IN MEMORIAM

THE HONORABLE ROBINSON O. EVERETT

1928–2009

ROBINSON EVERETT: THE CITIZEN-LAWYER IDEAL LIVES ON

DAVID F. LEVI†

With titles like "*The Lost Lawyer*," modern writers about the legal profession have amassed a literature of mourning that grieves the demise of the lawyer-statesman and the citizen-lawyer.[1] According to much of this literature—with the rise of the large national and international law firm as well as the increase in specialization and the focus on the firm as a business—the pipeline from law to politics and law to public service, so critical from the time of the Founding through the early twentieth century, was severed for once and all. It is said that we shall never again see the likes of the little giant or the rail splitter or the Atticus Finches of small town America—lawyers, statesmen, and civic leaders. These writers obviously never met Judge and Professor Robinson O. Everett.

Until the day that he died last year, Professor Everett, known affectionately as Robbie, was the consummate lawyer-citizen,

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† Dean and Professor of Law, Duke University School of Law. Previously, Chief Judge of the United States District Court for the Eastern District of California.

1. ANTHONY T. KRONMAN, THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION (1993); *see also* SOL M. LINOWITZ, THE BETRAYED PROFESSION: LAWYERING AT THE END OF THE TWENTIETH CENTURY 32–33 (1994) ("The worst damage is done invisibly, within the firm, where collegial relations become secondary to financial return and the young are inducted into a business rather than a mystery."); Robert W. Gordon, *The Citizen Lawyer—A Brief Informal History of a Myth with Some Basis in Reality*, 50 WM. & MARY L. REV. 1169, 1180 (2009) (noting that while "some version[] of the citizen lawyer" is alive and well, "the ideal of the citizen lawyer as part of the calling of ordinary private lawyer[s] . . . is in recession").

constantly thinking of ways in which he could improve the justice system and make his community a better place for all to live. He was full of projects and plans. Sometimes he acted through his role as a professor, sometimes as a judge, sometimes as a citizen, but always as an esteemed member of the Bar. Last year, Duke Law School's graduation speaker, Judge David Sentelle, said to our students that now that they were about to become lawyers, they could no longer muse about something gone awry: "*they* really ought to do something about that," because as law graduates, they were the "they" responsible to act and to keep our democracy operating smoothly and fairly. Robbie knew this well and never called upon others to do what he could do himself, although he frequently called upon others to join him. Whether through his tireless commitments to students, faculty, and staff at Duke Law School; his service as the Chief Judge on the United States Court of Appeals for the Armed Forces; his involvement with bar associations, civic groups, and professional organizations; and his assistance and counsel to the countless individuals he guided along life's path, Professor Everett took responsibility for the world around him not just as any caring citizen or neighbor might do, but as a person who had the good fortune and privilege to be a lawyer. He was living proof that the citizen-lawyer is and can be alive and well for all who have the character and determination to follow in that great tradition.

Professor Everett's career in the law would seem predestined. He was born on March 18, 1928, in Durham, North Carolina, the only child to the loving union of two local lawyers of great distinction—Kathrine R. Everett, one of the earliest women graduates of UNC Law School, and Reuben O. Everett, one of Duke University's first law students.[2] Raised in a close-knit family, Robbie often recalled as one of his proudest moments the day in 1954 when he and his parents were sworn into the U.S. Supreme Court Bar together.

Professor Everett graduated from high school in Durham at the age of fifteen. He then attended Harvard College and received his bachelor's degree in Government, *magna cum laude*, at the ripe old age of nineteen. Three years later, he graduated, *magna cum laude*, from Harvard Law School. Professor Everett returned to his native

2. Robbie once wrote that he became a lawyer because he was "the only child of two unique North Carolina lawyers[] who were great role models." Robinson O. Everett, *Lawyer Family: Lessons Learned for the Practice of Law*, *in* LAWYER TO LAWYER: NORTH CAROLINA REFLECTIONS ON THE PRACTICE OF LAW 15, 15 (2005).

Durham to practice law and began teaching at Duke Law School soon thereafter. At twenty-two years old, he was the youngest person ever to teach at Duke Law. And as he liked to joke, he "must have been a good teacher" because he became a full-time member of the faculty in 1957 and gained tenure in 1967.

After just one year of teaching at Duke Law, and with the encouragement of his mother, Professor Everett enlisted in the United States Air Force in 1951 during the Korean War and went on to a distinguished career in the military. Upon his release from active duty, he served as commissioner of the United States Court of Military Appeals and remained a member of the Air Force Reserve until his retirement in 1978 as a colonel in the Judge Advocate General's Corps. As counsel to the Subcommittee on Constitutional Rights of the United States Senate Judiciary Committee, Professor Everett was also a major force contributing to the enactment of the Military Justice Act of 1968, which created the modern military court system. In 1980, in recognition of Robbie's contribution to military justice, President Carter appropriately appointed him Chief Judge of the United States Court of Military Appeals, the highest civilian court in the military justice system. He served in this capacity for a decade, eventually taking senior status for the remainder of his life. It is not a surprise that he continued to teach at Duke throughout his tenure as a judge, commuting each week from Durham to Washington. Because of his energy, talent, and commitment to teaching and to judging, these dual careers did not compete but rather enriched one another.

