Professor Shimm was a native of New York City, graduated with honors in 1947 from Columbia University after a hiatus of three years serving in the Army in World War II and emerging as a Lieutenant in the Field Artillery. He attended Yale Law School, again graduating with honors, in 1950. He practiced law privately in New York City from 1950 to 1951 and was an
attorney for the Wage Stabilization Board in Washington, D.C., from 1951 to 1952. He first taught law as a Bigelow Fellow at the University of Chicago in 1952 and came to Duke Law School the following year. In addition to his teaching and his work with Duke Law publications, he served as Associate Dean of the Law School from 1978 to 1983. He also taught at New York University and the Universities of Southern California, North Carolina, Michigan, and Texas.

Professor Shimm's role in legal academic publications was significant, from his student days as an editor of the *Yale Law Journal* to later years editing *Law & Contemporary Problems*, the Association of American Law School's *Journal of Legal Education*, the American sections of the *Business Law Review* and the *Journal of Business Law*, and organizing and becoming faculty editor, then advisor, to the *Duke Law Journal*. He also served as senior consultant with the Brookings Institution, as director of the Association of American Law Schools' Orientation Program in American Law, as director of the Duke University Institute in Transnational Law, as a member of the North Carolina General Statutes Commission, and on the Faculty Editorial Committee for *Law and Contemporary Problems*.

Professor Shimm was a member of Phi Beta Kappa and the Order of the Coif, and a recipient of the Duke University Award for Merit.

IN HONOR OF MELVIN G. SHIMM

Dedicating this issue of *Law and Contemporary Problems* to Professor Mel Shimm was initially intended to celebrate the first half-century of his having been, for that period, the journal's human embodiment—"Mr. L&CP," as he was once called by student editors who worked most closely with him. Mel manned the journal's masthead as its editor for some ten years and served the bulk of some forty more on the Faculty Board, most of those as its Chair. Throughout, he inspired, guided, and mentored all who followed him, performing a task shouldered, in the early years, entirely by himself.

Some years ago, Mel was diagnosed with prostate cancer. This is a disease, we've been told, that most men die with, but few men die of. Mel survived the surgery and the therapies and the terrible emotional swings of more than one clinical trial. But the cancer survived them, too. That such persistent medical intercession gave Mel little if any reprieve was surely disheartening. But just as his ebullient, nurturing spirit buoyed his students and colleagues, so it stifled any words of frustration or self-pity:

I am hopeful that all will work out well (as this seems to be the last stop on the line for me—or to use a perhaps more suitable metaphor, no other trains seem likely to arrive in time for me to board them). In any event, however, in light of the many other disappointments I have sustained in seeking to retard the
progression of the disease, let alone cure it, I am not so invested in this trial that its failure will reduce me to despair. I am confident that I will have received the best treatment that medical science can reasonably provide me at this time, and no one can fairly ask for more.  

Although Mel quietly, courageously mustered every available medical weapon to conquer his cancer, ultimately, the cancer conquered him. We intended this issue of *Law and Contemporary Problems* to be dedicated to the man, not merely to the memory of the man. But cancer waits for no one.

Shortly before the celebratory dinner for the Behavioral Genetics Conference last Spring, we told Mel that this issue of *Law and Contemporary Problems* would be dedicated to him. Although he had been most unwell, he came with his wife Cynia to hear our praise and our thanks. Once he had done so—ever so graciously—he stood (fatiguing though it was for him to do so for any length of time), hands on the back of his chair, his posture perfect, his white hair and beard trim and gleaming, his signature bow-tie underscoring a visage flushed with goodwill and pleasure, and regaled his audience once more with anecdotes of what it had meant to him to be such a vital part of this journal for such a very long time. He concluded, “My involvement with *L&CP* over these more than fifty years has been among the most rewarding aspects of my career here at Duke, and this recognition is really ‘the icing on the cake,’ if you will permit me to voice a hackneyed but nonetheless genuinely felt cliché.”

