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Supreme Court of the United States

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Gordon D. Schaber, In Memoriam **November 22, 1997**

Anthony M. Kennedy*

Mrs. Schaber, members of this resilient Schaber family, and friends of Gordon.

During a weekend early in what for Gordon became this fateful November, he gathered people around him. It was to say farewell. I had uplifting telephone conversations with him but did not have the privilege of being there. One who did was Judge Horace Checchettini. Friends from youth, Horace and Gordon were together as law students, law partners, and faculty members. Horace recounts part of their last conversation. He asked, "Gordon, if you could turn the clock back, would you have your life take a different course?" Gordon gave his wonderful smile and said: "I object; the question is irrelevant." Today I should rule on the objection.

At one level Gordon was quite right. People of his forward vision, his optimism, his dynamism do not look back. For Gordon there always was, and I believe there always will be, a second Spring. From this standpoint, the question was irrelevant.

From another perspective, however, from a basic human and moral plane, the question was appropriate. Our fleeting mortality is hard to measure in universal terms, and we risk presumption when we judge the life of others. If you believe, though, as Gordon believed, that one's duty is to try to better the human condition, it is fair to ask how well he succeeded. So Horace's question touching upon Gordon's achievements over the work of a lifetime is fitting and proper; and the answer, as we have been reminded this morning, is inspiring.

A few years ago at the wonderful dinner in the honor of the Dean, I made some remarks. There was one part he liked in particular. London was one of Gordon's favorite places, and I told of the epitaph for the great architect, Sir Christopher Wren, whose many buildings are still part of London's skyline. The epitaph proclaims: "If you seek my monument, look around you."

If you seek monuments to Gordon Schaber, you need not look far. You can begin in this auditorium. There are many here who had Gordon's help. He helped by moving obstacles in public view, but more often he intervened in quiet ways, on occasion unknown even to the beneficiary. For the student who needed financial help; the professional whose career was saved by a second chance; the member of the McGeorge community distraught by a family crisis only to have it resolved by seeming magic; for these and so many others Gordon's kind, inventive assistance made all the difference. No one can count these monuments, but to Gordon probably they were the most important of all. With Tennyson, he believed, "Tis not to late to seek a newer world." Ever so, with Gordon.

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Turning to his more public life, we find joy in his monuments, for this was a joyous man. When Gordon was still in private practice, he and I were on opposite sides of three or four business transactions. He was a tough negotiator, but there was always time for humor. On one occasion, my client was buying a business which had become successful by the efforts of Gordon's client with Gordon's advice and assistance over many years. During the negotiations, it became apparent it would be difficult for either of them to let go, but the sale was completed. Gordon and his client arranged for a party to celebrate, and there was humor and good will and the most gracious of transitions. For Gordon every closing had its opening, every ending the promise of a beginning.

Of course, the monument we know best is McGeorge and the new beginning Gordon gave it. It is difficult to state all the reasons for the intensity, the driving force behind Gordon as he transformed McGeorge. Here are a few. First, he loved the law and its practice. He knew that if the practicing profession and the academy were both to be distinguished, each must serve the other. Second, he knew that a first-class law school would enrich the intellectual life of this community. He told all of us, many times, that it would be ironic if this great seat of government did not have its own prestigious school of law. Third, he well understood the paradox which haunts the rule of law. It is simply this: The law is stable, resilient, enduring, constant; yet it is also exquisite, fragile, delicate, evanescent. The rule of law can be lost, it can crumble and disappear, if any one generation fails to comprehend its meaning, its beauty, its fragility. Each generation has the solemn obligation to transmit the law to the generation next succeeding, to those young people who will soon become its sole trustees.

So it was that Gordon brought the law school to the Oak Park facility. He was fascinated by the quiet humor in the curving exterior wall of the well baby clinic, now just a small part of the library but then the only building the school had.

In 1965, when I first taught, an outside faculty member for a full course had the responsibility for nine months teaching plus preparing and grading examinations. There was one three-hour lecture a week. For all this we were paid the princely sum of \$30.00 per three-hour lecture. Gordon liked to present the check himself and say, "Be sure not to spend all this." He made us feel that despite these small beginnings, we were part of a greater plan. One thing he did was to arrange for charter flights to take the whole faculty, and our spouses, on a trip every year or so. We went to Palm Springs and to Hawaii. These excursions gave us new camaraderie for the ensuing academic year.

As the school expanded, the curve of the wall in the original building was replicated in other new structures, including the model courtroom and in the walls and pillars of the school's impressive entrance. The replication is not accidental. It is a reminder that small beginnings can yield monumental results.

The results are well known. The graduates of the school are proud that they have developed their own human potential. You sense their pride when you meet them here in this city and throughout the country and throughout the world. Many

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of the programs at McGeorge are still the benchmark by which others schools of renown measure their own progress. The excellent, full-time faculty has the capacity and the dedication to shape the law for generations to come and to instill in the students the sense of mission which must be the mark of our profession.

As fine a teacher as he was in the formal setting of the classroom, Gordon was an ever greater teacher in the world at large, in the classroom of life. He taught the basic lesson of civilization: From suffering comes strength; from tragedy, triumph. His own pain must have formed his unyielding determination to relieve the pain of others. He must have known that those close to him were in agony as they saw him as a young man, struggling to walk forward. He struggled, as he then knew; he succeeded, as we now celebrate. He walked forward with his wonderful smile, his shining face, and his irresistible laugh. This was his way of telling us, "It's going to be all right." His character fit the school and our city and our times.

Gordon was a son of the West, so his character fit, too, a poem I read on a happy occasion at the school some years ago, a small luncheon for some of the honor students. Gordon liked the poem. After I sent it to him, he kept it in his desk drawer for a time. It says:

For while the tired waves, vainly breaking
 Seem here no painful inch to gain,
Far back, through creeks and inlets making,
 Comes silent, flooding in the main.

And not by eastern windows only,
 When daylight comes, comes in the light
In front the sun climbs slow, how slowly,
 But westward, look, the land is bright.

Today we mourn for the loss of our friend. We grieve that so many generations of students will not know this dynamic, generous man. Yet today we also celebrate. We celebrate his many monuments. We ask, as he would have asked, "What thoughts, what hopes, what source of inspiration will the next generation of law students have as they walk up those gentle steps of McGeorge?" We celebrate the answer. It is that they will be uplifted by a monument Gordon planned; a monument to law; to a law that seeks compassion; to a law that sustains progress; to a law that is the only sure means to secure freedom for ourselves and for all humankind.