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**TRIBUTE****Remarks in Honor of Edgar  
Bodenheimer<sup>1</sup>***John B. Oakley\**

I am John Oakley, Edgar Bodenheimer's junior colleague on the King Hall faculty since 1975. I was invited here to teach courses in public law—the law of governmental institutions. Edgar is responsible for my interest in, and much of my knowledge of, the philosophy of law. It was my honor to assume from Edgar principal responsibility for teaching King Hall's course in Jurisprudence. Later we wrote a book together, for use in the

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<sup>1</sup> The following remarks are from the Memorial Service in Honor of Edgar Bodenheimer held on June 2, 1991, in the courtyard of the School of Law, University of California, Davis. Professors Carol Bruch, Daniel Dykstra, Friedrich Juenger, and John Oakley have published a memorial biography of Edgar Bodenheimer in *The American Journal of Comparative Law* and in *Vera Lex*. Carol Bruch et al., *In Memoriam Edgar Bodenheimer 1908-1991*, 39 AM. J. COMP. L. 657, 657-59 (1991); Carol Bruch et al., *In Memoriam Edgar Bodenheimer (1908-1991)*, 11 VERA LEX, Winter/Spring 1991, at 43.

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Introduction to Law course that we occasionally taught together even after Edgar's retirement.

It is customary upon the passing of a person such as Edgar, who has lived a good, full, and long life, to wish away the grief by talking of a celebration of the life just ended. Edgar's life was indeed cause for celebration, but I speak today filled far more with feelings of loss, sorrow, and anger than of joy. By any standard I know of, the calendar included, Edgar was too young to die. To have so great a man, so dear a colleague, felled within a week by a mysterious illness—that was no sparing of suffering, that was a tragic and premature loss. I feel sorrow not only for my loss but acutely for the far greater loss caused to Edgar's family who now must confront a world left distinctly less kind and less gentle by the passing of their husband, brother, father, and grandfather. I feel anger that it all happened so suddenly, so randomly, and so soon after Brigitte had begun to recuperate from her own travails of health.

But let us look now to the bright side. The Edgar I knew was the living embodiment of the scholarly ideal, and on this day and in this setting I want to memorialize that part of Edgar's wonderful life. To do that I don't need to remind you of the vast bulk and breadth of his scholarly writing in his first eighty years, already fittingly memorialized in our law review's *Festschrift* volume of 1988.<sup>2</sup> Edgar never stopped working, never stopped expanding the boundaries of his own human understanding, never stopped teaching others where to look next and suggesting what they might find. Even as the *Festschrift* volume was going to press, Edgar was taking the lead role in producing a new edition of our "Introduction to Law" casebook, with Jean Love and myself very much supporting players as Edgar marched through the first edition hacking at the underbrush. The pen has been proclaimed mightier than the sword, and one of my memories of Edgar will always be that the typewriter, too, is mightier than the machete. He used a delightfully anachronistic and completely functional manual typewriter to tap out surgically neat and intellectually incisive comments on whatever he was annotating, whether it was his own book to edit, some other book to review, or a colleague's draft to improve.<sup>3</sup>

Edgar had superb skills of personal organization that I never

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<sup>2</sup> See 21 U.C. DAVIS L. REV. 465 (1988).

<sup>3</sup> The law review's editors are to be applauded for finding and reprinting

ceased to admire, and have never managed to emulate. When last we had lunch, just a few weeks ago, we adjourned from the restaurant to his office where he showed me his filing system of notes on a lifetime of readings in law, philosophy and science. It was a revelation to one reared in the Xerox age to see the enduring value of a system of personalized abstracts, organized in manila folders according to an intricate system of subject-matter classification, in comparison to my own black hole of Xeroxed copies of articles that, once Xeroxed, are neither read again nor remembered. Edgar told me then that he was thinking of leaving his file of abstracts to the law library. I greatly hope that this comes to pass. Edgar's extraordinary personal archive should be bound and preserved for posterity.

I did not expect Edgar's latest article to be his last. But it was a wonderful article to serve as the last entry in a distinguished bibliography.<sup>4</sup> I want to conclude my remarks by telling you why.

First, it is of major intellectual importance, certainly in the first rank and perhaps at the forefront of anything published this year by the King Hall faculty. Edgar had discovered that about twenty years ago an obscure but industrious Hegelian scholar had found and published in German a multi-volume set of student notes from various courses in philosophy of law given by Hegel early in the nineteenth century. These volumes had been distributed to the usual cohort of academic libraries and forgotten. They had never been translated into English or reviewed in an English language journal. But consider Edgar's unique perspective, as lawyer, philosopher, and native speaker of German. Edgar knew that there was great uncertainty about Hegel's views on philosophy of law. Hegel's published writing on the topic was incomplete, inconsistent and sometimes contradictory. Some thinkers saw him as a voice for liberalism, but more commonly he was cast as a godfather of fascism. Edgar started reading the old German with quickened interest. It turned out that Hegel had been a moderate with many liberal sympathies, but these elements of his thought had been stripped from his published work by Prussian censors.

Edgar knew he had found gold. You should have seen him at our luncheon, fired with youthful enthusiasm, delighted at the vis-

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as the frontispiece photograph an illuminatingly happy picture of Edgar at work in his surgery.

<sup>4</sup> Edgar Bodenheimer, *Hegel's Politico—Legal Philosophy: A Reevaluation*, 35 AM. J. JURIS. 217 (1990).

tas this opened for other scholars, proud that the vigor of his own scholarship had not diminished.

Although to my eyes Edgar was not ready to call it a career quite yet, he knew the risks of his age, and that each paper might be his last. So he quickly wrote a description of his discovery of Hegel's suppressed liberalism and a discussion of its implications for a proper understanding of Hegel's philosophy of law. The editors of the *American Journal of Jurisprudence* were vastly excited, recalled from the publisher the last issue scheduled to be printed before the summer, and by stopping the presses inserted Edgar's article in that issue. Only days ago he brought the reprint to my office, still delighted and excited and proud.

It was clear that he would rest easy if the Hegel paper were to be his swan song. But was he really ready to retire from scholarship? In my own mind, I doubt it. The scholar in him was still very much on the march, still very much concerned to lead the way. In the reprint he brought me he had inserted, in his eighty-three year old hand, over a half-dozen penned corrections of the hurriedly printed text. Edgar had painstakingly added a comma here, taken one out there, extended or clarified a phrase. All technical points, but all symbolic of a restless desire to get things right. And so who better to have supervised the publishing of the English edition of Hegel's lost work? When I suggested that to him at lunch, his eyes twinkled. Well, he said, he hadn't thought of that, but now that I had mentioned it . . . . Let's just say he didn't say no.

But in the end the Hegel paper was his final work. The final way in which it was a fitting final work was the path to its discovery. Those dusty tomes of old German with uncracked spines were not found housed in some far-flung foreign library, of the sort Edgar indeed so frequently visited. Edgar decided one day to drop by Shields Library, right here in the midst of the tomato fields, to browse in its collection of materials on Hegel. It was here, in Davis, that a gentle and kind philosopher of law, born over eighty years ago in a Germany that would prove neither gentle nor kind, it was here in Davis that Edgar Bodenheimer came to find, awaiting him in his native tongue, the missing pieces to the puzzle of Hegel's theory of law.

So Davis served Edgar well. And such service he returned. I think of him as like a tall and majestic tree, weathered in places but still spreading wide, filled with life, providing shade and sus-

tenance for many. Suddenly, unpredictably, that great tree has been felled as if by lightning. We may plant saplings in his place, but none in our lifetimes will grow to his stature.