Over fifty years of “involvement” with *Law and Contemporary Problems*: this was a (characteristically) modest characterization of Mel’s having been *Law and Contemporary Problems*’ very backbone. Mel had barely arrived at Duke in 1953 when he was asked to take on the editorship of *Law and Contemporary Problems*. In those days, the masthead named a meager few who were entirely responsible for selecting the authors and editing the articles that were to sustain the journal’s fine reputation. The law school itself was then a bit weak at the knees, as Mel himself wrote in an essay honoring Dean Jack Latty, who was as tenacious and demanding a maverick for the sustained excellence of the law school as Mel became for this journal:

When I first arrived at the Law School in 1953, I felt as if I had stepped into an alien world. Duke was much more insular and parochial in those days—quite unlike any other academic setting with which I had been familiar. A law faculty of eleven taught a substantially prescribed curriculum to a student body that numbered barely more than one hundred. The atmosphere was almost stereotypically “Southern”: collegial relationships tended to be rather formal, the pace of life seemed relatively relaxed and unhurried, and coffee- and Coke-break conversations not infrequently turned (somewhat wistfully, it seemed to me) to the glory days of the 1930s, when Justin Miller’s reorganizational proposals were generating stimulating debate and young lions like David Cavers and Lon Fuller were striking exciting intellectual sparks within the faculty [including one igniting

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1. E-mail from Melvin G. Shimm, Professor Emeritus of Law, Duke University School of Law, to Joan Ames Magat, General Editor, *Law & Contemporary Problems* (Nov. 6, 2004) (on file with author).
the conception of *Law and Contemporary Problems*. But the coming of the war had brought this flowering to an end. With most of the faculty and students gone for the duration, the Law School had all but suspended operations, and afterwards it seemed unable to recover its original bearings and recapture its earlier lively spirit and sense of mission.²

The law school’s regenerative potential was, however, considerable. The faculty’s roster still boasted several well-regarded and productive scholars, and its innovative journal, *Law and Contemporary Problems*, continued to break significant new ground in interdisciplinary studies. In this setting, Mel discovered in the Dean not only an energetic, visionary leader, but a mentor. Mel wrote that he “had immediately been drawn to Jack,” in whom he “discovered a wise, avuncular advisor who patiently counseled and encouraged” him in his teaching and editorial tasks.³

Five years ago, when I assumed the role of General Editor and first met Mel, I too “felt immediately drawn” to one I recognized would be “a wise, avuncular advisor” to “patiently counsel and encourage” me in my own editorial tasks. Our friendship was nurtured not over bowls of soup and the Dean’s pipe, like that of Mel and Jack Latty, but in faculty board meetings and along the threads of our e-mails. It was a friendship whose fabric I soon felt to be consummately reliable, if less redolent.

This journal owes its excellence to Mel, who was the single individual most responsible over the last fifty years for keeping it so. Mel’s choices assured stellar contributors and intellectually vibrant articles; his rigorous standards assured tightly structured, clearly written, readable prose; and his kind, broad-minded, even-tempered personality assured a management style that was—well—avuncular. Corrections were gentle, even subtle (“The Board might find it helpful if . . . ”). Advice was as wry and eloquent as it was sound. (To publish a potentially limitless, personal debate between scholars “would be a prolongation of a tempest in a teapot, about which most of our readers may well be concerned only minimally if at all (assuming they even noted it to begin with) or already have forgotten it.”⁴) And Mel’s opinions were principled and thoughtful:

Although exigencies may dictate otherwise, I am reluctant to publish any issue that does not address a matter of genuine economic, political, or social concern. I think that we have to avoid the appearance of being driven by interest groups whose aims are not congruent with balanced disinterested scholarship, however attractive the inducement, financial or otherwise.

