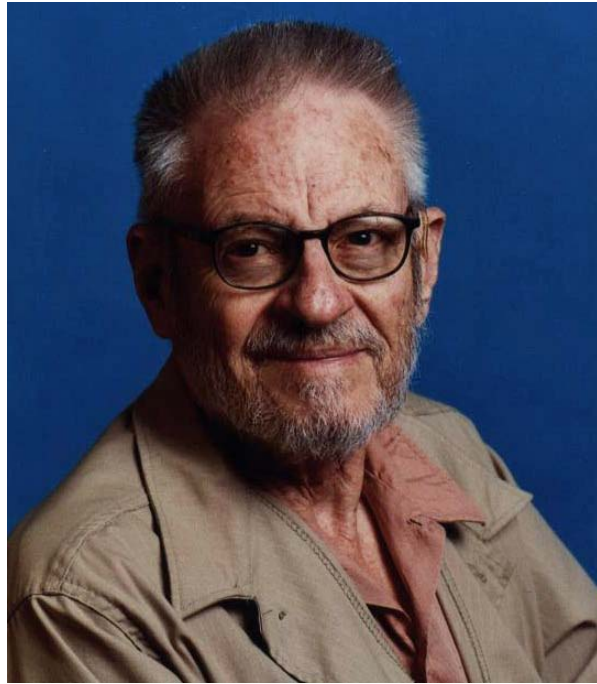


IN REMEMBRANCE OF ALLAN AXELROD



ALLAN AXELROD

November 22, 1922–August 9, 2008

William J. Brennan Professor of Law Emeritus
Rutgers School of Law–Newark

IN MEMORY OF ALLAN AXELROD¹*The Honorable Ruth Bader Ginsburg**

Among law teachers Allan Axelrod was the very best, the most elegant yet informal of classroom performers, the least self-regarding of professorial types. In the nine years we served together on the Rutgers faculty, and later, during his occasional visits to the Georgetown Law Center, I had the good fortune to know him as a valued colleague and caring friend.

As a newcomer to Rutgers Law School in 1963, I was assigned an office two doors down from Allan's. Noticing that students and faculty sought his counsel the day long, I decided to join the queue. On matters large and small, I found him an adviser as kind as he was sage, and as the French would say, *très sympathétique*.

Allan, it is well known, resisted pleas to publish, though he could have been a master of the legal commentator's art, had he chosen that pursuit. While he routinely turned down invitations to write, he was more than generous in responding to colleagues who sought his views on a manuscript. Richard Chused (first a Rutgers, then a Georgetown teacher) said of Axelrod's comments on the draft of Chused's casebook on property:

He spent enormous amounts of time on it . . . [His] comments . . . resonat[ed] with an understanding of the way I had gone about writing the text . . . He made greater contributions in the way he work[ed] with colleagues than most of us ever ma[d]e in all of our endeavors.

United States District Judge Louis H. Pollak (earlier Dean of both Yale and University of Pennsylvania Law Schools), recounted: "Victor Brudney and Marvin Chirelstein (both former members of the Rutgers Law School faculty) urged Axelrod to let them put his name on the title of their pioneering casebook on Corporate Finance. Characteristically, Allan refused that well-deserved recognition."

Colleagues and students have remarked on Allan Axelrod's keen wit, wry sense of humor, and skeptical view of the law as portrayed in treatises and court opinions. The Editors of the *Rutgers Law Review*, in a fitting 1989 tribute, spoke of his "playfulness and irreverence"; his "healthy skepticism"; and of their "love and respect for him." I would add, as qualities that endeared him to students and colleagues alike, his extraordinary capacity to listen, and then to respond with uncommon wisdom and sensitivity.

Allan's regular teaching fields were property, contracts,

* Associate Justice, United States Supreme Court.

1. Remarks from Allan Axelrod's Memorial Service held on September 21, 2008.

commercial law, and bankruptcy. Our conversations, however, were much more often about beautiful music and Shakespeare than about Axelrod's legal specialties or mine. When my son became a producer of exquisite classical recordings instead of continuing on in law school, Allan thought that career choice just fine.

