

Uldaho Law

Digital Commons @ Uldaho Law

Articles

Faculty Works

2020

A Tribute to Don Burnett

Maureen Laflin

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/faculty_scholarship



Part of the [Legal Biography Commons](#), and the [Legal Education Commons](#)

IV. A TRIBUTE TO DON BURNETT

by Professors Maureen Laflin and Michael Satz

Professor Maureen Laflin, past Director of the College of Law Clinical Programs and the NW Institute for Dispute Resolution

It is no secret that no one wants to speak after Don Burnett because no one could sound as eloquent, well-reasoned, and intelligent. Similarly, it is a herculean task to boil Don Burnett's accomplishments down to a few pages. It is with great humility that I attempt to do justice to the man, the scholar, the leader, the judge, the dean, the professor, and the president. His impeccable academic record, his commitment to service, professionalism, and his love of Idaho, and in particular, the University of Idaho (UI), are evident in his exhaustive resume and the tributes below from his colleagues and former students.

His colleagues and students provide a glimpse into his professional life with anecdotal stories. I must confess, this tribute only provides a Gilbert's account of Don's accomplishments. If you have had the pleasure of working with Don, you know that this piece skims the surface of his many years of service to the state of Idaho.

His roots in Idaho are deep and his love of the state and the UI are unwavering. Don's parents, who grew up in Wallace, Idaho, are graduates from UI. He proudly talks of his mother, Doris McDermott, and her picture from the 1930s hangs in the University's Administration Building. Although she did not recall the photo being taken, when Don showed it to her, she remembered the names of each of the other four women in the picture. He was so proud of her and frequently told the story of when, at 90, she accompanied him to an alumni reception. "*Seeing a piano in the room, and a crowd gathered around it, she sat down and played 'Here We Have Idaho.' She then said, 'I can't believe it. I haven't played that in more than 60 years!' She hadn't missed a note.*" No doubt, he got his incredible memory and love for Idaho from her.

Don was born and raised in Pocatello, Idaho. He received an A.B. degree, *magna cum laude* from Harvard (1968), a J.D. from the University of Chicago Law School (1971), an LL.M. from the University of Virginia School of Law (1990), and an honorary LL.D. from the University of Idaho (2019). He is obviously a believer in lifelong learning.

With his law degree in hand, Don returned home to Idaho. He practiced law from 1971–1982 as a clerk, an assistant attorney general, an Army Reserve JAG officer, a founding partner in his own law firm, and then as one of the original members of the Idaho Court of Appeals (1982–1990). He left Idaho for 12 years to serve as dean and professor at the Brandeis School of Law, University of Louisville, but he maintained his engagement with the Idaho legal community. This was most evident by his work in 1999–2000 as one of the architects of the Blue Ribbon panel that studied the statewide mission of the UI College of Law and identified strategic alternatives for the future, including the possibility of a dual location model. He subsequently returned to his beloved Idaho to serve as our dean from 2002–2013.

Throughout his tenure as dean, I was impressed by Don's intelligence, tenacity, and thoroughness. I served as his escort around southern Idaho when he

interviewed for the deanship. I was astounded to realize that he had not only memorized everyone's name prior to arriving, he had read at least one piece of each person's scholarship and could converse with each faculty member about his or her scholarly interest.

We spoke extensively about what he wanted for the College of Law—a mandatory pro bono program, a professionalism program, and a strong connection between the state bar and the law school. Don is a visionary with an unrelenting commitment to his convictions. As a result, many of his hopes and dreams for the College were actualized during his deanship. Early in his tenure as dean, he introduced his signature professionalism program as part of 1L orientation, which brought in respected practitioners and judges to work with our newly enrolled students. He started the College's mandatory pro bono program to instill in our students the importance of giving back to those in need. The College also started its Jurist in Residence program, which offered judges the opportunity to spend a week or two at the college delving into research, engaging with the students and faculty, and bringing wider experience and expertise into our halls. He supported faculty diversity, and he also encouraged and affirmed faculty outreach efforts. The dual location concept came into fruition when the college opened a full three-year program in Boise.

