

## A TRIBUTE TO OUR FRIEND, PROFESSOR EUGENE GRESSMAN

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You might say that Gene Gressman makes a habit of retiring. After serving as a law clerk to Justice Murphy for an unprecedented five years, Gene retired from that position to work as an attorney. Thirty years later, his retirement from the practice of law was followed by a ten-year career as a professor of law at the University of North Carolina. Upon his retirement from that great institution, he graduated to Seton Hall, where he has taught for the last seven years. As Professor Gressman leaves the students, faculty, and alumni here who quickly came to love him, the question is, what next, Gene?

For those who view it as a time for leisure, Gene has given retirement a bad name, for the truth is that Gene has never really retired from anything. His work for Justice Murphy was just the beginning of a relationship with the Supreme Court which is characterized by an intimate knowledge of the institution and warm personal friendships with many of the Justices over the years. It has been crowned by the many editions of his book, *Supreme Court Practice*, first published in 1950 and now in its Seventh Edition.<sup>1</sup> From its first appearance, it has been the “bible” for the Supreme Court bar and for the Court itself. And, unlike the original Good Book, its author is often telephoned when the text needs exposition. In fact, Gene is always being consulted, often by attorneys who rely on his knowledge and his wisdom as they prepare for the culmination of their legal careers — an argument before the High Court.

The transition from law clerk to lawyer took Gene away from the Court at first, but just as surely brought him back to it. Gene soon became the Supreme Court’s premier private practitioner, having presented more arguments to that august body than any private attorney and having written literally hundreds of petitions for certiorari and briefs for the Court. His best known cases before the High Court include representing the House of

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<sup>1</sup>STERN, ET. AL., *SUPREME COURT PRACTICE* (7th ed. 1993).

Representatives in *INS v. Chadha*<sup>2</sup> and the State of Louisiana in *Maryland v. Louisiana*.<sup>3</sup>

But Gene's cases usually started in the lower courts, and were often for humbler clients. He had an extensive practice which frequently embraced *pro bono* presentation of important constitutional issues for individuals who would not otherwise have had their cases presented. Anyone who wants to appreciate the strength both of Gene's advocacy and of his humanity need only read Professor Daniel Hill Pollitt's tribute, *Eugene Gressman: As Mirrored by his Cases*.<sup>4</sup> Professor Pollitt recounts not Gene's more famous decisions, but his labors for indigent criminal defendants at a time when the legal environment was typically unresponsive, if not hostile.

When Gene "retired" from the practice of law and joined the faculty of the University of North Carolina Law School as William Rand Kenan Professor, he was really neither leaving an old career nor starting a new one. His practice before the Supreme Court continued; he simply allowed more time for what had always been an abiding interest in scholarship and teaching. In the scholarly arena, the publication of *Supreme Court Practice* in 1950 had been followed by a succession of articles, often with a civil rights or civil liberties theme. These include a still often-cited piece, *The Unhappy History of Civil Rights Legislation*,<sup>5</sup> and continued in a large number of articles which he wrote or co-authored and perhaps an even greater number in which he generously assisted younger colleagues. On the teaching front, Gene had visited at a number of law schools, including Michigan, Ohio State, George Washington, and Catholic, before settling down at North Carolina.

Gene's penultimate "retirement," his departure from the University of North Carolina, might have been viewed by some as for real. He came to Seton Hall Law School to visit for a year as the Richard J. Hughes Chair of Constitutional Law and Public Policy. But those who thought that Gene had finally retired could not have been more wrong. That year visitorship stretched into seven, during which time he remained a vibrant scholar, a popular and dedicated teacher, and a wonderful colleague. His scholarship

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<sup>2</sup>462 U.S. 919 (1983).

<sup>3</sup>451 U.S. 725 (1981).

<sup>4</sup>Daniel Hill Pollitt, *Eugene Gressman: As Mirrored by his Cases*, 65 N.C.L. REV. 863 (1987).

<sup>5</sup>Eugene Gressman, *The Unhappy History of Civil Rights Legislation*, 50 MICH. L. REV. 1323 (1952).

included an important new work, *Cases and Materials on Constitutional Law*<sup>6</sup> (now in its second edition), that makes more of his knowledge on substantive constitutional doctrine accessible to new generations of law students. He has also continued to work with younger colleagues, as in his present collaboration with Professor Carmella on an article assessing the constitutionality of the new Religious Freedom Restoration Act. His teaching included his perennially over-subscribed Supreme Court Practice Seminar (which included an annual “field trip” to Washington to observe the Court and meet with the Justices). He has also brought alive Constitutional Law for the first year students who were truly privileged to learn from someone with such an intimate knowledge of the Court. I availed myself of the opportunity to learn from this quintessential constitutional professor when I audited his constitutional law course in anticipation of my own efforts to teach the course a year later. Thanks to Gene’s compassion, he exempted me from the exam and never did take attendance. Of course, attendance never needed taking with Gene, since he always teaches to a full house.

Gene says he is retiring again. But even Gene can’t fool all the people all the time. A time honored practice in academia is to give someone who has labored for seven years a sabbatical, with the expectation that they will return to teach again. I prefer to say that next year Gene Gressman will be on sabbatical from Seton Hall. Certainly nothing would make us happier than to have him back. His steadying influence, warm sense of humor, free spirit, and outrageous neck ties can never be replaced. We have been blessed to be around Gene.

In the meantime, farewell dear Gene and Nan, you are loved by all of us and you will be missed. God bless you both!

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<sup>6</sup>DAVID CRUMP ET AL., *CASES AND MATERIALS ON CONSTITUTIONAL LAW* (2d ed. 1990).