Allan was the first holder of the first-ever endowed chair at Rutgers: the William J. Brennan, Jr., Professorship. The Justice was pleased. He wrote to Axelrod on the Professor's retirement:

I was deeply honored that there was established the Brennan Chair but even more so when you were named first Brennan Professor of Law. . . . I can fully agree with the appraisal of one of our good friends that during [your] illustrious career you were the "ablest law teacher" and "just possibly, the brightest lawyer."

The Justice expressed the hope that his grandson, a first-year student at Georgetown, would be taught by Axelrod on the Professor's upcoming visit to that law faculty.

All in all, Allan Axelrod was teacher nonpareil and a genuine prince of a man. I treasure the memory of times spent in his good company.

THOUGHTS ABOUT A LONG-TIME FRIEND

*Louis H. Pollak**

I have been asked to say a few words initiating today's memorial ceremony honoring Allan Axelrod. I count it a privilege to do so, because speaking about Allan—about this truly remarkable person—brings to completion a cherished friendship that commenced sixty-two years ago.

We, who loved Allan, are assembled this afternoon at his workplace, the Rutgers Law School, to have a conversation about him, and thereby to pay the tribute due to our departed friend. If only Allan were here to participate in the conversation, and to make us laugh.

If Allan had been accorded standing to express a view of the appropriateness of these proceedings, he doubtless would have disapproved. Not that his ego was in short supply. Simply that he was not given to adulation of anyone—except a few great pianists, a few great composers, and Shakespeare, and Lincoln. But I think he would not have boycotted the proceedings. Perhaps some of those assembled here today will recall that Allan was, in fact, a participant in a memorial ceremony not many years ago.

It was a memorial for Robert Preiskel, a classmate of Allan's and mine at Yale Law School, and a close friend of Allan's and mine until Bob, one of New York's leading tax lawyers, died two years ago. Allan and Bob's friendship had not begun in New Haven. It began several years before when they were undergraduates at the University of Michigan. At the memorial a number of Bob's friends spoke, some at some length. Finally, Allan hobbled to the lectern. His speech was even shorter than the Gettysburg Address: "I am going to say something about Bob that none of you knows. When Bob came to Ann Arbor as a freshman, he was pre-dental." And then Allen hobbled back to his seat.

So Allan, were he here, and noting that those listed as praisers are even more numerous—by a margin of one—than a grand jury, might have asked for equal time in reply so that, to make this a truly adversarial proceeding, he could, through a process of commendably insightful self-analysis, have acknowledged, on the record, certain aspects of his life experience to which he brought particular dedication: Twelfth Night, the Sunday *Times* cross-word puzzle; the French Horn solo in the first movement of the Dvořák Cello Concerto; unremitting anger at the so-called Bankruptcy Reform Act; playing

* Senior District Judge, United States District Court for the Eastern District of Pennsylvania. (Adapted from his remarks at Allan Axelrod's Memorial Service held on September 21, 2008.)

the piano; playing Monopoly with ten-year olds; Hebrew National hot dogs; Golden Gate Park; Edwin O'Connor's "The Last Hurrah"; and, last but not least, Atlantic City—the sentimental well-spring of Allan's most celebrated contribution to contemporary, post-Langdellian, legal pedagogy—his course on The Law of Gambling.

But because Allan is not here, we must fashion our own profile of our friend.

The first thing to establish about Allan is not his brilliance—that goes without saying—but his talent for friendship. This man who lived alone was on terms of enduring friendship with far more people of all ages and descriptions than anyone else I have ever known.

In the Pollak family, Allan was a dear friend to Kathy and to me and also, separately and independently, a dear friend to each one of our five daughters. Allan's friendship was one of our family's strongest, and longest-lasting, assets. It abides with us still.

What made Allan's friendship so compelling was that, when one talked with him, he appeared to be wholly focused on you, to the exclusion of any other person or issue—an immensely flattering and challenging interaction, and one that could, on occasion, be somewhat intimidating but for Allan's generosity of spirit. Allan's capacity to reach out, to connect—a capacity which is the core of friendship—was the key to Allan's remarkable gifts as a teacher—gifts reflected in his being the recipient of Rutgers's coveted Lindback Award some years ago.