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³ *Id.* at 19.
⁴ E-mail from Melvin G. Shimm, Professor Emeritus of Law, Duke University School of Law, to Joan Ames Magat, General Editor, *Law & Contemporary Problems* (October 5, 2001) (on file with author).
⁵ E-mail from Melvin G. Shimm, Professor Emeritus of Law, Duke University School of Law, to Joan Ames Magat, General Editor, *Law & Contemporary Problems* (May 24, 2005) (on file with author).
As for praise, Mel's was rare but lush, and of pellucid sincerity:

I would very much like you to convey my sincere thanks to the outgoing student editors for the splendid job that they have done this past year in putting out L&CP. They have impressively nurtured and enhanced the matchless tradition of this venerable and uniquely valuable journal (which I regard as one of the treasures of the Law School).

If Mel found fault with another, he hid that discernment well. In all my dealings with Mel, I heard not one whisper of discouragement or negativity (but for regarding certain politicians, an exception to which we are all licensed). Here was a man whose pleasure in undertaking a task he loved was contagious. Of anyone who failed to catch that fever I can say only—well, what a pity, what a loss.

In his essay honoring Dean Jack Latty, Mel wrote, "His imprint is on us and all around us, and his legacy will continue to enrich all future generations of Duke Law faculty and students." The same must be said of Mel himself. For all the student editors who worked under and now in the shadow of his wings, Mel's imprint on this journal is traced on each page, his legacy embossed on every cover.

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Even this new cover. In this new millennium it was time, we felt, to give the Depression-era green of this venerable journal a facelift, to underscore its affiliation with this outstanding law school and, while we were trumpeting praises for our editorial mentor, to give the horn some polish. As appropriate as it may be to update the image, though, it is no less appropriate to allude to the style of the early Thirties—the third decade in a thoroughly modern age that, in shaking off Victorian ice, created new forms, new sounds, new movement. Law and Contemporary Problems was a new kind of law journal—one to be known and valued then for "break[ing] significant new ground in interdisciplinary studies." It was one of the first, and it is now one of the oldest (and surely the most venerable), to have foreseen that the future of legal scholarship would be one of interwoven disciplines, a colloquy whose voices are drawn from a global campus. This new cover celebrates that foresight and the gift of Mel Shimm's wise hindsight, Law and Contemporary Problems' past and its present and, to be certain, its future.

Joan Ames Magat
General Editor, Law and Contemporary Problems
Duke University School of Law

6. E-mail from Melvin G. Shimm, Professor Emeritus of Law, Duke University School of Law, to Joan Ames Magat, General Editor, Law & Contemporary Problems (March 8, 2002) (on file with author).
7. See Shimm, supra note 2, at 19.
8. Id. at 18.
TRIBUTES TO MEL SHIMM

I first met Mel Shimm soon after he came to Duke Law School in 1953. Having taught briefly at Duke myself before going on active duty with the Air Force during the Korean War, I was very interested in getting acquainted with the newest addition to the faculty—although at that time I did not anticipate ever rejoining that faculty. Upon meeting Mel, I was immediately convinced that he would make a significant contribution to the Law School, and I hoped that he would never be lured away to teach elsewhere.

One of the principal duties assigned to Mel was the editorship of *Law and Contemporary Problems*. I was quite familiar with this extraordinary legal publication; its founder David Cavers had been a friend of my parents and one of my own teachers at Harvard, and during my brief initial service on the Duke Law faculty, I had been an Associate Editor under Bob Kramer. To me, this publication seemed to be a shining jewel in Duke Law School's crown, and I felt that it was essential to maintain the outstanding quality of its symposia. After my initial contact with Mel Shimm, I was fully convinced that the Law School had selected the right person to uphold the high reputation of *Law and Contemporary Problems* and even to take it to new heights.