Professor Everett also practiced law in Durham. He joined his parents' firm in 1955, and continued in general practice at the aptly named Everett, Everett and Everett for twenty-five years. His legal practice included civil and criminal appeals, and real estate transactions. In perhaps his most famous string of cases, Professor Everett was both plaintiff and attorney in the landmark and controversial North Carolina redistricting cases, starting with *Shaw v. Reno*.[3] He argued four times before the U.S. Supreme Court in connection with that case.[4] In fact, he and another distinguished Duke Law Professor, H. Jefferson Powell, argued against each other in one

3. Shaw v. Reno, 509 U.S. 630 (1993).

4. In addition to *Shaw v. Reno*, he also appeared before the Court in *Easley v. Cromartie*, 532 U.S. 234 (2001), *Hunt v. Cromartie*, 526 U.S. 541 (1999), and *Shaw v. Hunt*, 517 U.S. 899 (1996).

of those Supreme Court appearances,[5] surely a unique event in the life of Duke Law or any other law school. The academic-colleagues-turned-legal-adversaries remained personally and professionally close and deeply respectful of one another despite their widely divergent positions on the case.

Professor Everett also served in a variety of leadership positions in the legal profession, the Duke and Durham communities, and his church. He was involved in numerous local, state, and national bar organizations, committees, and projects, all of which recognized his formidable energy, creativity, and leadership. His contributions were often recognized in the many awards that he received, including the Morris I. Liebman Award from the American Bar Association. Though firmly rooted in Durham and North Carolina, he was a national figure in the law and in law reform. From his work with Senator Sam Ervin on the Military Justice Act to his service as a North Carolina commissioner to the National Conference of Commissioners on Uniform State Laws, in which role he labored on drafting committees for the Revised Controlled Substances Act, the Uniform Duties to Disabled Persons Act, and the Model State Administrative Procedures Act, Robbie contributed his talents and wisdom to the profession unstintingly and on a large stage.

But for all of his achievements as a practitioner, judge, and community servant, Professor Everett was most at home at Duke Law School where he spent over fifty years. He was wholly devoted to the Law School and to his students. Indeed, for many Duke Law alumni, Professor Everett is the embodiment of Duke Law School. He founded Duke Law's Center for Law, Ethics and National Security in 1993, well before the national spotlight was cast on these issues. He taught courses in military justice, criminal law, national security law, sentencing, and criminal procedure. His scholarly interests included not only criminal, military, and national security law, but also election law, redistricting, real estate law, and secured transactions.

Robbie was deeply embedded in the Duke Law community. He was a constant fixture at Law School events, always available to welcome new students into the fold; a faculty advisor to numerous law student organizations, including journals and Moot Court; and an active participant on numerous law school and university-wide committees. His dedication to this institution and the people within

5. *Reno*, 509 U.S. at 632.

its walls was unyielding. Any dean during Professor Everett's remarkable tenure will attest that he was a constant source of ideas for new programs, courses, or conferences that would expand opportunities for students, alumni, and colleagues.

He also was a quiet and generous source of financial support to the Law School and to many students in need of assistance. Often upon hearing of a student's struggles, Professor Everett would pay a tuition bill, purchase law textbooks, or pay for travel to a job interview. Sometimes students did not even know whom to thank for these acts of kindness. Robbie took a special interest in those who were in trouble or who might get lost among the competitive pressures of daily life in a top-tier law school. Offering a helping and guiding hand to these young people was his special mission, and he excelled at it. There are many alumni who received a hand, a home-cooked meal, or a word of encouragement from Robbie and for whom this simple act made all the difference.

When Professor Everett died on June 12, 2009, his quiet acts of kindness emerged in a flood of stories and remembrances offered up by Duke Law alumni. As word of his passing spread within the community, the great shock and sadness we all felt was tempered with gratitude for having been blessed by his example and friendship. Our tribute website filled in a matter of days with dozens upon dozens of memories from former students and friends who were touched by him, given a job, given advice, or welcomed into his home. Other memories were less intimate, but no less poignant; they spoke of his gentle manner and kind classroom demeanor. All who knew him recognized the deep well of good will he carried within.

Although Robbie and I did not know each other for very long, we were comfortable with one another right away. Perhaps our natural and easy bond reflected our common background of judicial service and our membership in many of the same organizations. Robbie frequently came down to the dean's office to have a word with me. Often he brought some distinguished guest he wanted me to meet. In other instances, he had an idea for a speaker, a program, or a conference that would enrich the education of our students. On many of these occasions, he wanted to talk about his deep concern that the justice system does not do enough to help convicted felons reintegrate into the community. He had not given up on the idea that people can change if they are helped. And he did not see us in groups. He saw each of us, even the most troubled among us, simply for ourselves. For all his accomplishments and successes, it was his determination to

help each person, one at a time, that is most inspiring, and which—in Professor Everett, as in others—united the lawyer as statesman and public citizen, with the lawyer as the defender and representative of individuals.

Professor Everett once said that the law "provides some wonderful opportunities for service to others and is also a means to a productive life."[6] This understated description was typical of Robbie. He did not deliberately set out to achieve greatness. He sought a productive life through service, but sought it so constantly, so energetically, and so unselfishly that greatness came to him unbidden and unsought. From the representation of individuals to the many projects on behalf of his community and nation, Robbie lived a life in the law in the greatest tradition of the Bar. Although Duke's model citizen-lawyer has departed, his impact will long be felt by the many Duke Law graduates who do honor to his example by serving in that very same tradition. Long may it live.

6. David F. Levi, Duke Law, The Honorable Robinson O. Everett, 81, http://www.law.duke.edu/news/story?id=3508&u=11 (last visited Feb. 15, 2010).