It was fitting that Allan occupied the professorship named for William J. Brennan, Jr., the Justice who, perhaps more than any other judge in the history of the Supreme Court, made an art-form of communicating persuasively, one-on-one, with his colleagues. In assessing Allan's classroom mastery, consider the following scenario: A number of years ago, Allan was a visiting professor at the University of Southern California (USC). His students, as a group, waited upon the Dean to present a petition. The petition called on the faculty to vote Allan a permanent professorship at USC. The Dean welcomed the petition, assuring the students that she and her faculty colleagues shared the students' enthusiasm for Allan and had already invited him to stay on permanently, but the faculty's plea had fallen on deaf ears. At this point, the leader of the petitioning students advised the Dean that the students planned to take up a collection and buy Allan a Porsche if that would be an effective inducement. But the Dean, with regret, told the students that the proposed inducement would be in vain: Allan appeared to be irretrievably loyal to Rutgers—and also to his Volkswagen "Bug."

Allan was my first teacher of law. At a time right after World War II when a number of law schools were in session throughout the year, in order to accommodate returning veterans, I was a member of

the class that started at Yale in February of 1946. Allan was in his second term, having begun the previous September. A week or so after classes had begun in February, Allan and Bob Preiskel, roommates in a suite just a few doors from mine, knocked at the door to say that they were heading to a movie and wouldn't I join them. I responded that I couldn't go because I had not yet read the Torts assignment for the following morning. I think I spoke with rather self-satisfied primness about my duty to do my homework. But Allan urged me to come along, assuring me that he would fill me in on what I would need to know about Torts the next morning. And so I yielded. As we walked to the movie theater, Allan, who had, of course, taken Torts the previous term, asked what cases we had discussed in class that day. I told him the names of the cases. He then proceeded to tell me the names and substance of the next couple of cases—the cases that were the assigned reading for the following day—and explained their relation to the cases discussed in class that morning. In this way, I learned for the first time that a casebook presents materials in an ordered sequence, and that there are planned connections forward and back. In short, I found out that a casebook is not a looseleaf notebook full of isolated legal artifacts unrelated to one another. In the years that have followed, this has proved to be a useful thing to have learned.

Two years later, in our last term at Yale, three or four of us, urged by Allan, took the course in Negotiable Instruments taught by Friedrich Kessler, a great scholar and a wonderfully warm and compassionate teacher. We had signed up for the course with some reluctance—none of us had any particular interest in Negotiable Instruments, but Allan told us that the subject matter was unimportant and that what mattered was to have a course with Kessler. We expressed anxiety about how we would master the subject-matter, given that all of us had numerous other commitments, academic and otherwise, in what would be our last law school term. But Allan—who by then was our classmate, because he had stayed out a term—allayed our fears. He said he would provide an intensive tutorial a day or so before the examination. This seemed a promising arrangement, and so we signed up for Negotiable Instruments, confident that we could enjoy Professor Kessler's classes without having to study. But, suddenly, two weeks before the end of the term in January of 1948, we were encased in gloom and panic. Even though our final law school term was not yet formally at an end, Allan had left New Haven for Lincoln, Nebraska, summoned by the Dean of the University of Nebraska Law School to take up his new duties as an Instructor in Law.

It appeared to us that we were doomed to fail Negotiable Instruments, in what was supposed to be our last law school term.

But two days before the examination the clouds lifted. In the mail there magically appeared a complete outline of the course, closely written on several sheets of yellow legal-size paper. America was saved.

But that was not my last instruction in law from Professor Axelrod. In 1977, almost thirty years later, I talked with Allan about what I would teach in what was to turn out to be my last year as a full-time law professor. I told Allan that instead of teaching Constitutional Law—one of my usual courses—I thought I should try my hand at teaching one of the basic first-year courses. I told Allan that I had in mind either Torts or Contracts. Did he have any advice? “Yes,” he responded; he thought that for me Contracts was the better option. “Torts,” said Allan, “is hard.”

