



TRIBUTE

IN MEMORY OF THOMAS BOWMAN BLACK (1928-2016) PROFESSOR OF LAW ST. MARY'S UNIVERSITY SCHOOL OF LAW 1974-1988

DAVID DITTFURTH

Tom Black graduated from the University of Texas Law School in 1952 and went to work as an Assistant Attorney General under Price Daniel and John Ben Sheppard. He then became an associate of John W. Stayton in Austin and subsequently helped to form the partnership of Stayton, Maloney, Black, Hearne and Babb. In addition to practicing law, Tom was elected president of the Travis County Bar Association from 1972-73. He also served as Co-Chief Reporter on the Texas Bar Committee on the Rules of Evidence, which drafted the Texas Rules of Evidence. He served on the Texas Bar Committee on the Administration of the Texas Rules of Evidence from 1983-93 and as its chair from 1987-89. He was also the first chair of the Austin Human Relations Commission.

He returned to government service and to work for Attorney General John Hill on the case that was decided in *Louisiana v. Texas*¹ which determined the boundary between the two states. After this work, he joined the faculty of St. Mary's University Law School where he taught courses on evidence, the Uniform Commercial Code, products liability, and deceptive trade practices. During his tenure at St. Mary's, he published BLACK'S TEXAS EVIDENCE MANUAL, THE LAWYER'S HANDBOOK ON SECURED TRANSACTIONS, and numerous law review articles. He was a visiting

1. *Louisiana v. Texas*, 410 U.S. 702 (1973).

professor at Southern Methodist University School of Law during the 1978-79 academic year. After fourteen years as a law professor, Tom returned to practice in San Antonio until his retirement in 1999.

Many images come to mind when someone speaks of the passing of a man who was such an accomplished lawyer and law professor. A stranger might wonder whether he was stodgy, or haughty and full of himself. Tom Black had more reason to be full of himself than most of us. His father had been a distinguished lawyer in Austin, and his brother, Charles, was a Yale law professor who hobnobbed with Thurgood Marshall. Tom graduated with honors from the University of Texas School of Law. He began his full-time teaching career at St. Mary's University School of Law after a distinguished career in the practice of law. Nevertheless, he was the least stodgy law professor one can imagine. Tom had little patience for nonsense, and that attitude left no space for haughtiness.

One of Tom's singular characteristics as a teacher was that he felt no need to distance himself from students. It was amazing to see how easily he made friends with individuals in his classes as he taught them. Tom never played the role of professor, and, because of that, had no barrier to overcome when he met students. They, as anyone would, responded by being more open and easy with him, and many became long-time friends. At the recent jazz memorial his wife, Mary Ann, held for Tom, several of those friends appeared to remember him and to speak of that friendship.

In Tom's early years at St. Mary's, the deans of the Law School rarely socialized with the newer law faculty. The dean and the older members of the faculty generally avoided new faculty off campus, perhaps because we were upstarts and they were . . . stodgy. Tom and Mary Ann filled that social void for many new professors with dinners and friendship. They welcomed us even while the inner circle did not, and they made life much more pleasant in what was a new world for us. In return, they asked only friendship for their kindness.

Tom and I frequently had lunch during those years. At one point, he persuaded me that we should forego a few calories and instead swim laps at the nearby YMCA. Swimming laps had evidently once been part of his early morning routine, and he was looking for a new time to return to this habit. The idea appealed to me because I needed the exercise and because I thought of myself as a swimmer. Tom, who had never presented himself as an athletic sort, could swim like a fish—a long fish—and a fish that left me in his wake. Because my ego became involved when he swam away from me, I drove myself to near exhaustion to stay close. The YMCA's changing of its swimming hours saved me from this mid-day chore and offered me

an excuse to pull us back to our Mexican food habit at lunch. Somehow I never thought that someone who played the trumpet and drank gin would swim so effortlessly.

Tom left the faculty in 1988 after several years of conflict within the Law School. He had drawn the ire of the law administration, but stood his ground for a long time. In doing so, he shielded others who wanted change but who were more vulnerable to retaliation. He stayed long enough to see the beginning of that change, but he had tired of the conflict and decided to return to the milder arena of law practice. He gained some of the relief he sought, but many of us lamented his leaving. I know that in some ways he later wished he had never left.

It is hard to describe objectively someone who was a colleague, mentor, and good friend. Tom was smart, straightforward, and honest to his core. He loved jazz, poetry, the law, and politics. And, knowing that the words of others would be insufficient, Tom even requested the opportunity to speak for himself after death. Mary Ann honored his wish by including these as the last words of his obituary.

In a world of doubt and cynicism he remained steadfastly loyal to the music and memory of Bix Beiderbecke and the New York Yankee baseball team, and he was proud to be a lifelong, liberal Democrat.

Tom remained steadfastly loyal to more than he mentions. He was a very good man, and I miss him.

David Dittfurth
November 26, 2016