You may be wondering how he was able to actualize so many of his dreams, but if you have worked with Don, you know the real question is, "Does this man ever sleep?" The answer is resoundingly, "No." Dean Don was unmistakably a night owl, generally leaving the law school in the wee hours of the morning when Professors Dale Goble and Ben Beard were arriving for work. And all of us who did not see him leave shortly before the sun rose, knew from the flood of emails sent around 2 a.m. that he'd been there nearly all night.

It is abundantly clear to everyone that Don is outwardly focused, primarily concerned with others' needs. During his interview at UI for his job as dean, Don voiced a fierce advocacy for his faculty and the College. When he was negotiating his offer to be our dean, he told the administration that he was less concerned about his salary than he was with what the university would do for his faculty and the College.

Preparation is the key to success, and Don was a master of preparation. Each year, Don gave the opening remarks at the College's Northwest Institute for Dispute Resolution. The Institute brings in many of the country's most respected dispute resolution leaders to teach classes to our students and practitioners in the northwest. After giving the opening one year, two of the instructors asked me who conducted Don's research and wrote his speeches. They were shocked to learn that Don did his own research and wrote his own presentations. Even though dispute resolution was not one of Don's focus areas, they said that he was probably one of the top 5 most articulate and knowledgeable deans in the country on ADR.

Don accomplished a great deal as an administrator, but he also taught four different courses and presented numerous CLEs while serving as our dean. He also generously devoted hours to clinic faculty and students as we wrestled with ethical

issues. At times, it seemed as if we had Don on speed dial. What a resource—our own encyclopedia!

One of Don's most endearing descriptions of UI's statewide mission and role came in response to the Idaho State Board of Education decision to stop calling UI the state's flagship university. That did not stop then-President Burnett from repeatedly recognizing the UI's distinctive history and noting that every fleet needs its leader. Don referred to UI as "*Idaho's national land-grant, founding, comprehensive, constitutionally established and, therefore, flagship university!*"

Despite his many lauded accomplishments, no job was beneath him. Don would show up in the middle of the night to shovel the snow to make sure the College's entrances were clear when people arrived in the morning. While there are pages more that could be written about Don's accomplishments and good deeds, those aren't the things that stand out. It is the person, the teacher, the mentor, the leader, and most of all, the friend that I value and cherish. Thank you, Don, for being you.

Professor Michael Satz, Executive Director, Southwestern Idaho

I don't even know where to start with Don Burnett. He first impressed me 15 years ago when he was recruiting me to join our wonderful faculty at the University of Idaho College of Law. I was truly impressed by his passion for both the school and the profession of law. At that began a long and wonderful relationship with him as my dean, friend, and mentor.

During this time, it became apparent that he isn't a man driven by ambition, nor ego, but rather a sincere desire to be a conscientious member of both the professions of law and education as well as a socially conscientious citizen. His unyielding faith in the ethical practice of the law, and of the profession as a much higher calling than simply making a living, would show through in almost everything he did, and it was absolutely infectious to those around him, be they his administrators, faculty, staff, students, or members of the legal community.

Inside the law school and University of Idaho community, Don Burnett was always driven to do what he thought was the right thing. I had the great honor of serving under Don as a faculty member, an associate dean, and then as interim dean while he served as our institution's interim president. What I found absolutely laudable in him as a leader is that whenever a circumstance arose that required working with me, or with his leadership team, he would always listen to everyone, analyze what was said, and reach a solution that earnestly took into account what his people told him. He would also make the extra effort to explain what he was doing and to teach me and others in the process. In those situations that were outside of his areas of expertise, he worked hard to learn about the issues involved. He was, and remains, one of the strongest advocates for equity and inclusion that I have ever had the honor of working with. Allies like Don Burnett move the needle for underserved populations and for that I am so, so grateful.

