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Tribute to Professor William F. Fratcher

Dedication

The Legacy of William F. Fratcher: A Beneficiary's View

*Edward C. Halbach, Jr.**

Legal academia in this country is a strange, small world in which one's treasured colleagues include people of shared interests living and working half or all the way across the continent. Bill Fratcher was such a colleague to me. I feel privileged, therefore, to have been invited to add my comments to the portion of this issue that is dedicated to his memory, and to attempt to speak on behalf of the enormous number of "distant" colleagues and others who have and will continue to benefit so greatly from the recollections and intellectual product he has left behind. In a few pages, of course, it is not possible even to approach doing justice to Bill's contributions and achievements over a long career as scholar and educator and in public professional service.

Possibly most obvious to those acquainted with Bill is that he was an academic's academician—a bookish, traditional and thoughtful scholar, uniquely steeped in historical and comparative knowledge and insight. What may have been less obvious to those who were not privileged to know him well was Bill's acute awareness of modern practices, problems and needs, his activist enthusiasm and determination to improve the current law and its administration, and his real-worldliness from over a decade of seasoning in the practice of law, divided between private practice and Judge Advocate service, in this country and abroad, during and following World War II.

Unfortunately, the expression "distinguished legal scholar" is so overused that it seems almost trivial when applied to one of the few people whose rare combination of intellect, discipline and imagination has truly advanced our knowledge and understanding of the law, as well as our pool of serious, practical ideas for its improvement. Bill's impressive publication record is set out elsewhere in this issue. That record, however, cannot adequately reveal

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the extent to which he influenced and aided the work of other individual scholars and contributed to collaborative undertakings that have done so much in recent years to advance the law in the probate and trust field. Maybe some sense of this contribution is conveyed when a list of his writings is supplemented by a list of his professional activities. Yet, the very special character and quality of his work can be appreciated best by those who have used and relied on his publications and have benefitted from his participation in team efforts. I consider myself most fortunate to be able to offer first-hand testimony as one of those beneficiaries.

The record of Bill's accomplishments that greeted me as I entered academia almost thirty-five years ago was typified by his central but low-visibility role in producing the Model Probate Code. Later I had the opportunity to work with him when we were among the co-reporters for the Uniform Probate Code. More recently and particularly, as the reporter for a Third Restatement of Trusts, I gained much from the role Bill played as an adviser on the first volume of that project (covering the "prudent investor rule" and associated sections) and, less formally, as a source of ideas for the rest of the project.

No doubt many others can relate to my recollections of one particularly intriguing element of the experiences I have enjoyed in working or consulting with Bill. Over the years I simply came to accept that I never could guess where he would "surface" in relation to a matter under discussion. He might come up well "behind" the focal point, with an illuminating historical observation, or somewhere off to the "left" or "right" to provide a relevant comparative perspective; and sometimes he would be way out "in front" with a promising idea whose time had not yet come. Illustrative of the last was his suggestion back in the Sixties, when working on the original Uniform Probate Code, that instead of basing the spousal forced share on an arbitrary percentage, the elective right might be phased in over time, with its amount to depend on the duration of the marriage. The idea was not seriously pursued at the time, maybe because the developing Code already involved enough that was novel and controversial, but it is interesting to note that a similar concept now appears, carefully worked out, in the recently revised version of the UPC.

All of us who have shared Bill's fields of interest will long be beneficiaries of his published scholarship, most recently and impressively exemplified by his updated, expanded and enhanced version of the classic *Scott on Trusts*. Bill's amazing productivity is reflected in his prompt completion of the Fratcher Edition of this treatise, which now consists of a dozen volumes plus a volume of supplementation, not to mention supplementary work in process at the time of his death. Probably no other field of law today is blessed with such a comprehensive, thorough and readable treatise to support and guide the work of practitioners, scholars and

judges. I almost hesitate to admit how much I expect to rely on it as I continue my Restatement work.

Bill Fratcher was a mild-mannered and considerate person whose intellect and personality enriched the work and lives of those around him. I am proud to remember him as a friend. Yet it is humbling to attempt to speak as representative of those, beyond his family and University communities, who will continue to benefit so much from the rich legacy of his scholarly achievements. In this context one does not have to be an ungrateful beneficiary to wish there still could be more to come.

