What is the good?

Regan receives Guggenheim to pursue philosophical studies

A respected legal scholar who is also an important moral philosopher, Donald H. Regan has been awarded a Guggenheim Fellowship for the year 1985-86. Regan, who holds joint appointments in the Law School and the philosophy department, describes himself as a consequentialist in his philosophical views about ethics and politics. “I believe that in the final analysis, the rightness or wrongness of acts or of social institutions is to be judged by the goodness or badness of their consequences,” he explains. His first book, Utilitarianism and Co-operation, won the prestigious Franklin J. Matchette Prize of the American Philosophical Association for 1979-80. In it he explored strategies for promoting the good by asking what criteria ought to be used in judging individual acts.

Regan’s current work focuses on the question of what ends moral action should promote. His view, which is highly eccentric by present standards, has roots in Plato, Aristotle, Kant, and G. E. Moore. “The question what is the good turns out to be effectively equivalent to the question what sorts of activity by rational and moral agents are intrinsically valuable,” he explains. “And the activities which are in fact intrinsically valuable can be subsumed under the general headings of knowledgeable appreciation of the natural world and unifying relationships between people.”

A 1963 graduate of Harvard in mathematics, Regan received his LL.B. from the University of Virginia in 1966. He received a B. Phil. in economics from Oxford in 1968, and began teaching at the Law School that same year. While teaching courses in the Law School, he was enrolled as a student in the philosophy department which awarded him the Ph.D. in 1980.

John P. Dawson

Distinguished U-M alumnus and former teacher dies

by George E. Palmer

Jack Dawson died the other day after a long and distinguished career as a law teacher. He was a member of the Michigan Law faculty from 1927 to 1957, when he left to join the faculty of the Harvard Law School, from which he retired in 1973. But he remained active as a teacher, for he continued to teach until 1981 at the Law School of Boston University and to publish important articles on contracts and restitution.

Through all these years he maintained close ties to Ann Arbor and the University of Michigan Law School. In addition to occasional service as a visiting professor, he gave the Cooley Lectures in 1959, out of which grew his book, The Oracles of the Law, published by the Law School nine years later.

In the 1930s, much of Jack’s writing was concerned with the effect of circumstances that distorted the agreed exchange under a contract, such as fraud (31 Mich. L. Rev. 591, 875, 1933), inflation (33 Mich. L. Rev. 171, 706, 852, 1935), mistake (20 Minn. L. Rev. 481, 1936), and duress (11 Tulane L. Rev. 345, 12 id. 42, 1937). His writings disclosed a bent for comparing our law with foreign law; thus, his study of the effects of inflation dealt with the period 1861-1879 in the United States and the period 1914-1924 in Germany. (Frank Cooper was co-author of the United States study.) And his 1937 study of duress, which was concerned with the laws of France and Germany, was followed by his seminal article on the Anglo-American law of economic duress, in 45 Mich. L. Rev. 253 (1947), as well as his study of
duress through civil litigation in 45 Mich L. Rev. 571, 679 (1947). (The completion of these articles was delayed for many years because of his government service during the Second World War.)

Soon after his arrival on the Michigan faculty Jack began to teach a course in restitution, although for several years it was called "Equity III, including Quasi-Contracts," and this led to the publication in 1939 of his casebook on restitution. This was by far the most successful integration of law and equity up to that time. Quasi-contract and constructive trust were brought together and their common elements explored to an extent never before achieved.

Walter Wheeler Cook had pointed the way in a 1924 casebook, but the effort of the Restatement of Restitution in 1937 was disappointingly inadequate. The publication of Jack’s casebook was an event of major importance in the development of the American law of restitution. (I refer to this as Jack’s casebook because it was his work, a fact I learned only from Edgar Durfee, who told me that his contribution was one footnote. It was in character that Jack never mentioned this to me, although we both taught from the casebook for many years. Their original plan was for Edgar to prepare a first volume on equity, followed by the volume on restitution. That is why the casebook has the puzzling title, “Durfee and Dawson, Cases on Remedies II, Restitution at Law and in Equity,” puzzling because volume I had not been published and never was published as planned. Edgar had prepared mimeographed materials for this volume, they were put to classroom use in this form for many years, but a serious illness interrupted his work and by the time he might have produced a hardcover edition, the Law School had eliminated separate courses in equity. I should add that, while the casebook was Jack’s work, his intellectual debt to Edgar Durfee was very great, as he acknowledged many times.)

Jack was one of the finest legal scholars of his time; in private law he had few if any equals. His interests ranged widely and every area of law that he entered he also mastered: equity, contracts, English legal history, comparative law, and above all, restitution. I first came to know him well when for about a year we worked together in the Office of Price Administration in Washington during the Second World War. When I came onto the Michigan faculty shortly after the end of that war I soon began to develop an interest in restitution. Jack helped me immeasurably, especially by offering perspective, for this was one of his great gifts: he was a generalist who also had worked carefully and accurately through the details of the matters he constantly sought to put in perspective. His Rosenthal Lectures of 1950, published as Unjust Enrichment, A Comparative Analysis (1951), gave a needed perspective on the American law of restitution. They also exemplified his belief that writings on comparative law are most useful when they compare the workings of different legal systems dealing with the same set of problems. This continued to characterize many of his articles as well as his later book: A History of Lay Judges (1960), The Oracles of the Law (1968), and Gifts and Promises, A Comparative Study (1980).

My knowledge of Jack as a law teacher is second-hand, but the reports bear out what I would expect, that he was superb. Given his knowledge, his warmth and his proper mixture of compassion and tough-mindedness, he surely left a mark on generations of law students.

Jack had a genius for friendship, which must somehow be a reflection of his virtues as a human being. His was a life that helped to define what life should be.