions unchallengeable. Members, like me, who had many years of service on the committee were always impressed with Alice's knowledge of past cases and the precedents set by past committee decisions. It was important to Alice to insure consistency and fairness in the committee's work. In fact her knowledge and experience were so invaluable that the Dean made an unprecedented decision in asking Alice to stay on the committee after she retired—a request with which Alice gladly complied.

It has been my privilege to have known Alice as a colleague and friend for over thirty years. I, as my colleagues, look forward to her many years as an Emeritus Professor, still teaching a heavy load, and providing to our students her continuing counsel and comfort; and to us, her friendship. It is indeed very fitting that the students and the school should acknowledge through the Law Review, our thanks and appreciation to this excellent teacher and wonderful colleague. However, it is the thousands of her former students, and their contribution to our state and country, who are the living testimonial to Alice's career.

I will end with a recent anecdotal experience I had. Alice, of course, has been in retirement this past academic year. A week before I started to write this acknowledgement of Alice, a student in my evening class asked to meet with me, but did not know where my office was. Without even asking the student about Alice, I simply said “. . . my office is two doors down from Professor Alice Brumbaugh.” The student's face lit up and she said, “Oh, I know where Professor Brumbaugh is.” In a way, that says it all.

FREDERIC N. SMALKIN*

“Consider the fertile octogenarian,” came forth the words in her inimitable, measured cadence, causing a roomful of twentysomethings to ponder a notion that had theretofore been pretty far from their contemplation. Certainly, nothing in their college educations or prior careers had prepared them for considering fertile octogenari-

* Senior U.S. District Judge, District of MD; Senior Judicial Fellow and Lecturer, University of Maryland School of Law; J.D., University of Maryland, 1971.

ans, and, now, such unlikely heroes seemed to hold the key to understanding the dreaded Rule Against Perpetuities. And so it has gone for thousands of University of Maryland School of Law students, as they came, hour-upon-hour, to hear Alice—perched properly at her desk dead-center in the classroom—declaim authoritatively on Property, Future Interests, and Virtually Everything in the Legal Firmament.

Not only were Alice's classroom pronouncements uniquely memorable, they were invariably accurate, pithy, and—of greatest significance to law students—apt to show up on her exam. If Alice said it, you “could take it to the bank.” While some law teachers (certainly not at the University of Maryland) are reputed to be more interested in obscuring the torch of learning with fog than using it to illuminate the path to wisdom, Alice, during the span of her remarkable career, has used that torch to enlighten her students day in and day out.

What special gift enabled Alice to work her magic? Despite what some experts might say, true mastery of the law still requires a prodigious memory. To keep things in Alice's realm of expertise, it matters not, in the end, whether one acquires that talent by inheritance or develops it by heroic effort (usually involving devoted and repeated application of one's bottom to the seat of a chair). However she got the gift, Alice had it.

Alice's prodigious memory was not confined to what comes out of legal texts and reporters. She never forgot a student, despite having literally taught thousands over the span of her career. I can, in fact, give a testimonial to this amazing ability.

Years ago, I was seriously considering a law clerk candidate from the University of Maryland. Bearing in mind the obvious fact that professorial recommendations are usually solicited from those who are likely to give the candidate a rave review (although I have seen a few that would come as an unwelcome surprise), and having ascertained that the applicant had taken at least one course from Professor Soled (as she then was), I called Alice for an objective evaluation.

Frankly, I have quite forgotten the applicant, but I can still recall my conversation with Alice, which ran—virtually *verbatim*—like this:

“Alice, I am considering Ms. X for a law clerk position, and I notice she took one of your classes. I wonder if you remember enough about her to give me an evaluation.”

With hardly a moment's hesitation came the reply: “Let me see . . . Yes, in Future Interests, Ms. X sat about four seats in from the left-hand aisle in the third row back from the front . . . She got a B+ on her paper and an A- on the exam. She seemed to have a little bit of

trouble with contingent remainders, but she expressed impressive familiarity with the Doctrine of Worthier Title. I think you'll find she'd make an excellent law clerk."

Over the years, Alice never let repetition dull the special excitement of teaching that comes with each new class or the wonderful satisfaction that comes with watching students turn from deer-in-the-headlights first years into graduating seniors certified by the faculty (and, one hopes, soon thereafter by the State) as fully prepared to take on real clients with real problems.