Matching Allan’s fifty-nine years of classroom commitment to students was his equally long-lasting intellectual engagement with other members of the professoriate. The writings that Google, and the late-lamented library card catalogue, have attributed to Allan, are golden, but are relatively few in number. But writings published by others, which lack Allan’s authorial imprint, but carry his cerebral impress and his imprimatur, are legion.

Further, Allan was always ready to discuss with a colleague puzzlements of doctrine and of policy. And this was not confined to the realms of Allan’s areas of special expertise—most notably, Commercial Law, Property, Contracts, and Bankruptcy. I found Allan equally ready to help me think my way through issues of Constitutional Law, even though he tended to regard such issues as the detritus of an area of legal inquiry which was, to use his word, “soft,” hardly deserving to be categorized as a legal discipline.

Those of us here assembled know that in recent years Allan was markedly slowed down, physically, by mounting health problems. For a long while he seemed, nevertheless, indomitable. Then, in the last year, there was a significant deterioration of kidney function, and, in addition, increased respiratory difficulty so that walking was harder and harder. Allan had to give up his annual summer pilgrimage in his Mazda (he had graduated from the VW “Bug”) to California. Allan’s exuberant spirit was still there, but his body was not. He admitted that there were disabling difficulties, but for the most part he made light of them. On occasion, however, Allan acknowledged the aggregation of physical miseries that clouded old age. A number of months ago Allan wrote to his friend, Victor Brudney, at Harvard. (Several of you will remember Victor—who, happily, is here with us today—as a Rutgers colleague of many years ago.) Victor and Allan had been trying for some time to arrange a weekend that would be mutually convenient for Allan to come to Cambridge for a visit.

Allan’s communication to Victor was a single piece of torn

photocopy paper on which there was a poem. Next to the poem Allan had written "Are we scheduled??" The poem was a sonnet to which Allan had appended in ink the initials "W.S." A good case can be made for the proposition that this is the greatest of W.S.'s sonnets. Also the saddest:

That time of year thou mayst in me behold
When yellow leaves, or none, or few, do hang
Upon those boughs which shake against the cold,
Bare, ruined choirs where late the sweet birds sang.
In me thou seest the twilight of such day
As after sunset fadeth in the west,
Which by and by black night doth take away,
Death's second self that seals up all in rest.
In me thou seest the glowing of such fire
That on the ashes of his youth doth lie,
As the deathbed whereon it must expire,
Consumed with that which it was nourished by
This thou perceivest, which makes thy love more strong,
To love that well which thou must leave ere long.¹

We here assembled have lost our friend. We are saddened by the loss. But Allan's body had taken so many hammer-blows that we cannot properly grieve the fact of his death. Rather than grieve, we can remind ourselves of Allan's enthusiasm for life, and especially for people, including each of us. That survives. But we shall miss him—always.

1. WILLIAM SHAKESPEARE, SONNET 73.

COMMENTS ON ALLAN AXELROD

*Jim Paul**

“[F]riendship . . . redoubleth joys, and cutteth griefs in halves.”¹

Alan enriched my life in many cherished ways. As a colleague, he was a constant source of support. When I was Dean of Rutgers School of Law–Newark, his detached, somewhat cynical, always amusing view of the not infrequent fierce, ideological quarrels which afflicted the Rutgers faculty helped to shrink these enervating events into their proper perspective.

As a friend, his visits to our home brought a special kind of joy to Peggy and myself—especially after we retired to Maryland’s “Eastern Shore.” Late into an evening, we would talk and joke about diverse, shared interests, ranging from Shakespeare and Gilbert and Sullivan to Rumpole of the Bailey and Lewis Carroll’s Jabberwocky. I savored his droll reminiscences of his exotic professors during his law student days at Yale—and his early teaching time at Nebraska, when, at the urging of its ever more exotic dean, the faculty rewrote the entire curriculum in a single afternoon.

