

William & Mary Law Review

Volume 42 (2000-2001)
Issue 2

Article 7

October 2000

Tribute to John Donaldson

Neal Devins

William & Mary Law School, nedevi@wm.edu

Follow this and additional works at: <https://scholarship.law.wm.edu/wmlr>



Part of the [Legal Biography Commons](#), and the [Legal Education Commons](#)

Repository Citation

Neal Devins, *Tribute to John Donaldson*, 42 Wm. & Mary L. Rev. 367 (2000),
<https://scholarship.law.wm.edu/wmlr/vol42/iss2/7>

Copyright c 2000 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.

<https://scholarship.law.wm.edu/wmlr>

TRIBUTE TO JOHN DONALDSON

NEAL DEVINS*

About a week after accepting William & Mary's offer to join its Law School faculty, in February 1987, one of my poker buddies—a 1982 William & Mary Law School graduate—told me about this legendary teacher of his, somebody who went by the name John Donaldson but, in fact, was superhuman. Aside from teaching every student in his class, my friend told me, John Donaldson was a true iron man—someone who would not let infirmity stand in the way of a good lecture. Apparently, John once got something caught in his throat while lecturing, continued his lecture while walking up the stairs of room 119, and after a thirty-second out-of-classroom detour was back in class without having missed a beat.

A few months after my friend and I spoke, during the closing on my house, the sellers told my wife and me about this legendary neighbor of theirs who taught at the Law School, somebody who went by the name John Donaldson. John (along with his wife, Sue) apparently was one of those neighbors who helps keep a community together through a variety of good deeds.

And so it goes. People who come in contact with John understand that they are dealing with the genuine article, a compassionate individual who not only lives life to the fullest but who lives life according to a set of core values. That, in part, is why virtually every student at William & Mary Law School has taken either Federal Tax or Trusts and Estates from John. That is why these students, after they graduate, seek him out at alumni gatherings. That is why John finds himself on presidential and dean search committees—not to mention county boards of supervisors and leadership positions in the state bar. And that is why I used my status as faculty advisor to the Law Review to leverage an offer to write a tribute to John on the occasion of his retirement.

Over the course of my thirteen years at William & Mary, one of the few things that has held constant is my admiration for John Donaldson. If anything, my high regard for John has increased year after year. In this tribute, I will talk about some of the things that,

* Goodrich Professor of Law and Lecturer in Government, College of William & Mary.

for me, set John apart. Along the way, I hope to call attention to why it is that John is so important both to the people whose lives he touches and to the College of William & Mary, the institution that John has improved through thirty-five years of dedicated service in and out of the classroom.

* * *

One of the toughest things a law school does is look for a new dean. Here, competing visions of what a law school should be are on full display. Needless to say, the possibility of friction among members of a dean search committee is, well, a probability. In 1992-93 and again in 1993-94, I served with John on the Law School's dean search committee. On both occasions, John made use of a measuring stick that put his thinking at odds with some committee members. Nevertheless, without compromising his own positions (which he articulated with precision and force), John never lost sight of something that, on occasion, escaped some committee members (myself included), that is, that people who disagree with you may be in the right and, no matter what, are entitled to be treated with respect. More to the point, by *living* the Golden Rule, John helped create an atmosphere of mutual respect within the committee.

John, moreover, stood behind the committee—even when its views diverged from his own. The antithesis of a *prima donna*, John saw himself as a part of a larger, more important whole—someone who stood by the institution while working from the inside to push it into doing what he thought was right. He did this on the dean search committee and has done this over the course of an entire career. Indeed, by seeing the whole as being both larger and more important than the sum of its component parts, John (within mortal limits) has helped instill a sense of community and purpose in both his colleagues and his students.

For very much the same reason (and perhaps because he has been around the place longer than anyone else), John is often looked to as the school's institutional memory, its keeper of tradition. Whenever someone has left the Law School (at least until his own departure), the faculty has looked to John to solemnize the occasion through the writing of a resolution to be "spread among" its minutes. Moreover, if there is ever a question of how we used to do things, the one to ask is John.

Among the countless examples of John's sense of person and place, one stands out. It was my first year at William & Mary and there was a heated faculty debate about a curriculum matter. After several faculty spoke, John entered the fray. Speaking about core institutional values and the like, John's remarks had seemingly ended the conversation. The reason: John was so authoritative and definitive in his presentation that most faculty took it for granted that the Law School had a preexisting policy on the question—a policy that John was adhering to and calling on the rest of us to adhere to as well. After a short interval, someone asked John when we had set up the policy that he spoke of. The answer: Never. The lesson here is not that John was trying to pull a fast one on his colleagues. It is, instead, that John's presence, his belief in standards (and in William & Mary), and his reputation as keeper of the institutional flame had conspired in such a way that his colleagues could not distinguish advocacy from reporting.