Finally, Don really loves Idaho. He loves Eastern Idaho so much, and is so well connected there that I (only half-jokingly) call him a member of the Pocatello Mafia, a group of some of the best attorneys, business leaders, and civic leaders in Idaho upon whom the College of Law called frequently for advice, leadership, and programmatic involvement. And, although it is true that Eastern Idaho holds a

special place in Don's heart, he is known and well respected throughout our great state, and knows so much about Idaho's rich history. If one is lucky enough to travel in Idaho with Don Burnett, you will learn about Idaho history, whether it be the hotel that the great Clarence Darrow stayed at during Idaho's trial of the century after the assassination of then Governor Frank Steunenberg, the great fires that spawned the U.S. Forest Service, or the history of the many Native American tribes in Idaho. A true Idahoan through and through.

The University of Idaho and the College of Law were lucky to have such a fine example of a man as Don Burnett as dean and interim president. But perhaps more importantly, those of us who had the opportunity to call Don a friend, colleague, and mentor are most appreciative and grateful and are, without doubt, all the better for it. I wish Don and his lovely wife Karen—whom we all know deserves a lot of credit for Don's success—a wonderful retirement!

Additional Comments from Faculty, Staff & Students

Emeritus Professor Kathy Aiken, History Department; past Dean, College of Letters, Arts & Social Sciences; and past Interim Provost

Donald L. Burnett, Jr. enjoyed a distinguished career as a practicing attorney in Idaho and as one of the first members of the Idaho Court of Appeals, which he was instrumental in creating. He became Dean of the University of Louisville School of Law (re-named the Justice Louis D. Brandeis School of Law due to Burnett's efforts) in 1990. He returned to his home state of Idaho in 2002 to accept the deanship at the University of Idaho College of Law. During his eleven years as dean, Burnett expanded student pro bono work and diversified the law school faculty. His decanal legacy is especially strong in terms of connecting the Law School with other parts of the university through interdisciplinary programs such as "Waters of the West." His understanding of the academy and the inter-connectedness of the various disciplines resulted in collegial and supportive relationships with other deans and led to a greater recognition of the College of Law's central place at the University of Idaho. His Provost Council colleagues valued his thoughtful and judicious approach to issues and his ability to focus on the entire University rather than only his individual college.

Donald Burnett accepted the position of Interim University of Idaho President in 2013. In that role, he provided a model for leaders of higher education institutions in terms of his erudite and eloquent advocacy for learning and its value both to the individual and to society. His description of the University of Idaho as Idaho's "founding, comprehensive, constitutional, land-grant, research, and therefore flagship" institution led to a greater recognition of the University of Idaho's role and value that boosted morale among the institution's community members and enhanced the institution's reputation throughout the State of Idaho. During his tenure as interim president, the University of Idaho advanced a \$225 million development campaign and began a year-long celebration of its 125th

anniversary. Don Burnett's grace and dignity, coupled with his devotion to learning, define his interim presidency.

Professor Barbara Cosens, University Distinguished Professor

There is a general rule at the University of Idaho—avoid following Dean or President or Emeritus Professor Don Burnett in making a speech. His capacity to capture the moment, to speak to everyone in the room, and to draw upon the most appropriate and inspirational quotes exceeded that of even the best speech writers. It is generally best to end on that note.

There is another general rule within the College of Law—to be introduced by Don Burnett will be the peak moment of your career. Don does not stretch the truth or gush over minor accomplishments. As Dean, he took the time to understand who each of his faculty was, what our strengths were and what we personally, with a little encouragement, could contribute to the University of Idaho. His introductions reflected this by pulling out the one thing each of us does better than anyone else.

As Dean of the College of Law, Don recognized that a small public law school could only offer richness, diversity, and quality to its students, Idaho, and the world, by letting each of his faculty do what we do best. As the State's sole public law school, the University of Idaho College of Law must serve students with a wide range of capabilities, interests, and backgrounds; many are the first in their family to attend higher education and yet have, with a little encouragement, the capacity to compete with top lawyers across the country. Don understood that the best way to meet this challenge was to foster the diverse capability of his own faculty. Those whose outreach served a wider public beyond Idaho were encouraged as much as those whose service would be welcomed by potential Idaho donors. Those who thrived on teaching over research were given the larger classroom setting to perform. Those whose research engaged top end students and brought attention to the College from beyond Idaho were encouraged to follow this path and given more focused teaching packages. In this way, the College punched well above its weight during Don's service as Dean.

