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# In Memoriam: Dr. William Bentley Ball, 1916-1999

Jon F. LaFaver\*

It is not uncommon for law students to consider and debate the question “Can a good person be a good lawyer?” (and vice versa). While most lawyers like to believe that the answer is clearly in the affirmative, we are sometimes presented with living proof that this answer is correct. Such proof is evident in the life of William Bentley Ball, whose death on January 10, 1999 is a signal loss to the legal profession and to the Republic.

Any proper memorial should recite the appropriate curriculum vitae, for the record, and so it shall. Dr. Ball was born in Rochester, New York, grew up largely in Cleveland, Ohio, and earned his college degree at Western Reserve University. He entered the United States Navy for the duration of World War II, and had earned the rank of Lt. Commander by the time of his discharge. He was a patriot, proud of his naval service, and liked to reminisce about his military career.

Upon leaving the navy, Ball entered the law school at Notre Dame University. While there he became editor of the law review and found time to serve as a German instructor in the undergraduate school. After graduation he worked in New York City for the W. R. Grace Co. and Pfizer Drug Co. He left the practice of law to become a full professor on the first faculty of the Villanova Law School. Thereafter he became general counsel to the Pennsylvania Catholic Conference and opened a private practice in Harrisburg, Pennsylvania, which is now known as Ball, Skelly, Murren & Connell, and with which we was affiliated until his death.

Ball was a devoted Roman Catholic, and became interested and an expert in the legal status of church-state relations. His national reputation was built upon his zealous advocacy for

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“religious liberty” issues, and he was involved in countless lawsuits involving the religion clauses of the first amendment to the United States constitution, including twenty-five which came before the Supreme Court of the United States, and in nine of which he was principal counsel and the arguer for the court.<sup>1</sup> Two of these cases, *Wisconsin v. Yoder* in 1972 and *Zobrest v. Catalina Foothills School District* in 1993 have become landmarks in this area of law.

Besides litigation, Ball’s special interest was writing—almost any kind of writing. Obviously he prepared many briefs, but beyond that his output of books, law review articles, magazine monographs, and letters was prodigious. He was a very modest man, and generally uncomfortable with praise, but he was pleased indeed when anyone complimented him on his writing. He was also very sensitive to criticisms. After publication of his last book, “*Mere Creatures of the State*,” he invited my reactions on an occasion when we were having lunch. I commented that I thought he was unduly harsh on Shriners, because of the actions of a small number of them that resulted in the case of *Pierce v. Society of Sisters* in 1925. His response was an indistinct grumble, and we never again spoke of the incident. However, a few weeks later I received a copy of a letter he had sent to a Shriner’s hospital, which letter accompanied a generous contribution.

The foregoing is a capsulated version of what Dr. Ball did, but it certainly does not address what he was. To the professional world he was William Bentley Ball—litigator, legal scholar, professor, and author. To his friends, and those who worked with him and knew him best he was Bill Ball. The mere pronunciation of those two strong alliterative monosyllables ring firm and sound in the ear, just as this man’s character rings strong and firm and clear. In a period of time when courtesy and humility are much on the wane, Bill Ball stood as a model of what it means to be a

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1. The cases that William Bentley Ball actually argued before the Supreme Court of the United States were:

*Lemon v. Kurtzman I*, 403 U.S. 602 (1971)

*Lemon v. Kurtzman II*, 411 U.S. 192 (1973)

*Wisconsin v. Yoder*, 406 U.S. 205 (1972)

*Sloan v. Lemon*, 413 U.S. 825 (1973)

*Meek v. Pittenger*, 421 U.S. 349 (1975)

*California v. Grace Brethern Church*, 457 U.S. 393 (1982)

*Bob Jones University v. United States*, 461 U.S. 574 (1983)

*Ohio Civil Rights Comm’n v. Dayton Christian Schools, Inc.*, 477 U.S. 619 (1986)

*Zobrest v. Catalina Foothills School Dist.*, 509 U.S. 1 (1993)

gentleman (in the original and now discarded sense of the word). He was kind and helpful and never mean spirited. Although he was the recipient of seven honorary degrees, including one from The Dickinson School of Law, his work was cited by judges, and his name recognized in the high courts of the land, he never became what was referred to in the King James version of the Bible as “puffed up.”

In the mid-1980’s Ball instituted a seminar course called “Religious Liberty” at The Dickinson School of Law. After a few years the requirements of his practice became such that he was unable to continue to meet the demands of regular weekly classes. When that happened, I was invited to be the co-instructor. He thought it was good for the students to be confronted on his subject by a Catholic and a Lutheran. Although he and I did considerable planning work, he was never able to actually attend more than three or four class sessions. That being the case, the school catalog listed me as the named instructor—but everyone knew this was Bill’s course. I frequently told students that the best reason to take the course was to have an opportunity, rarely found in legal education, to interact with a great lawyer of the caliber of William Bentley Ball. When he was in class, his presence was commending. He was the undoubted expert, having argued (and often won) the cases that we considered. Whenever a student was mistaken, either factually or in the interpretation of an opinion, Ball would correct the student in a matter of fact, but never offensive way. He expected everyone to be as well prepared as he was—an expectation sometimes unrealized—but he never reprimanded or embarrassed a student in class.

At his funeral mass, the assembled company sang two hymns—the “Navy Hymn” and “For All the Saints.” The former for the company in which Bill liked to place himself; the latter for the company in which the rest of us knew he belonged. Bill Ball—a very good lawyer and a very good man. Requiescat in pace.