Upon rejoining the Duke Law faculty in 1957, I once again was assigned to be Associate Editor of *Law and Contemporary Problems*. For several years thereafter, Mel, as Editor, provided me direction and supervision in performing my task. My primary duty was to choose a subject each year for a one- or two-issue symposium, and then to select specific topics and appropriate contributors of articles. Mel gave me great autonomy, but he was always available to help me make difficult decisions—such as whether to require a contributor of an article to rewrite it or to make major revisions. For the symposia that I organized, Mel had me write the forewords. In retrospect, I am quite proud of the symposia that I arranged under his supervision, including "Radio and Television," "Small Business," "Transportation," "Urban Renewal," and "European Regional Communities." In each instance, the subject was challenging, and, in my view, these symposia made significant contributions at the time of their publication. For me, one of the greatest benefits of my service under Mel's editorial supervision was that we became close friends for life and participated jointly in a variety of successful activities.

In reflecting on my service as Associate Editor of *Law and Contemporary Problems* under Mel Shimm—and later under Hans Baade, Clark Havighurst, and John Weistart—I have become aware that some of the symposia I edited had profound indirect effects on my own life and, in one instance, on Mel's life as well. Editing the symposium on "Radio and Television" provided me an understanding of some major changes that were
then taking place in the media and in federal regulatory policy. Armed with that knowledge, I was emboldened to organize a local group that applied successfully to establish a television station in Durham, North Carolina, and then obtained a change in Federal Communications Commission (FCC) rules that helped significantly to advance the growth of ultra-high frequency (UHF) television nationally.

A symposium on “The Electoral Process,” which I organized and edited soon after Mel had been succeeded as Editor, made me aware of major flaws in the process for electing state and federal legislators. As a result of that awareness, I felt an urge, years later, to attack a congressional gerrymander that split Durham along racial lines and created a truly “bizarre” district. Mel, whose home had been placed in the gerrymandered “majority-minority” district, was disturbed as a matter of principle by the racial stereotypes on which the congressional redistricting had been based. Therefore, he and I—along with my secretary, one of my sons, and a friend named Ruth Shaw—joined in seeking relief in a federal court. Ultimately, our lawsuit had a favorable result after we appealed an adverse decision of the three-judge district court to the U.S. Supreme Court, where I argued our cause successfully with Mel beside me at the counsel table. At the very least, these experiences proved the journal’s mettle: *Law and Contemporary Problems* may be the product of the ivory tower, but the issues of its symposia reach widely beyond and well into the lives of its readers.

Mel Shimm was a marvelous human being; indeed, my own personal nickname for him was “Marvelous Mel.” He loved his students and colleagues, and they loved him. Certainly, I loved him; now, like many others, I greatly miss his presence and his wise guidance.

Robinson O. Everett
Professor of Law
Duke University School of Law

My submission to this tribute to Mel Shimm will not speak primarily to his accomplishments as a teacher and scholar, although, as stated by other contributors, they were distinguished and manifold. Rather, I write as an admirer of him as a human being and as a mentor, colleague, and friend.

Mel came to Duke Law School in 1953—before many of our current faculty were born. At that time the law faculty consisted of about a dozen full-time members and the student body of about one hundred individuals—almost all male. He and his then-colleagues constituted the strong foundation upon which today’s law school was built.

Though I am about Mel’s age, I was a latecomer to academia, having had a full legal career in the Navy with no prior teaching experience before

joining the faculty in 1976. To say that I was uneasy as to how I would be accepted by the students and faculty is an understatement. But then I met Mel Shimm. His strong mentoring and the support of several other understanding and helpful faculty members were essential to my transition from naval officer to law teacher. His wise counsel, his unfailing grace and wisdom, his exceptional intellect, his constant good humor and optimism, his quick wit and charm, and most of all his friendship, helped carry me through those first years in a strange professional environment. His unsurpassed editorial skills were immensely helpful to me as a relative novice to academic scholarship and publication.

Mel was the epitome of an exceptional teacher—demanding yet understanding, erudite and witty, and above all always a gentleman, respectful of students' opinions. I think he remembered the names and classes of almost everyone he ever taught. When alumni returned to the campus long after their graduation, he would almost always greet them by name, a gift that fostered loyalty not only to him but also to Duke and its Law School. My hope is that I may reflect at least a portion of his many gifts.