Alan’s unique capacities to combine wit, light but keen discerning cynicism, kindness, and wisdom all in such bountiful quantities are, alas, all too rare.

I will always, as a Quaker say, “hold his memory in the light” for the great gifts he bestowed upon me, and countless others.

* Former Dean of Rutgers School of Law–Newark.

1. FRANCIS BACON, THE ESSAYS OF FRANCIS BACON 123 (Mary Augusta Scott, ed. 1908).

REMEMBERING ALLAN

*Peter Simmons**

“It is the mark of a law professor to leave students confused and persuaded that it is their fault.”¹

Good afternoon. I am Peter Simmons; I was dean of the law school from 1975 until 1993, and I am currently a member of the fulltime faculty. I have a brief comment and an anecdote to share with you today.

Allan taught many, many students during his sixty years in legal education; I was neither the first nor the last of these students; neither the most successful nor the most accomplished; however, I have the singular honor to have been a student of his for the longest continuous duration.

Allan and I jointly taught a section of Property to first semester students for twenty years. When it was my turn to teach, I stopped by his office immediately following class to unwind and report on the day's events. He would ask the following question: So, Simmons, what did you say today? I would begin a brief summary of the class, and after a sentence or two, he would often interrupt and ask, “Did you really say that? Do you really believe that?” Then he would conduct a vigorous Socratic inquisition for the next ten or fifteen minutes. If he was satisfied by my responses, he would conclude by saying “OK, you may carry on tomorrow; you are not doing them that much harm.”

However, if my responses did not please him, he would change the subject and tell me his “favorite joke” or talk about “the best movie” he ever saw or the “greatest detective story ever written.” He had an unending and ever-shifting list of superlatives.

These were extraordinary “class” sessions he conducted in his office and I never ceased to learn from them. Being Allan's student for twenty years has been one of the true pleasures of my life.

And now for my anecdote: My first encounter with Allan Axelrod.

It was early in the fall semester, 1975, and I was the new kid on the block. At approximately 8:20 one morning, Alan burst into my office in Ackerson Hall on his way to an 8:30 a.m. Commercial Law

* University Professor and Former Dean of Rutgers School of Law–Newark. (Adapted from his remarks at Allan Axelrod's Memorial Service held on September 21, 2008.)

1. Allan Axelrod's ironic comment was made to Victor Brudney on the occasion of Axelrod's successful attempt to persuade Brudney to join the Rutgers faculty, circa 1964. Brudney taught at Rutgers from 1965 until 1970 when he joined the Harvard Law School faculty. Brudney retired from Harvard as the Weld Professor in 1988.

class taught to over 100 students in Mueller Auditorium, bounded to my desk, and handed me what appeared to be a piece of cardboard about the size of a four by nine inch envelope, saying “take care of this, and I want an official certificate of commendation!”

Well, as you know, deans are here to serve the wishes of faculty—no questions asked; however, I was new to the job and did ask what it was all about. He explained, hurriedly, that when he attempted to enter the faculty/staff parking lot adjacent to the law school at 8:00 a.m., the “gate” barring unauthorized parking did not open when he inserted his slash card in the appropriate slot. He repeated his efforts to trigger the gate mechanism many times, all to no avail. It was now 8:15 a.m. and class began in fifteen minutes. Looking out his rear window he saw that traffic was backing up behind him; it appeared that every faculty member on campus who taught an 8:30 a.m. class that morning wanted to enter that parking lot at that moment!

Ever responsive to the public need, and not seeing a police officer or physical plant worker in the vicinity, Allan got out of his car, and with a single blow, broke off the offending gate, thus permitting immediate entry to his car and all those lined up behind him.

As you might anticipate, no sooner did he park, then a Rutgers Police Officer appeared and handed Allan a ticket for (1) illegal entry to the parking lot, (2) destruction of university property, (3) and aggravated public insubordination. The total charge for these violations was thirty-five dollars.