On a personal note, Don hired me to the College of Law. He saw my ability to work across disciplines, and encouraged the development of a program in Water Resources that would be unique in the relatively arid, western United States and that, along with a concurrent JD/MS program in Environmental Science, would include an option for concurrent JD/MS and JD/PhD degrees. He recognized the need for trained natural resource lawyers in a state with 64% public lands, a water dependent economy with recreation as its fastest growing economic sector, and five Native American Reservations with historic and cultural interests in the state's abundant natural resources. He understood the need to stop the brain-drain of high performing students to the environmental and natural resource programs in more populous states that were focused on public interest litigation. Instead, Idaho would train problem solvers at the law/science interface who understood the need for alternative methods of dispute resolution to solve the underlying resource problems. These interdisciplinary programs grew during the period that Don led the committee of Deans overseeing them across seven Colleges. Don's leadership skills and integrity kept peace in the valley while the students in the program thrived and faculty gave more than 100% to build an institution they believed in. For me, this is

Don's greatest legacy. His ability to find the unique talent within each individual and encourage its growth fostered an atmosphere in which the whole exceeded the sum of the parts.

John Quincy Adams said *If your actions inspire others to dream more, learn more, do more and become more, you are a leader.* By this standard Dean, President, and Emeritus Professor Don Burnett is a true leader.

Professor Wendy Couture, Associate Dean for Faculty Development and James E. Wilson Distinguished Professor of Law

From my first day as a faculty member, Dean Burnett inspired me with his genuine and infectious love for the College of Law and his encyclopedic knowledge of its history and notable alumni. He worked tirelessly on the College's behalf; indeed, he was infamous for sending emails at 2:00 a.m. And yet, he was never too busy to acknowledge individual contributions—no matter how small—with a kind note of appreciation.

Associate Professor Dylan Hedden-Nicely

I believe the paramount responsibility for the law school dean is to ensure that every graduate understands the immense power and responsibility that lawyers have in our community. Don took that role seriously; he made sure that his students understood that lawyers are the keepers of the rule of law, and that responsibility requires a commitment to service, empathy, and justice. Although Don has had many important jobs in his career, I believe his time as dean of the University of Idaho College of Law will have the longest legacy. Because of Don, lawyers all over the country understand their important role, practicing in a way that honors these fundamental values every day.

Professor Kenton Bird, UI School of Journalism and Mass Media

I had the honor of chairing the Faculty Senate for the first four months of Don Burnett's term as interim president of the University of Idaho. I learned a lot about leadership from Don, who moved "up the hill" to the Administration Building during an anxious time for the university. He recognized his role as a transitional leader but was not afraid to make tough decisions during his nine months as president.

Don took office a little more than a year after the State Board of Education voted to delete "flagship" from the UI's mission statement. That didn't stop Don from using that term to describe the institution to which he had been connected since birth (his parents were alums) and that he came to love as a professor, dean, and interim president.

At nearly every faculty meeting, convocation and public gathering at which Don presided, he declared how proud he was to lead "Idaho's founding, comprehensive, constitutionally established, national land-grant, research . . ." and, after a dramatic pause, "flagship university!" He did so playfully but confidently, always to applause and laughter of the audience. He spoke reverently about the university's long history, drawing examples from two books, "Beacon for Mountain and Plain" (1962) and "This Crested Hill" (1989).

The best insights into Don's wit and wisdom came in his weekly President's Letter, sent to the campus community and to alumni and friends around the world. From June of 2013 through February of 2014, Don wrote about the triumphs of students, faculty, staff and alumni, whose experiences were shaped by their time at the University. He didn't gloss over the university's shortcomings, but found ways to inform and inspire the UI's many constituencies.

In January of 2014, as his term as president was drawing to a close, he wrote:

'Making the world a better place' may be a time-worn phrase, but at the University of Idaho we have people doing exactly that every day. Their work advances human progress, informs our teaching, and shapes our outreach to communities in Idaho and elsewhere. Most fundamentally, it expresses the spirit of discovery that puts wind in our sails.

He couldn't overlook one final allusion to the UI as a flagship for higher education in Idaho, one that became more shipshape with Don Burnett at the helm.