* * *

Up until now, there has been a self-conscious murkiness in my storytelling. In describing John as a person of standards, a possessor of core values, and the like, I have not revealed what these core values are. And since this is a tribute to the genuine article, not a politician, I feel it about time to get to the punch line of this tribute.

More than anyone I have met, John Donaldson is an advocate of the rule of law. For John, law is our best defense against tyranny and oppression. By binding all persons, including government officials, law checks the brute force that comes with personal, arbitrary power. In other words, John sees both lawyering and the training of lawyers as noble, essential professions. Furthermore, for John, the training of lawyers is principally about the legal rules that stand between ordinary citizens and those who can bully them through the exercise of coercive power.

John has given expression to these core beliefs through both word and deed. At faculty meetings, John has supported increasing the number of credit hours for mandatory, foundational courses; has supported increasing the number of courses that we consider foundational, that is, courses that the faculty encourages students to take; and has opposed proposals to reduce the number of credit hours for graduation. More telling, John lives by example. He

teaches his students about the law (and makes use of a lecture format to make sure that his students are exposed to as much relevant law as possible). And he never shies away from teaching. He has always taught an overload—fifteen credits as compared to the traditional eleven or twelve credit load. Moreover, unlike most of his colleagues, John happily teaches his courses in our large classrooms.

When all is said and done, John recognizes the social significance of teaching about the intricacies of the tax code, estate planning, and the like. Beyond that, for both his colleagues and his students, John provides a necessary, healthy reminder about the critical role we play in making ours a government of law, not men. In this way, when I think of John, I am drawn to the image of Thomas More in Robert Bolt's play *A Man for All Seasons*.

There is one scene in particular in which a speech by More conjures up John Donaldson's image (or it is vice-versa?). Here is the scene: More, after refusing to take an oath of allegiance to Henry VIII, finds himself in peril. In a conversation with his wife, Alice, daughter, Margaret, and soon-to-be son-in-law, William Roper, More explains why he will not take action against Richard Rich, an unscrupulous soul that More's family fears. More's dialogue is pure John Donaldson.

MARGARET Father, that man's bad.

MORE There is no law against that.

ROPER There is! God's law!

MORE Then God can arrest him.

ROPER Sophistication upon sophistication!

MORE No, sheer simplicity. The law, Roper, the law. I know what's legal not what's right. I'll stick to what's legal.

ROPER Then you set man's law above God's!

MORE No, far below; but let me draw your attention to a fact—I'm *not* God. The currents and eddies of right and wrong, which you find such plain sailing, I can't navigate. I'm no voyager. But in the thickets of the law, oh, there I'm a forester. I doubt if there's a man alive who could follow me there, thank God . . .

(He says the last to himself)

- ALICE (*Exasperated, pointing after RICH*) While you talk, he's gone!
- MORE And go he should, if he was the Devil himself, until he broke the law!
- ROPER So now you'd give the Devil benefit of law!
- MORE Yes. What would you do? Cut a great road through the law to get after the Devil?
- ROPER I'd cut down every law in England to do that!
- MORE (*Roused and excited*) Oh? (*Advances on ROPER*) And when the last straw was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? (*He leaves him*) This country's planted thick with laws from coast to coast—man's laws, not God's—and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? (*Quietly*) Yes, I'd give the Devil benefit of law, for my own safety's sake.¹

One final thought: A couple of days ago (August 4, 2000), I asked John why it was that this coming year—the last before his retirement—he was again teaching fifteen credit hours and, more than likely, two-thirds of all second- and third-year students. His response was as simple as it was stunning, namely: "That's my normal load." For John, his normal load is to teach twice as many students as any of his colleagues. And the reasons are about his belief in law, his devotion to the Law School, and his love of teaching.

No one on the law faculty can fill the void left by John Donaldson. And that is why the dean, the students, and John's colleagues are hoping that John will return to teaching—albeit on a part time basis—the year after next. That's right, John: You thought this was a tribute; instead, it's a bit of misdirection aimed at keeping you where you belong.

1. ROBERT BOLT, *A MAN FOR ALL SEASONS* 65-66 (Vintage International 1990) (1960).