



Notre Dame Journal of Law, Ethics & Public Policy

Volume 10

Issue 1 *Symposium on Culpability and the Law*

Article 1

1-1-2012

In Memoriam

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Recommended Citation

Douglas W. Kmiec, *In Memoriam*, 10 NOTRE DAME J.L. ETHICS & PUB. POL'Y (1996).

Available at: <http://scholarship.law.nd.edu/ndjlepp/vol10/iss1/1>

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IN MEMORIAM

An old-time gospel lyric — “May the circle be unbroken . . .” so delighted Professor Edward J. Murphy that he played it for us often.

Remembering Edward J. Murphy is a bit like relishing a warm, sunny afternoon in mid-winter in South Bend. Such afternoons are not commonplace; neither was Edward Murphy. As the unexpected sun along Notre Dame Avenue beckons one to marvel at how Our Lady’s blue sky embraces a golden dome, so too, thinking back now on cherished moments in Ed’s presence, brightens a dreary day — and sheds light upon university and legal issues — that too often get needlessly enshrouded in perplexing darkness, or worse, a grey neutrality.

In law reviews and journals of jurisprudence, it will be duly inscribed that Edward Murphy was a noted and respected scholar. He was. Though his recent death closed the final chapter of Professor Murphy’s personal instruction, his famed *Studies in Contract Law*, along with his many other books and articles, still teach from pages that are marked by his pen and demonstrative of his brilliance.

It can also be recorded that Edward Murphy, from 1957 until his illness-provoked retirement in Spring 1994, taught more Notre Dame law students than any other faculty member in the law school’s long history. He was indeed a master teacher, though with characteristic humility he would often proclaim himself merely a “traffic cop,” directing as yet untuned student engines to their proper legal and ethical destinations. The student engines before him, whether fashioned by God’s hand and their Dean’s oratory as Maseratis or Chevys, were treated by Professor Murphy with impartial goodwill, respect and an uncompromisingly high level of expectation.

The gospel melody continues . . . “By and By Lord, By and By.”

And it was truly “by the Lord” that Edward Murphy taught. He wrote shortly before his death that “By affirming the Trinity [in making the sign of the cross] as we begin a law class, we make a fundamental jurisprudential statement. We acknowledge God as sovereign, and we pledge to model our work in the law upon what we know of His law-order.”¹ This was Edward Murphy’s trademark message: all of law — indeed all of life — is either

1. Edward J. Murphy, *The Sign of the Cross and Jurisprudence*, 69 NOTRE DAME L. REV. 1285, 1287 (1994).

God-centered or man-centered. He would urge with every gentle, but firm, fiber of his being that "law and jurisprudence must be . . . 'Thy will be done,' not 'my (or our) will be done.'"² Not surprisingly, therefore, Professor Murphy was fascinated by the mission underlying the *Notre Dame Journal of Law, Ethics & Public Policy* because he saw within the project the possibility of overcoming the modern, yet false, claim that "morality and law pertain exclusively to personal salvation and should in no way be authoritative or determinative of public policy."³

Of course, Edward Murphy well knew that "God executes His plan through others."⁴ In the tradition of St. Thomas, Professor Murphy thus understood law as both science, deductions from God's premises, as well as art, particular determinations and applications of revealed or Natural Law by human agents. And these human agents — whether judge, legislator, or parent — have broad areas of discretion within the terms of God's law. It was here that Professor Murphy unceasingly labored to make generations of Notre Dame students legal artisans, whose depth of ethical commitment would be matched by professional competence. While the common law of contracts as modernly embroidered may doubt the adequacy of peppercorns as consideration, there was never any doubt of the supreme adequacy of Professor Murphy's consideration. The promise of Edward Murphy was always realized ten-fold.

Edward Murphy: the university's first John N. Matthews Professor of Law; scholar; teacher; husband; father; grandfather is dearly missed. He was in every sense, genuine. An authentic friend. No guile. No hidden agenda. Just straight-ahead Ed Murphy asking, like the psalmist, to be "instructed, O Lord, in the way of your statutes."⁵

Since Edward Murphy lived his life longing for and faithfully applying God's precepts, it can be reasonably inferred, in fulfillment of his old-time Gospel favorite, that for him:

"There's a better home awaitin' /
In the sky, Lord, in the sky."

2. *Id.*

3. *Id.* at 1295.

4. *Id.* at 1294.

5. *Psalm* 119: 39-40.

And because Edward Murphy taught us well, it now remains our duty to complete the bargain; to see, if you will, that "the circle remains unbroken." *Pacta Sunt Servanda.*⁶

*Douglas W. Kmiec**

Requiescat in Pace

6. Agreements are to be kept.

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