It turned out that the parking gate frequently malfunctioned and was broken off so often that Rutgers purchased them by the gross, and they were made of flimsy soft pine. Evidently, it was cheaper to replace the gates than to repair the opening mechanism, especially if Rutgers could pass the cost along to faculty members who resorted to self help.

Eventually, I walked over to the campus police station next door and told the desk sergeant this sad tale. He exercised his discretion and voided the ticket as a favor to me (after all, it was my first week on campus), thus beginning and ending my decanal honeymoon period.

In the face of the many urgent and momentous policy issues that confront every new dean, I soon forgot this incident, and Allan was too much the gentleman to remind me that I never produced the official certificate of commendation he so richly deserved. Allan, I owe you one!

ALLAN AXELROD: FRIEND AND MENTOR

*Howard A. Latin**

Before I was fortunate to be admitted to the circle of Allan Axelrod's friends about thirty years ago, I was grateful to have him generously agree to serve as my mentor in confronting the "dull science" of economics. When I arrived at Rutgers to teach my first Environmental Law course in 1976, my knowledge of economics was limited to an Economics 101 undergraduate course a dozen years earlier that was actually a marketing class in which the instructor did not feel called-upon to explain either microeconomics or macroeconomics. I received a C- grade for my unenthusiastic efforts in this course and by 1976 had forgotten what little I learned. Yet, when I began reading the vast Environmental Law literature as preparation for teaching my first course, it became clear that an understanding of economics, "law and economics," and their real-world limitations was essential for writing well-regarded scholarship in my new field.

What to do? When I explained my predicament to Professor Axelrod, he came up with the novel suggestion that I teach myself economics using the Paul Samuelson textbook and other economics materials related to environmental problems. With total confidence, Allan agreed to explain any issues or treatments that utterly perplexed me, but only after I had tried very, very hard to grasp them and abjectly failed. In other words, Axelrod offered to tutor me by deciphering the inexplicable while making clear that he would not provide his benign assistance until I had done everything possible to understand the economics problem on my own.

Over the next two years, he helped me navigate the shoals of the Coase Theorem, Pareto optimality and Kaldor-Hicks efficiency, Pigovian pollution taxes, public goods, the public choice literature, and a great many other applications of economics or "law and economics" perspectives to legal and social problems. I believe Allan enjoyed witnessing my frequently floundering but persistent efforts to understand many arcane economic subjects that seemed axiomatic to him, and he regarded his occasional explanatory sessions as the price he had to pay to observe this comical spectacle. He never greeted my interrogatories without a smile and a witty story about something or anything that popped into his mind. I was just as

* Professor of Law and Justice Francis Scholar, Rutgers School of Law–Newark.

impressed by his wry sense of humor as by his remarkable intelligence and erudition.

I kept plugging along and eventually Allan began introducing me to his criticisms of many inflexible, myopic, right-wing Chicago-school “law and economics” commentaries that he regarded as foolish and inhumane—which was as sharp a vocal condemnation as he would ever apply. And I began to recognize that Allan’s criticisms of the “law and economics” political and legal prescriptions during the 1980s heyday of their influence were motivated by his deeply-held personal values and not just by his academic theories and conceptualizations.

I believe I “graduated” from this economics mentorship process sometime in the early 1980s when Allan gave me a short paper he had written and asked for my editorial comments and suggestions. Having him ask me anything of an intellectual nature was a new experience, and a very gratifying one I must say. Allan later published this paper as: “*Was Shylock v. Antonio Properly Decided?*” in the *Rutgers Law Review*,¹ and I am sorry to say that neither commercial law scholars nor students apparently have devoted enough attention to its tongue-in-cheek but intellectually important lesson.

The main subject of this paper was the fanatical opposition of Chicago-school academics to any form of restraint on creditors’ remedies, on the grounds of impairing freedom of contract² and social efficiency.³ Their classic example is that landlords must be allowed to throw defaulting widows into the snowy street on Christmas Eve, because otherwise landlords will stop renting their premises to widows or else they will raise the rents for widows to reflect increased risks; and consequently all widows will be in a worse position if society seeks to protect one of them by restraining the creditor’s remedy.⁴

Instead of challenging this famous illustration of how “free markets” supposedly always produce the best results, Axelrod used two other well-chosen examples: corpse collateralization⁵ and debtor’s prison.⁶ He noted that several western states had statutes prohibiting people from putting up their corpses as collateral for loans.⁷ This practice arose because miners often lacked the funds

1. Allan Axelrod, *Was Shylock v. Antonio Properly Decided?*, 39 RUTGERS L. REV. 143 (1986).

2. *See id.* at 143.

