

Water Law Review

Volume 3 | Issue 2

Article 3

9-1-1999

Vol. 3, no. 2: In Tribute

Rachael Paschal

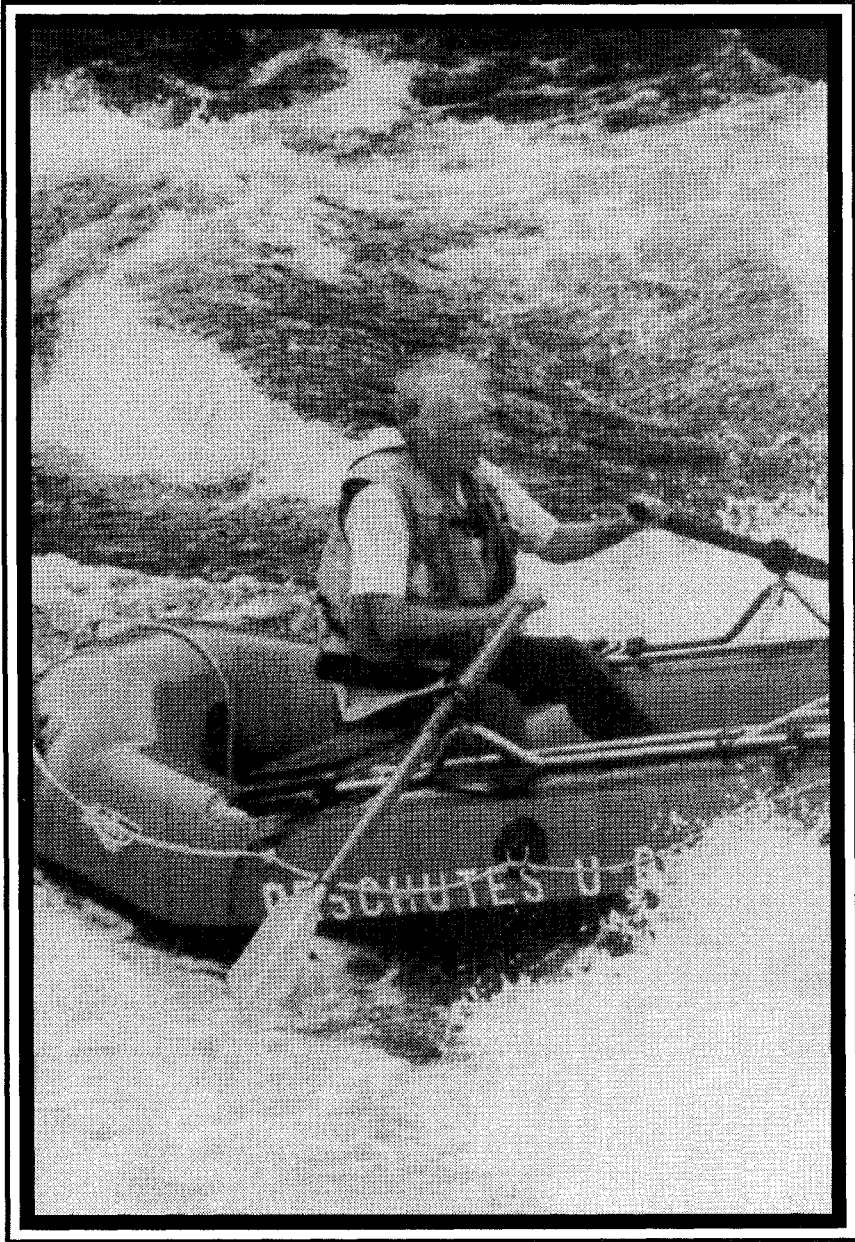
Follow this and additional works at: <https://digitalcommons.du.edu/wlr>

Custom Citation

In Tribute, 3 U. Denv. Water L. Rev. [viii] (1999).

This Front Matter is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in Water Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

IN TRIBUTE



RALPH W. JOHNSON

**EMINENT SCHOLAR, CONSUMMATE TEACHER,
FISHERMAN NONPAREIL**

**DEDICATION TO PROFESSOR RALPH WHITNEY
JOHNSON**

1924-1999

RACHAEL PASCHAL

Professor Ralph W. Johnson passed away on August 3, 1999, leaving a legacy of outstanding works and scholarship that spread light into some very dim and dusty corners of the American legal conscience. His influence will continue to radiate, for Ralph lived with honesty and vitality and his work beckons and guides those who seek positive change.

Any one of his accomplishments would signify a successful career. Ralph's career, however, was more than a success. He was a thinker and doer, engaged in a lifelong pursuit of problem solving. He naturally searched for opportunities to expand theories and create reform. His uncanny talent for recognizing legal voids was matched by his inventiveness in marshaling resources to fill them.

Ralph is remembered foremost as a teacher. He inspired generations of University of Washington law students to follow their hearts into the practice of law. His courses in water, public lands, and Indian law introduced thousands of students to the notion that the American justice system is meant to serve nature as well as humankind. Never didactic, he taught through kindness and humor that it is possible, even necessary, to integrate personal ethics into one's approach to legal practice.

