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Tribute to Dave Markell

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TRIBUTE TO DAVE MARKELL

MICHAEL B. GERRARD*

I first met Dave Markell around 1988, when he moved to New York to direct the Division of Environmental Enforcement of the New York State Department of Environmental Conservation (DEC). This was an era when the federal Superfund and its state equivalents were rapidly growing in importance; the laws passed in the wake of the Love Canal disaster of the late 1970s were finally growing teeth. Dave led New York's efforts to drive the cleanup of contaminated sites by using both civil and criminal remedies. He established DEC's criminal enforcement unit and doubled the number of criminal cases developed and referred annually to prosecutors. His work was so effective that for a time he was called upon to direct DEC's Office of Environmental Remediation, which ran the nation's largest state-level hazardous waste cleanup program. Massive amounts of money were at stake in this program, together with legions of lawyers and consultants, and Dave handled it masterfully.

In 1992, Dave left government and entered academia. He moved to the other side of town in Albany and joined the faculty of Albany Law School, where he spent the next decade. I saw him frequently, and in 1996 he and I co-chaired a major event that he hosted at the law school commemorating the 25th anniversary of the DEC. The current and all past DEC Commissioners came, as did a large number of current and former DEC staff and many lawyers and others who practiced before the department. It was clear that everyone looked to Dave as one of the thought leaders in the field and as someone who had helped establish many of the programs that continue to be of such importance to improving and preserving the quality of the New York environment. During that period Dave also wrote what became the standard treatise on New York State administrative practice and procedure, to which I referred often as a practitioner. Additionally, he took on leadership positions in the Environmental Law Section of the New York State Bar Association.

I saw less of Dave after he moved to Florida in 2002, but I continued to rely on him whenever I could, especially after I moved into academia myself in 2009. In 2014, he co-authored the chapter on civil remedies for a book I edited, *Global Climate Change and U.S. Law*. The next year it was my great pleasure to host him as a David Sive Visiting Scholar at the Sabin Center for Climate Change

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Law, which I direct. His office (a cubbyhole with a window, more precisely) was right next to mine, and it was wonderful to see him almost every day for the several months he was with us. He wrote a terrific paper on Florida's efforts to adapt to sea level rise—an endeavor that has important implications for New York.

Throughout it all, I found Dave to be a kind and thoughtful man with a deep dedication to improving the quality of the human and natural environment, using available legal tools and developing new ones to achieve that end, and educating generations of lawyers in the use of those tools.