3. *See id.* at 144-45.

4. *See id.* at 146-47.

5. *Id.* at 143-45.

6. *Id.* at 145-49.

7. *See id.* at 144.

needed to pay for a grubstake and tools, and they had no assets to offer as collateral to potential lenders.⁸ However, the lender might be willing to accept a miner's pledge of his corpse as collateral on the supposition that the miner's relatives would be willing to pay off the debt after his death (and default) in order to give him a proper Christian burial.⁹ The debtor-prison context makes exactly the same point: imprisoning the defaulting borrower would offer the lender no direct benefit, but it might lead the debtor's family to pay off the debt in order to rescue him from extremely unpleasant and unhealthy conditions.¹⁰

Axelrod's short but insightful paper emphasizes the myopic vision of many Chicago School analyses that praise "freedom of contract." All three of these contexts (including the widows) involve parties to the "free contract" choosing to impose a burden on other people who might feel the need to lessen the impacts of default on debtors even if they are not under any legal obligation to do so—thus, we have various social institutions that offer charitable aid to homeless widows, and the families of poor miners or imprisoned debtors are put under religious, cultural, or emotional pressure to render assistance without their prior consent to be placed in that position. Allowing the creditors in these settings and many others to impose the remedies specified in the "free contracts" would legally approve contractual efforts to impose burdens on third parties that did not bargain for, or consent to, the imposition of those burdens.

On a larger plane, the point Axelrod was emphasizing through his choice of examples is that the actions of people who enter into two-party agreements often directly or indirectly affect the welfare of many other people who are not parties to "free contracts," and thoughtful legal analyses of social problems must consider the full social dimensions of the impacts of potential defaults. Sensible legal treatments cannot dogmatically treat the parties to "free contract" as if they are independent actors living in a separate galaxy. In essence, Axelrod argues that society and law cannot automatically abandon all constraints on creditor remedies because these remedies, and the contracts from which they arise, may often involuntarily reduce the welfare of many affected people. He is saying that a proper legal analysis needs to identify the third-party effects and must decide whether society should care about them or ignore them in specific contexts, instead of always bowing to rigid remedies doctrines regardless of the broader impacts.

This paper is only one indication that Axelrod cared about people

8. *See id.*

9. *See id.*

10. *See id.* at 145.

more than about rigid legal doctrines, and that he used his outstanding intelligence and wit to try to make other academics care as well. When I finished responding to his editorial request, I realized that I was able to understand everything in the “law and economics” dogma and Allan’s counterarguments on the creditor remedies issue. I got it! That made me feel happy, but more importantly I understood why Axelrod was interested in this issue and how his position reflected his humane values. I am proud to say that in the process of learning economics with Axelrod’s inspiration and occasional help, I also learned that he was a truly compassionate person as well as a brilliant, perceptive, and witty colleague.

I am very sorry Allan Axelrod passed away this year, and especially sorry that he did not live to see the current fiscal crisis in which a few hundred financial “wizards” entered into “free contracts” for mortgage derivatives and other risky instruments that have destroyed the financial security and savings of millions of people who were not parties to these “free contracts.” Yet there has been virtually no accountability, which Axelrod would deplore. Actually, there has been little public discussion of the virtues of “free contracts” in the past few months, which reflects the recognition by many people that “free markets” are not self-regulating. I am sure Axelrod would feel empathy for the millions of people and organizations that have been hurt by the “free contract” damages and he would feel comparable anger at selfish, short-sighted parties who in their pursuit of great personal riches showed no concern for the economic and social harms they could be inflicting. Perhaps Allan would be forced to rethink his attitude toward debtor-prisons, as applied to the defaulting financiers, not their victims.

