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Guido Calabresi

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Joseph Goldstein: My Teacher

Guido Calabresi[†]

About forty-five years ago, in my second year as a student at the Yale Law School, an extraordinary group of new faculty members arrived. They included Alexander Bickel, Charles Black, Abe Goldstein, Leon Lipson, Ellen Peters, Harry Wellington, and Joe Goldstein. Together with those who had preceded them by a year, like Louis Pollak and Quintin Johnstone, there were fourteen or so new arrivals. I believed then, and continue to think now, that no law school has ever had so remarkable an influx and so magnificent a burst of creative energy. The new kids—for most were very young—were brilliant, testy, different from each other and from the preexisting Yale Law School faculty. And yet they fit right in, with a school that already had more than its share of academic superstars, and with that special atmosphere that defined the Yale Law School then, as it does today.

Even in that amazing group, Joe Goldstein stood out from the first. Others will speak of his scholarship, of the depth of his knowledge, originality, and teaching capacity in his chosen fields—from which—like so many others—I have greatly benefited. But in this short Tribute, I want, instead, to recall Joe as my teacher in a field he knew virtually nothing about, had—I believe—never taught before, and would certainly never teach again: the law of bankruptcy.

In those golden days, the universally recognized god of bankruptcy was a short, round, Montana-born-and-bred, former amateur boxer named J.W. Moore. He owned the great bankruptcy treatise, *Collier on Bankruptcy*,¹ as he did the multivolume text in the other field he dominated, *Moore's Federal Practice*.² And he was also universally considered to be a superb classroom teacher. As a result, most of each Yale Law School class—some 165 students—would flock into his bankruptcy course, called Debtors' Estates (in contrast with Harvard's equivalent, which was named Creditors' Rights).

[†] Judge, U.S. Court of Appeals for the Second Circuit; Dean Emeritus, Sterling Professor Emeritus, and Professorial Lecturer in Law, Yale Law School.

1. JAMES WILLIAM MOORE ET AL., *COLLIER ON BANKRUPTCY* (14th ed., Matthew Bender 1940) (1898).

2. JAMES WM. MOORE ET AL., *MOORE'S FEDERAL PRACTICE* (2d ed. 1948).

The Dean, Eugene Rostow, thought that a class that size was too large for Yale. So he “asked,” and Joe (probably because he was so new), uncharacteristically, agreed to teach another section of bankruptcy in the same term as J.W. That most students would still want to sit at the feet of the old master didn’t matter, “Gene the Dean” thought. An alternative would be available, and those who wanted a Yale-sized class could have one.

So it came about. One hundred and fifty students signed up for Moore’s Debtors’ Estates. Fifteen or so of us elected to take the course from Joe. We had all been either in J.W. Moore’s Federal Practice or in his basic Procedure course, or in both, and had loved them. But we wanted to try something different; we were tired of large classes, and we had heard rumors about the quirky brilliance of this newly arrived teacher. As it happened, those who signed up for Joe’s class were among the most interesting students in our year. And—with the chutzpah that characterized Yale students even then—we expected to make up ourselves for whatever gaps there might be in the novice’s knowledge or teaching.

We met in one of the seminar rooms on the High Street side of the School, now happily returned to their original function. And from the first day we knew that this would be one of those experiences that would forever define “The Yale Law School” for us. Those who have had Joe Goldstein in a small-group seminar in Constitutional Law will understand what I mean. No issue was left unexamined. No student failed to give his or her best. Nothing was treated superficially. That it was bankruptcy—a field he cared little about—mattered not at all. We, every one of us, learned what law, what learning, what thinking for ourselves, what taking chances, what joy in intellectual exploration—what each of these and all of them—is all about. And there, guiding us, chiding us, smiling, skeptical—but always deeply, deeply caring—in the middle of all our searchings was Joe.

Over the years Joe and I became colleagues and close friends. We tried, if at all possible, to teach the same group of first-year students because we loved to play off what we knew the other would be saying. We criticized each other’s writings and supported each other through the many twists and turns that constitute academic life. And I cannot resist mentioning just a couple of these academic “turns,” because they epitomize Joe and his relationship to this School and our students.

Joe was famous for not yielding to the importunities of deans as to when and what he should teach. In particular, he always refused to teach classes that were larger than he thought they should be. But on several occasions, when the need was great, he volunteered to teach the same class (in Criminal Law) twice in the same term, both sections to a limited group of students. *That*—which no other teacher I know of here has done—he

believed he could do, and still teach his students well. And so he did it! Large classes were another story, and so he refused.

The second academic anecdote refers to the time when this School, far earlier than any other, considered a resolution barring employers who discriminated on the basis of sexual orientation. The faculty meeting on the subject was long and—as one might expect—the various speakers approached the issue in high philosophical terms—after all, the faculty included Robert Bork and Ronald Dworkin, among other distinguished “meta” thinkers. Late in the discussion, Joe got the floor. His voice was croaky and barely audible. He did not orate or speak at length. He said that for him the issue was easy. The point was simple: These are our students, and it is our job to protect them and to see that they are treated fairly. His plain words carried the day, and the resolution was adopted immediately after Joe spoke, and by an overwhelming majority.

For all these things, and for many others that I cannot relate today, I am more grateful to Joe—and to you, Soni, who supported him magnificently in all he did and was—than I can say. And because of them, I cry as I think of life without him. But even those memories are as nothing, when I think, as I do most every day, of the start that I had in law, from Joe, my teacher, in . . . bankruptcy.