For those of us he has left behind, we can truly say he was a giant among us, one whose memory we will always revere and cherish.

Horace B. Robertson, Jr.
Professor of Law (Emeritus)
Duke University School of Law

During his long tenure on the Duke faculty, Mel Shimm's animating concern was the welfare of the Law School and its students. For him, editing Law and Contemporary Problems was one part of his contribution to that end. Using his sense of craft to improve an article might have been gratifying to him in any event, but the satisfaction he took was immeasurably greater in the light of his strong sense of service to the School. When he left the editorship, he left an enduring example.

Donald L. Horowitz
Professor of Law
Duke University School of Law

I first met Mel Shimm when I became a student at Duke Law School in the fall of 1957. At that time, the faculty offices were along the wall on the first floor of the old building. Because there was no air conditioning, all of those office windows were wide open.

A few days after the start of the semester, on the law school's front steps near those offices, I got into a heated conversation on the subject of Israel and Zionism. Since I had recently completed my "career" as an Israeli
Allen Siegel
Senior Lecturing Fellow in Law
Duke University School of Law

Eighteen years ago, in August 1987, I embarked on a long journey. I flew out of Frankfurt into JFK airport in a Pan-Am Boeing 747. Although I was already twenty-five, this was my first trip abroad and my first trip to the United States. It was a trip that was going to change my life. But at the time I did not know what was waiting for me.
For a nonimmigrant alien, entering the United States can be a sobering experience, and New York’s JFK airport certainly was a place where I found that to be true. Fortunately, my following flight on to Raleigh-Durham was much more relaxed. On the plane I came to sit next to a very nice couple. They asked me where I was from (even though they probably knew from my accent), and I told them that I came from Germany. Then they asked me where I was headed, and I said that I was on my way to Durham, where I wanted to obtain a Master of Laws at the Duke Law School. I also said that, despite the school’s excellent reputation, I did not really know what to expect. With a chuckle the couple told me not to be worried. They both knew the place, and its reputation was well deserved. The couple was Melvin and Cynia Shimm.

Throughout my year as an LL.M.-candidate at Duke, I never took a class with Melvin Shimm. Nevertheless, he became one of my most important teachers. I spent more time speaking to him than to any other member of the faculty. Whenever we would meet in the hallway, he would stop, and we would have a chat—about everything, including Germany, Germans, and how the country was and still is struggling with its Nazi past. I did not then know that Melvin and Cynia Shimm were Jewish and that they had lost relatives in camps and ghettos in Eastern Europe during the war. When, towards the end of my year at Duke, Melvin Shimm told me this, I did not know what to say.

Then our ways parted—or seemed to. The following year I was back for some research, and the Shimms invited me to their house for a dinner party. I also visited Professor Shimm in his office, and again we would talk. Many of the insights I pride myself to have gained about American history or politics are the results of these exchanges. However, when I asked him whether he might be interested in visiting my German university, he was reluctant. I understood, and we stayed in touch. After a few more years, he was ready for what might be for both him and Cynia an emotionally difficult visit, and they came to spend a few days in North Bavaria. I still remember sitting with them in a restaurant, talking about their grandson Abe, who, just beginning to discover the world, had asked his grandfather whether he thought God had a truck.

Later, I returned to Durham almost every year—first alone, then with my wife and older daughter, who in 1994 celebrated her first birthday at the Shimms’ house. Later, she and her sister would draw and paint pictures, some of which Melvin would put up in his office. My fondest memories of Melvin Shimm are the Pesach seders that the Shimms invited me to attend in their house and a trip Mel and I took out to the Shimms’ cottage in eastern North Carolina, driving through a soft April rain. We were close that day, and I will never forget it.

