IN MEMORIAM
RUSSELL J. WEINTRAUB

Russell J. Weintraub died in his home on December 13, 2012, one week before his eighty-third birthday. He was surrounded by loving family, including Zelda, his wife of sixty years; his daughter, Sharon; his sons, David and Steven; and his daughters-in-law, Rachel and Tina.

Russell Weintraub was born in New Jersey on December 20, 1929 and grew up in New York City. He attended Stuyvesant High School and then earned a bachelor’s degree from New York University in 1950. Undergraduate studies kindled his interest in English literature; but before engaging in advanced literary studies, he applied to the Harvard Law School, conditioning his attendance on a full tuition scholarship, which he received. In 1953, he obtained his JD *cum laude*.

Graduation was followed by marriage to Zelda Kresshover in September of that year and a move to Georgia. He became Sergeant Weintraub and not only fulfilled his military obligation, but also, as a new member of the New York bar, acquired some reputation as defense counsel in courts-martial. Fortunately for the world of learning, this success had little effect on his subsequent endeavors. Returning to the Harvard Law School for two years as a teaching fellow and lecturer, he prepared for an academic career under the tutelage of Harvard’s Dean, Erwin Griswold. His first faculty appointment was at Iowa, where he proceeded briskly from instructor to professor of law (1957-63). A look-see semester at Michigan in spring 1965 was followed by Professor Weintraub’s ultimate career decision. In September 1965, he became a member of the University of Texas Law School, advancing from a professorship to the John B. Connally Chair in 1980 and the Ben H. and Kitty King Powell Chair in his years as an emeritus professor. Taking phased retirement at age seventy, he continued to teach a full spring semester schedule until a tragic illness robbed him of full command of motive power.

“The only true happiness lies in useful work done to the best of your ability” is the motto chosen by Russell Weintraub for his entry in Who’s Who. He was a superb, dedicated, and much appreciated teacher of contracts, but his main area of scholarship was the conflict of laws. His first publications in that field in 1958 coincide with what has been called the “Conflicts Revolution,” which started with two seminal articles by Brainerd Currie. The main tenet of the “New Method” was issue-by-issue analysis of conflict-of-laws cases in the light of the purposive claims to application of potentially conflicting rules of different states or countries.

In a series of articles, Professor Weintraub spelled out his approach and, by 1971, he was able to present his views in a treatise called “Commentary on the Conflict of Laws” (“Commentary”). In addition to meticulous analysis of the case law and doctrine, he stated his own position as to what was the best solution. The first edition was well received, as were the second and subsequent ones. The sixth edition, appearing in 2010, had to be composed and edited from the Weintraub home, as the author was, alas, by then no longer able to walk without danger of injury. These six editions have chronicled and guided the development of conflict-of-laws theory and practice in the United States for four decades.

By the time the sixth edition was published, the jurisprudence considered by the author had reached some 3,700 reported cases. The European Union had codified most of its conflict-of-laws rules; new problems had arisen in the fields of family law, especially concerning “new” families and international custody. All this, and more, is
reflected in the last work on the subject by this quiet, immensely productive scholar, composed at home with electronic means by a mobile mind in an increasingly immobile body.

Mainly due to the success of his “Commentary,” Professor Weintraub has long been among the most distinguished conflict-of-laws scholars in the United States. He was a visiting professor at many law schools in this country, among them Berkeley, UCLA, Michigan, and Houston, and he has taught and lectured practically all over the world, most prominently at The Hague Academy of International Law in 1984. These international contacts, especially a course taught in Dublin on international litigation, led him to assemble his course materials in a casebook titled “International Litigation and Arbitration: Practice and Planning.” It, too, went through six editions between 1994 and 2011 and a supplement in 2012.

As shown by the subtitle of this latter publication, Professor Weintraub was no stranger to practice and planning in his chosen fields. His consultations were many, and his advice was sought not only by clients and their lawyers but also by legislatures. Due in large part to his efforts, runaway divorce plaintiffs can no longer deprive their first spouses of matrimonial property rights by moving to Texas. In good part due to his “Commentary,” Texas adopted the “New Method” in the conflict of laws and thanks to his skillful draftsmanship of a statutory amendment, this method also came to apply in wrongful death cases. Professor Weintraub initially showed considerable sympathy for plaintiffs; his later editions adopted a more neutral stance. When Texas became a magnet for plaintiffs’ lawyers in personal injury cases, he drafted forum non conveniens law—a second or third “Lex Weintraub,” which has had considerable effect. A consultation with the European Union contributed to the adoption of language in a regulation, which might, at long last, prevent irrationality in the assessment of damages in conflict-of-laws cases.

In addition to all this—or perhaps more accurately, by practicing what he taught and by teaching what he counseled and wrote—Professor Weintraub was a superb teacher. Polite, persistent, and not without humor, he was a master of the Socratic method. He received many awards and distinctions, supported by grateful students. Humor could occasionally be double edged, as when a student prodded him to explain why a contract with Picasso to paint a portrait could not be specifically enforced, he answered, “because Picasso is dead.” As a rule, however, subtle humor worked to reinforce the students’ image of an eminent, yet concerned, meticulous, yet unthreatening, educator. To quote but one of them:

Professor Weintraub’s Contracts class was one of my favorite classes my first year. It was always interesting, full of many real stories to help us understand the subject and to bring it to life for us. His demeanor with the students was always so respectful. It was obvious he was brilliant and knew his subject, but he never belittled or made uncomfortable any student who struggled with his questions. He had a way of bringing out the answer from the student where they would feel, “Aha! Now I get it and I knew it all along.” Although he was obviously well-known and “famous” among the law school elite, he was such a humble man; quietly wearing his fame and brilliance. He seemed to really enjoy the interaction with his students in the classroom. He had an underlying sense of humor that brought laughter to the class more than once.

Professor Weintraub sought and achieved, to use his own words, true happiness through useful work done to the best of his ability. A cruel, incurable disease incapacitated him physically, while his mind continued to be fully active. Even as the end was near, and his loved ones sought to ease his final hours, he found time to advise his publishers that the 2012 “Supplement for International Litigation and Arbitration” would not be followed by one for 2013. He parted this world with the certitude of a job well done. His work and memory live on.

This memorial resolution was prepared by a special committee consisting of Professors Hans W. Baade (chair), Lino A. Graglia, and Stanley M. Johanson.

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