One of the universal truths about students—unless their parents happen to be teachers—is that they often find it hard to believe that their teachers have a life outside the classroom. Well, they do, but Alice's private life, like her academic one, had its locus in the Law School, where she met and married her late husband, our revered colleague John Brumbaugh. It would be trite to say they were made for each other, but I'll say it anyway, because it is so perfectly true. In intellect, in talent, in wit, and in love, Alice and John were two of a kind. Their union was so perfect that it became almost impossible to think of one without the other at his or her side, and "The Brumbaughs" became, within the precincts of the Law School and among their many friends, more than just a couple. They were, to borrow from the jargon of science, a singularity. John's passing was felt so deeply within the Law School not just because he had the love and respect of the community, but also because of the community's love and respect for Alice in her time of grief.

As Alice winds down her physical presence at the Law School, her influence on generations of lawyers will not wane. It will live on, as her students fulfill their destinies as tomorrow's lawyers, judges, legislators, and academics, who will share the privilege of shaping the law in Maryland and beyond.

LYNNE A. BATTAGLIA*

Alice Brumbaugh was the professor with whom I had the greatest contact when I attended the University of Maryland School of Law from 1971 to 1974. I was a student in her Estates and Trust, Future Interests (how can I ever forget shifting and springing uses), Estate and Gift Tax, and Estate Planning Seminar classes. I, like many others, also sought her advice and counsel throughout my time at the

* Judge, Court of Appeals of Maryland; Adjunct Professor, University of Maryland School of Law; J.D., University of Maryland, 1974.

law school and have sought her advice ever since then as I have wound my way through the practice of law.

My experience of Alice Brumbaugh was and is that she is truly the most knowledgeable, skillful, prepared, and distinctive professor that I have ever known. She demanded mental discipline; she required your very best. She could work a room of law students into a panic like no other professor with her insightful musings and her laser-sharp questions that went to the heart of the Rule Against Perpetuities, the Slayers' Rule, and other esoterica that one only sees now on an appellate level. I do not recall a time when she did not know the answer to a query propounded by law students who marveled at her command of the maze of death and taxes.

Her contribution to my development as a lawyer, though, was not limited to the hours spent together in the classroom and the vast time it took to prepare for her classes, finals, and final projects, but also outside of the formality of our roles. Professor Brumbaugh had and continues to have the capacity to listen to the meanderings of law students, one of whom ruminated about entering a "blue blood" firm without having come from that environment.

She also maintains a tremendous faith and belief in the ability of law students. She continues to advise them, even now when she is no longer part of the full-time faculty. Her trust in me went so far that, when faced with my insecurity as to whether I passed the bar exam, she remonstrated, in her incredulity, that I should ever question my own abilities. While her trust in me was greater than my own, her comment buoyed my hopes that I would achieve licensure (I did).

My only sorrow in writing this is that it is on the event of Professor Brumbaugh's departure from the ranks of the full-time faculty. The law school will have lost a part of its mind and spirit with her leaving. I know, though, that she will always be a part of mine.

KAREN ROTHENBERG*

In the last 35 years, thousands of our law school graduates have been taught Property or Criminal Law by Professor Alice Brumbaugh. In other words, she has educated and influenced the lives of a significant number of lawyers currently practicing in Maryland. Together with her late husband Professor John Brumbaugh, whom she met when she joined the faculty, the pair introduced thousands of law students to the concept of "thinking like a lawyer." They were a couple

* Dean, Marjorie Cook Professor of Law, University of Maryland School of Law.

to be respected who shared a love for each other and a love for the law. For many of our graduates, the unifying, and often most memorable, element of the law school experience is the time they spent in classes with the Brumbaughs.

Following her graduation from the University of Michigan Law School in 1955, Alice practiced law in New York before joining the Maryland faculty as its first woman member in 1969. She was also the first woman to achieve tenure at Maryland and, in 1972, to become a full professor. For many years, she was the only woman on the faculty. In 1993, Alice was appointed as the Robert Stanton Distinguished Service Professor of Law.

While she never sought a dean's title, she served as an administrator for many years. As Chairman of the Administrative Committee, which deals with individual student matters as well as administrative policy, Alice had a reputation of being fair and thorough. She also served as Director of Academic Advising and faculty members with offices near hers recall long lines of students that often formed in the hallway waiting to see her. As a result, generations of students owe a great deal to her, not only for the privilege of taking her classes, but also for the advice they received on course planning and, in many instances, on life itself. Today, where over 30 women faculty and administrators are members of our law school community, and where women comprise over half of our student population, it is sometimes difficult to imagine the environment in 1969 when Alice began her teaching career. Obviously, Alice was determined to be treated as an equal and to be treated with respect. Being a law professor, while raising two children, was a dream come true.

As a member of the American College of Trust and Estate Counsel and the Governor's Commission to Revise the Annotated Code of Maryland, and as an academic fellow of the American College of Probate Counsel, Alice has made significant contributions to the profession. She also published a number of law review articles on estates & trusts during her academic career.

