A Role Model Among Law Professors

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If imitation is a form of flattery, my career path may speak more elo-quently about Professor Lackland H. Bloom, Jr. than anything I could write in these pages. I was fortunate to have Professor Bloom as a professor for two courses when I studied at the Southern Methodist University School of Law in 1985–88. In later years, I followed several of the steps along his career path, clerking for the Fifth Circuit, working for a large law firm, and ultimately making my way into legal academia, where my scholarship has focused on Constitutional Law, a field Professor Bloom first introduced me to as a student. In preparing to write this contribution celebrating Profes-sor Bloom's career, I realized that I owe him a large and unpaid debt of gratitude. In many ways, he shaped my understanding of the ideal for what a law professor should aspire to be and do.

Perhaps the most fundamental skill law professors teach their stu-dents is the careful reading and analysis of cases. Reading for law school courses requires greater comprehension and more attention to detail than students typically need in undergraduate courses. Law professors press for a precise and meticulous understanding of assigned judicial opinions, asking students to explain the reasoning process by which a precedent-setting court applied legal principles to particular facts to produce a given result. Those elements of the opinion then become tools the student uses to predict the outcome in hypothetical subsequent cases involving variations in the facts.

Professor Bloom was the perfect professor to teach this careful reading and analysis of cases. While I cannot recreate the experience of being in one of Professor Bloom's classes, you can get a flavor of his teaching by reading some of his scholarship. In particular, the two books he published with Oxford University Press provide numerous and extended examples of the sort of case analysis that characterized Professor Bloom's classes. In *Methods of Interpretation: How the Supreme Court Reads the Constitution*,[1] Professor Bloom analyzes dozens of cases from various periods of Supreme Court history to catalogue and describe the principal interpretive methods the Court has employed in defending its resolution of constitutional issues.

Many constitutional scholars start by laying out some grand theory of how the Constitution ought to be interpreted and then critique the Court

   1. Lackland H. Bloom, Jr., Methods of Interpretation: How the Supreme Court Reads the Constitution (2009).

for failing to meet that theoretical ideal. Professor Bloom's scholarship, on the other hand, seems much more empirical or inductive in character. Beginning with what the Court has actually done over its history does not mean ignoring normative or theoretical considerations. Professor Bloom evaluates the Court's justifications for deploying particular interpretive techniques and the persuasiveness of the opinions he reviews. But his evaluations emerge from comparative consideration of the actual work of judges and therefore seem more likely to resonate with those involved in carrying out the functions of the legal system.

Professor Bloom's second book, *Do Great Cases Make Bad Law?*,[2] considers a famous passage from Justice Holmes' dissenting opinion in an antitrust case:

> Great cases, like hard cases, make bad law. For great cases are called great, not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment. These immediate interests exercise a kind of hydraulic pressure which makes what previously was clear seem doubtful, and before which even well settled principles of law will bend.[3]

After defining what Justice Holmes meant by a "great case" and what it might mean for a case to produce "bad law," Professor Bloom again analyzes numerous Supreme Court opinions to assess the accuracy of Holmes' observation. The result of the inquiry is that great cases—those that capture the attention of the media and the public—"have made bad law and certainly can make bad law, but that is hardly inevitable."[4] Thus, Professor Bloom's answer to the question posed by the book's title is the very lawyerly conclusion that great cases *sometimes* make bad law.

The measured analysis in Professor Bloom's two books highlights another respect in which he has been a role model to his students. Harvard Professor William J. Stuntz once described the temptation law professors feel to seek attention by pushing "new" ideas and "creative" arguments, without regard to their soundness, "in an intellectual marketplace that rewards the exciting over the good and originality over wisdom."[5] Professor Bloom, by contrast, has sought to advance sound and defensible arguments, often grounded in the Supreme Court's longstanding practice. He seems drawn to the modest conclusion that can be rationally and confidently defended, and works hard to avoid overgeneralization. One may not always agree with Professor Bloom, but one can be certain his position will be thoughtful and well supported, and will aim for accuracy, rather than mere novelty.

Finally, in a polarized culture filled with angry partisans, I find it admirable that I cannot remember ever hearing or reading a cutting word from

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2. Lackland H. Bloom, Jr., Do Great Cases Make Bad Law?, at xi (2014).
3. *Id.* (citing N. Sec. Co. v. United States, 193 U.S. 197, 400–01 (1904)).
4. *Id.* at 414.
5. William J. Stuntz, *Christian Legal Theory*, 116 Harv. L. Rev. 1707, 1744 (2003).

Professor Bloom. He has made a habit of showing respect for those who disagree with him, and his scholarship deals generously with views that differ from his own. Indeed, part of what makes Professor Bloom's writing persuasive is his fair-minded willingness to take seriously and respond thoughtfully to arguments against his position. Professor Bloom's combination of cool-headed analysis and genuine respect for interlocutors has provided a model of professionalism and helped prepare students for the best traditions of the bar.

Professor Bloom of course had his own professional role models who informed his approach as a teacher of law. Growing up as the son of St. Louis Circuit Court Judge Lackland H. Bloom, Sr. no doubt played a role in forming Professor Bloom's views on the work of lawyers. Professor Bloom has himself written about the lessons he learned clerking for Judge John R. Brown of the United States Court of Appeals for the Fifth Circuit.[6] Some of Professor Bloom's professors at the University of Michigan Law School or fellow attorneys at Wilmer, Cutler & Pickering may well have been professional mentors. Whatever mix of influences shaped Professor Bloom's understanding of the legal profession, he arrived at SMU with a wealth of insight and a devotion to the craft of teaching that have played a significant role in preparing thousands of law students for the bar. I count myself blessed to have had Professor Bloom as a particularly influential role model during my early years preparing for our shared profession.

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6. *See* Lackland H. Bloom, Jr., *JRB*, 34 S. Tex. L. Rev. 367 (1993); Lackland H. Bloom, Jr., *Learning from the Judge: A Student's Appreciation*, 29 S. Tex. L. Rev. 1 (1987).