Russ Heller, retired secondary curriculum director of the Boise School District.

Several years ago, Don Burnett undertook direction of a project to advance well-taught civic education. The instrument of that project was a professional development program for teachers focused on the importance of the rule of law and an independent, impartial judiciary. As lead architect of the resulting summer institutes, Don enlisted the support of jurists, journalists, academics, teachers, and education administrators as volunteer speakers, workshop leaders, and courtroom hosts. Now in their sixth year, the institutes have served over one hundred teachers, representing a wide range of subject and grade level assignments, from school districts throughout Idaho.

The institute's program was structured to help teachers broaden their content knowledge and generate classroom applications of that content. During small group sessions following each topical presentation, teachers and presenters engage in conversation driven by questions specific to each program component and then address "core" questions for translating the presentation content to instructional settings. This tandem pairing of deep, topical presentations and energetic workshops provides teachers meaningful substance and a stimulating setting for their instructional creativity. Teachers' reviews of the institute praise the experience for its quality of speakers, the value of court visitations and close interactions with jurists, and the provision of a setting and tone that imbue the program with a sophistication that acknowledges and dignifies teachers' professional responsibilities and challenges. The most impressive data of the institute's impact are the large numbers of teachers requesting return enrollment. Don Burnett shaped and deserves high praise for this design and its success.

Throughout the planning and operation of the institutes, Don has provided organizational leadership, insightful guidance, and learned presentations. His unmatched experiences as attorney, judge, academic, and administrator have shaped every successful component of the institute, and his devotion to lucid reasoning and rigorous, deliberate, engaging instruction models teaching at its best.

As a result of Don's unwavering commitment to this project and his many labors, thousands of Idaho students have benefitted as well-informed members of their civic communities, a benefit that accrues to the health of our republic. For that, we who are part of this project are most grateful.

Jana Gomez '09

Don Burnett is the epitome of professionalism. On the first day of law school orientation, he informed our class that the practice of law is a noble profession, and, as future attorneys, we would be held to a higher moral standard than most. His words comforted me, as I began to realize that my personal values would align well with the professional values in my newly-chosen career path, despite what Hollywood would have me believe. Since that day, Dean Burnett has imparted the same advice to countless other incoming law students and challenged them to always practice law with a focus on ethics and professionalism. The Idaho State Bar is undoubtedly more congenial thanks to the tireless efforts of Dean Burnett. Thank you, Dean Burnett, for helping make Idaho a wonderful place to practice law!

Cody Earl '16

Throughout my time in law school, nothing was more informative and educational than the semester I spent as Professor Burnett's research assistant. During that semester, Professor Burnett instilled in me the importance of serving one's community and underscored the necessity to educate the general public about the role of the judicial system in our society. I have tried to keep in touch with Professor Burnett, and am always amazed at how genuinely curious he is about what his students are up to in the "real world." I am beyond grateful to call Professor Burnett a mentor and friend. I wish him nothing but the best in his future endeavors.

Henry Stegner '17

Three Stomps for Don Burnett

We all knew that we were taking first-year civil procedure from one of the great legal minds of our time. Prof. Don Burnett had an uncanny talent for interweaving anecdotes from his years of experience as a litigator and jurist with the black letter law, leaving students both entertained and enlightened. His lectures inevitably wound their way to a close in a cinematic fashion where the day's story concluded within seconds of the end of class. And, because the lectures were mixed with both life lessons and testable material, when something was certain to be tested, Prof. Burnett would signal the class with his patent "three stomps" so as not to leave any students in the dark. If I am ever confronted with a situation that requires me to engage in a "noisy withdrawal" from representing a client, I won't be surprised if, by force of habit, I stomp three times before presenting the motion to the court.

Aside from being a charismatic professor and speaker, Prof. Burnett was a dedicated advisor and mentor to hundreds of aspiring lawyers. He instilled the

value of law clerkships and for practicing law to help those in need. When it came to volunteering his time, Prof. Burnett never once declined a request to forego a night or weekend to support a student group. His contributions to the College of Law, the University of Idaho, and the legal profession are immeasurable, and his impact on the next generation of legal minds will not go unnoticed.