Alice's legacy lies primarily in the standard she sets for all of us in her commitment to teaching, her compassion and interest in her students, and her dedication to the Law School. Although she is officially retired, she is still very much a part of our law school. As Robert Stanton Distinguished Service Professor of Law Emeritus, she continues to teach and advise students—and it is my hope that she will continue to do so for many years to come.

DAVID S. BOGEN*

Whenever Maryland law students produce a Faculty Follies, the student who plays Professor Alice Brumbaugh is always the showstopper. No Follies has been without her since her arrival. For three and a half decades, law students have mimicked the glasses, the dresses and that high pitched voice—and, in her case, imitation has been the sincerest form of flattery. They admire her for teaching law with clarity and humor and they love her because she cares so much about them.

Alice and I came to Maryland together in 1969. She had been an editor of the Michigan Law Review and a practitioner who had taken time off to raise her children. Deciding to enter the teaching profession, she began graduate study at Columbia University. The year before coming to Maryland, Alice commuted from New York to teach at George Washington University Law School, an early example of her complete commitment to teaching.

When we came to Maryland, Alice and I found a welcoming and considerate group of colleagues, but none more thoughtful or considerate than John Brumbaugh. It is an honor to have the opportunity to write about Alice, but a pity that the person who knew her best is no longer with us to write about her with his customary elegance and grace. For generations of Maryland students, John and Alice were a team, and few realized that they had not been married at birth, but rather in the more pedestrian early 1980s.

Alice wrote the requisite law review pieces, including the delightfully titled *Robin Hood Was Right or Never Trust a Sheriff: The Relationship Between Sheriffs' Sales and The Maryland Recording Act*.¹ She served the profession as a member of the Governor's Commission to Revise the Annotated Code of Maryland and as an Academic Fellow of the American College of Probate Counsel. But students, not scholarship, have been her passion. Like her late husband John, even in retirement she teaches at the law school. Indeed, she has not so much retired as merely tapered off a bit.

Professor Brumbaugh has been the keeper of the law school's student handbook—producing a huge volume with all the rules passed by the university and the faculty council on every sort of situation that was kept in the library before the advent of the Office of Student Affairs and web site technology of the twenty-first century. She could

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

1. 38 MD. L. REV. 633 (1979).

have had a dean's title, but wanted to avoid dean's meetings. One form of administration she took great joy in—for years she was chairman of the Administrative Committee, running it with a firm hand that was thoroughly appreciated by its members.

Alice is a pioneer—she was the first female member of the faculty, the first to be tenured and the first to become a full professor. She has little patience for political correctness in gender terminology—insisting that she was the chairman of the Administrative Committee and not a piece of its furniture—but she understood thoroughly the pressures of family and career and the problems of prejudice that faced her students, and the growing numbers of female students appreciated her for it.

For many years, Alice taught Estates and Trusts, Estate Planning Seminar, and Future Interests, but over time her interests focused on teaching the first year and on the students. She became director of academic advising, in charge *inter alia* of approving student requests for credit for courses outside the area of law. The Law School policy of allowing up to nine credits for nonlaw study has facilitated combined master's programs with other institutions, but Professor Brumbaugh has hacked through miles of red tape in dealing with the frustrations of getting the other institutions to acknowledge law school courses as appropriate for their joint degrees.

A.B. begins the alphabet, but Alice Brumbaugh has been both Alpha and Omega for the academic schedule. Scheduling always began with Alice. She took the heaviest teaching load on the faculty. For many years she wanted to, and did, teach every student in the entering day class—two sections of property and one of criminal law. She and Rollo (her hypothetical snake) entertained and made clear the murkiest areas of the law. When the times and rooms for her classes were set, much of the work of scheduling the first year was finished. The associate dean just had to fill in the surrounding blanks.

Creating the schedule also ended with Professor Brumbaugh. Just before the schedule went out to the students, she carefully scrutinized the last draft to be sure that all the courses that must be taught were there and in their proper time slots to avoid conflicts. Many an associate dean has had cause to be thankful for her wary eye.

When the schedule was finished, Alice presided over its implementation. Every year she explained to all the students in the law school the rules and the available choices, with her emphatic advice on what was good for them. Having Professor Brumbaugh as teacher and advisor meant much more to students than academic counseling. They flocked to her office for support and advice on their life as much

as on the intricacies of the residence requirement. Her overwhelming concern for students set a tone that inspires all of us.

It has been a joy to have been her colleague through the decades and a great pleasure to see the Law Review acknowledge her enormous contribution to making the law school a better place.