It would have been wonderful to hear Axelrod critique the current financial crisis and bailout proposals using his extraordinary intelligence, knowledge, and wit. His diverse background and intellectual interests would have been perfect for this task. But it was not to be. Despite his recent passing, I am lucky that I was able to get to know him quite well and to recognize that Allan was a caring person who always considered social and legal problems in light of his concern for others, especially the incapacitated or downtrodden. This concern for the welfare of less fortunate and gifted people was more important to Axel than the musings of his prodigious intellect or the ideological dogmas of scholars.

REFLECTIONS ON PROFESSOR ALLAN AXELROD

*Stephanie Panico**

I am a 2008 graduate of Rutgers Law School. I met Professor Allan Axelrod in my first year Property class. The first year of law school can be an overwhelming and difficult time, but there was something different about Professor Axelrod that made me, and many of my classmates, look forward to attending his class. His enthusiasm and love for teaching was clear from the very first day—he came to class armed with newspaper clippings and notes of the funny ways property law actually worked in the world. You could tell that he hoped all of us would love these stories, and property law, as much as he did. His stories and enthusiasm made the things we were learning about come alive. Professor Axelrod's classes were marked not by the typical first year terror of being called on and interrogated, but by the fact that he was truly passionate about what he was teaching. He wanted his students to learn how interesting property law could be.

As an upperclass student, I worked with Professor Axelrod in an Adverse Possession Seminar, an independent study, and as a research assistant. I will never forget his sense of humor. I was surprised when I found this joke in the manuscript I worked on with him:

First degree criminal trespass, said Sergeant O'Doul, "that's the seventh young lawyer this year. The DA's trying to decide whether he should book that judge and them as accessories or conspirators. But anyway, we bust the kids and you know they get the phone call? They call the professor and he always says, 'It's not my fault—it's not my fault. You weren't supposed to get caught for 20 years.'"¹

When I first read the joke, I suggested taking it out or putting it in a footnote. He replied that without the joke, he did not even care if the paper was published. As I worked with him over the next year, I came to understand that his unrelenting resolve to include this joke in an otherwise academic work characterized his sense of humor. He was unapologetically determined to bring this sort of lightheartedness to his work. Even in an academic field that is known for staunch academics and the unforgiving Socratic method, Professor Axelrod brought a true joy to his work, and to those who worked with him.

* Associate, Riker Danzig Scherer Hyland & Perretti LLP; J.D., Rutgers School of Law–Newark, 2008.

1. Allan Axelrod, Adverse Possessions: Color of Title and Squatting (Feb. 13, 2008) (unpublished manuscript, on file with The Rutgers Law Review).

I was also lucky enough to work for Professor Axelrod as a research assistant during my last two years of law school, and he served as advisor on an independent research project for me. During the winter break before my independent research project began, we exchanged emails debating what adverse possession topic would have a good chance at publication. I expressed some concern about finding a current topic, but Professor Axelrod quickly allayed my fears. “With me as your research assistant,” he wrote, “anything you write will be brilliant.” Throughout all the work I did with him, both my own research and his, it was this generosity of spirit that made him such a pleasure to work with. Professor Axelrod always made himself available when I needed help, had a concern, or just wanted to talk about my work. Our talks frequently ventured off topic—he took a genuine interest in my other classes and my plans for after graduation. The more he told me about himself and his interests and experiences, the more I became aware of what a privilege it was to work for him. Even after I graduated and began studying for the Bar exam, a word of encouragement from him was only an email away. He was the kind of teacher who keeps teaching well beyond the walls of the classroom, both in the literal sense and in the ways that he generously gave his time and energy to those around him.

There were many days over the past three years that Professor Axelrod was the best thing about Rutgers Law School for me. He made the law school a better place just by being in the building, and I will always treasure the time I spent with him. One of my first reactions to his passing was sadness for the new generations of law students who will never be able to learn from this remarkable man. It is a great privilege to have learned from him and called him my mentor.