

1992

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Recommended Citation

Robert E. Scott, *Getting it Right*, 78 VA. L. REV. 817 (1992).

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GETTING IT RIGHT

*Robert E. Scott**

WRITING a tribute for any beloved colleague who is retiring is a difficult experience. Writing about Tom Bergin, who is retiring after twenty-nine years at the Law School, is an even greater challenge. The challenge stems from Tom's legacy to his students and to his colleagues at the Law School; both the challenge and the legacy require some explanation.

I was tempted to begin this tribute with the following paragraph: The term "renaissance person" is overworked and often signifies only the writer's instinct for hyperbole. In the case of Tom Bergin, however, it is an understatement. He is the master teacher of this Law School. For twenty-nine years his students have experienced first hand the power of his personality and intellect urging them, cajoling them, and sometimes begging them to reach for something more in their search for understanding. It did not matter much whether the search was for the elusive fox in *Pierson v. Post*,¹ or for the moral and ethical foundations of the lawyer's role, or for the rationale underlying the rights of the good faith purchaser under the Uniform Commercial Code. Indeed, the point of Tom Bergin's teaching was just that: it is the journey not the destination that matters. But Tom is so much more than just a great teacher. His puckish humor has goaded and delighted not only generations of students, but each and every one of his colleagues as well. He is also a person of uncommon warmth and caring, and, as long as I have been here, has been the moral conscience of the Law School. The list is not nearly exhausted: he is an avid golfer; a grammarian and etymologist of considerable distinction; a fluent and idiomatic speaker of Japanese (Japanese?), and much, much more.

Having just written the paragraph, however, I am clear that I have not gotten it right. It is not that what I have just described is not true. Indeed, one could easily develop the theme in considerably greater detail. But it does not do justice to Tom's legacy. It gives no real

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¹ 3 Cai. R. 175 (N.Y. Sup. Ct. 1805).

sense of why we will miss him so. Let me try again: Tom Bergin made a lasting impact on my life when, as a new teacher at the Law School, I asked him and several other colleagues to comment on a draft of a paper I was writing on the constitutional regulation of provisional creditor remedies. I received many helpful comments from many colleagues, but not a word from Tom. The silence was distressing to me as a junior faculty member, especially given Tom's reputation as the most insightful reader of colleagues' work on the faculty. Weeks went by, and I decided that either his schedule had distracted him or the paper was so putrid he could not bring himself to confront me.

Fully a month after I had circulated the draft, Tom appeared at my door one day with a sheaf of papers. "I'm here to discuss the paper," he announced. "I like your ideas a great deal," he began, but before my spirits could rise, he went on, "but this paper is awful. There are just so many things you haven't got quite right." And then what followed was three hours of the most tortuous, line by line edit I have ever experienced. The message at the end was indelible. It is not good enough to be creative, or to have good ideas, or to be provocative: the obligation of the scholar is to get it right. Tom Bergin has lived by that simple premise. Getting it right is not the best thing, it is the only thing. Careful, meticulous, precise, rigorously demanding of one's self and one's arguments—all of these qualities describe Tom Bergin's legacy to the Law School.

It is important not to romanticize this commitment. (Tom would never allow it.) The insistence on analytic clarity, rigor, and—if the modern reader will forgive me—the truth, has exacted considerable personal costs. It has meant that Tom Bergin continues to devote seven to ten hours of preparation for a class that he may have taught several dozen times. It has meant that Tom's scholarly productivity has always lagged well behind his talent and his commitment to the scholarly process. Finally, it has meant that Tom has struggled with self-doubt and other of the personal demons most of us try to brush aside.

But if the cost to him has been high, the benefit to us has been much greater. Much of the culture of this Law School—especially the commitment to the analytic process—is distilled from Tom Bergin. Distilled by a generation of younger colleagues who, unable to match the commitment, at least adopted the aspiration to get it right.

Moreover, nothing has changed between Tom and me over the last eighteen years. As I write this on a Saturday afternoon at the Law School, Tom has just walked in with a memo which he has laid on my desk. It reads in part as follows:

Bob, I have told my Sales students that they could go to your Relational Contracts piece if they did not understand my explanation. . . . I told them that if they did go to the piece they should be careful, when looking at the diagram on page 1096, to note that the authors had, through slip of the pen, failed to make explicit that. . . .