Ralph is also well remembered as a legal innovator, his career marked by the major initiatives he launched. He co-founded the University of Washington's renowned East Asian law program, served as counsel to the United States National Water Commission at a critical juncture in the evolution of national water policy, and conducted pioneering research in the field of federal Indian law. One of his final efforts was creation of the new Indian Law Center at the University of Washington Law School.

A hallmark of Ralph's work was his interdisciplinary, collaborative, and diverse approaches to legal scholarship. He integrated economics, ecology, and fisheries and atmospheric sciences into his legal writing. He relished working with others and wrote widely on diverse topics related to water law.¹

One of Ralph's greatest contributions was his work in developing the public trust doctrine as a modern theoretical basis for water resource protection. An avid fisherman, Ralph experienced firsthand the degradation of streams and rivers caused by the unrelenting pressures of extractive water development. He authored dozens of articles addressing the theory and application of the public trust in public waters, no doubt the

1. See, e.g., RALPH W. JOHNSON & GARDNER M. BROWN, JR., *CLEANING UP EUROPE'S WATERS: ECONOMICS, MANAGEMENT, AND POLICIES* (1976); RICHARD G. HILDRETH & RALPH W. JOHNSON, *OCEAN AND COASTAL LAW* (1983); ROBERT G. FLEAGLE ET AL., *WEATHER MODIFICATION IN THE PUBLIC INTEREST* (1974).

most influential being his 1980 article *Public Trust Protection for Stream Flows and Lake Levels*,² cited by the California Supreme Court in its famous Mono Lake decision, *National Audubon Society v. Superior Court of Alpine County*.³ When searching for a basis to hold that lake water depletion resulting from tributary stream diversions was a form of pollution that offended the public interest in environmental quality, the court found Ralph W. Johnson's analysis persuasive. Since the Mono Lake decision, water law has never been the same.

Ralph's second love was federal Indian law, second only because discovered later in his career. His contributions to the field were monumental. Driven by a cogent sense of justice and a strong, personal relationship with Native American fishermen suffering unconscionable loss of treaty fisheries, Ralph studied and wrote prolifically on the subject of Indian law, virtually inventing it as an academic field in 1968.

His first Indian law article, *The States Versus Indian Off-Reservation Fishing: A United States Supreme Court Error*,⁴ a criticism of the Supreme Court's analysis in fishing rights cases involving western Washington tribes, may have been his most influential. United States District Judge George Boldt relied on this article in his landmark decision awarding half the Washington State salmon harvest as well as resource management responsibilities to the treaty tribes.⁵ After that decision, however, Ralph's work had just begun. Realizing that newly won fisheries management required tribal administrative and enforcement structures, Ralph worked with the National American Indian Courts Judges Association training tribal judges throughout the 1970s and 1980s.

For thirty years Ralph wrote, taught, and tirelessly encouraged scholarship in the field of Indian jurisprudence. He founded the annual Western Indian Law Symposium to focus and disseminate research on contemporary issues in the field; co-edited the 1982 revised edition of *Cohen's Handbook of Federal Indian Law*; and served on several commissions, including the National Center for State Courts' tribal court jurisdiction project, resulting in development of a model comity rule between tribal and state courts, since adopted by several states.

Ralph W. Johnson's bibliography encompasses a redoubtable compendium of scholarship. Yet no text could capture his essence. He was completely accessible and always taken by surprise when paid high honors. He took delight in relationships with his students, colleagues, friends, and family. At the law school, his door was always open. He counseled and mentored untold numbers of students. He embraced diversity. His love for the planet and for people elicited optimism, even from the most curmudgeonly. He loved the outdoors, was a mountain climber and rescuer, and he skied and fished until very near the end of his life. He often cited that love as inspiration for his work.

Ultimately, Ralph offered a simple recipe for living: work hard, think outside the box, live your ethic, and you can make a difference. The difference Ralph made was enormous.

2. Ralph W. Johnson, *Public Trust Protection for Stream Flows and Lake Levels*, 14 U.C. DAVIS L. REV. 233 (1980).

3. 658 P.2d 709, 712-28 (Cal. 1983).

4. Ralph W. Johnson, *The States Versus Indian Off-Reservation Fishing: A United States Supreme Court Error*, 47 WASH. L. REV. 207 (1972).

5. See *United States v. Washington*, 384 F.Supp. 312 (W.D. Wash. 1974).

No tribute to Ralph is complete without acknowledging the influence of his lifelong partner and spouse, Anne Johnson. Anne's capacity to encourage, even urge Ralph to identify and address the socio-legal problems they encountered was key to his work. Ralph Johnson's successes were, and are, Anne's successes too.

For those who knew and loved him, Ralph's passing is a true loss. But he lives on, his thinking a vital force in American jurisprudence. Water flowing in streams, Native American tribes reclaiming their authority as sovereign governments—these are the legacies of Ralph W. Johnson, eminent scholar, consummate teacher, and fisherman nonpareil.

Ralph's life has touched many people. If you are among them and would like to remember him, please consider giving a gift to the Indian Law Center at the University of Washington School of Law, 1100 N.E. Campus Parkway, Seattle, WA, 98105. The Center represents Ralph's last initiative to promote scholarship in the field of Indian Law and promises to fulfill the legacy begun more than thirty years ago.