In April I saw Melvin Shimm for the last time. I had flown up from Florida, where I teach every spring, and we sat on the couch in the living
room and talked as we had done in the old law building's hallways eighteen years ago. And even though he was not well, he was as intelligent and present as always.

Melvin Shimm was a role model for me in many ways. He was a scholar of great curiosity, of superior intellect, with a superior command of English. He was a gentleman—loyal and with a great sense of fairness and care for others. And he was a loving husband and a family man.

Melvin, I feel blessed to have known you, and I feel honored that you trusted me and called me your friend. I will miss you.

Christoph Ann
Professor and Chair for Corporate and IP Law
Technische Universität München
Munich, Germany

One spring afternoon in 1953, Mel Shimm, serving a one-year fellowship at the University of Chicago Law School, ran into law professor Roscoe Steffen in the school's hallways. Steffen asked Mel what his plans were following the fellowship, and Mel replied he intended to find employment at a Chicago law firm. Steffen then told Mel that he had just spoken to a colleague of his at the Duke University School of Law and learned that Duke was looking for a new faculty member. He suggested Mel should consider it and later that afternoon called Joe McLean, Duke's dean at the time, to recommend Mel for the position. A very short time later, Mel was flown to Duke for an interview and returned to Chicago with an offer of employment to be an assistant professor of law.

The evening Mel returned, he reported the day's whirlwind events to his wife Cynia and carefully contemplated with her his new career options. The two were in their apartment's small bathroom, with Cynia sitting on the edge of the tub watching Mel unpack his toiletries from the short trip, when Mel said he thought he should take the Duke job and that the family should move to North Carolina. Cynia—who, like Mel, was most familiar with life in New York, Chicago, and Washington, D.C.—promptly began to cry. North Carolina. What kinds of Jews live in North Carolina?

Mel and Cynia together told me this story when I had the fortune to sit next to them at a recent dinner for the Duke Law faculty. I felt I could relate, somewhat, to the story. My wife and I had recently undergone our own academic job search. We were living in Boston, and before that San Francisco, had lived much of our lives in Philadelphia and Washington, D.C., and believed that however whimsical the academic market would be, our most likely destination would be somewhere along the northeast corridor. When Duke called with an offer, we felt a mix of excitement and trepidation, the typical muddle of emotions when the winds of the academic job search land an entry-level candidate in an unfamiliar place. We were overjoyed at
the prospect of working with Duke’s faculty and students, but North Carolina? What kinds of Jews live in North Carolina?

The answers to both the Shimms’ question and to ours, asked almost precisely fifty years apart, invoke a rich history that begins long before 1953. But perhaps the most significant events in Durham’s history occurred in recent decades, not just after Mel and Cynia arrived, but during the very time Mel occupied positions of leadership in the community. By the time my family and I arrived in the summer of 2003, we were met by a vibrant Jewish community with three lively synagogues, a Jewish day school, an active Jewish Federation, and countless cultural events. The community vitality we saw, and the comfort we felt after moving here, is in no small part a product of Mel’s five decades of volunteer work.

When Mel and Cynia arrived in 1953, Durham’s Jewish community was, as it had been since the turn of the century, home to a small but stable Jewish population of approximately three hundred and fifty people. Primarily descendants of immigrants from Eastern Europe, community members mostly worked as shopkeepers or workers in retail trades. Very few had any connection to Duke or to the University of North Carolina at Chapel Hill (UNC-CH), and the Shimms were one of a very small number of Jewish families who exercised a strong commitment to the Jewish community while also expressing contemporary sensibilities and a preference for inclusive religious practice.

Growth and change came in the 1960s. From the mid-1960s through the mid-1980s, the Durham-Chapel Hill area—driven by the achievements of its universities, the success of Research Triangle Park, and the erosion of segregation—experienced significant population growth, and, over this same period, the Jewish population more than tripled. Equally important, it was during this period that the community diversified. The occupations of community members stretched beyond the locus of small commercial enterprises, including expanding to embrace in significant numbers faculty at Duke and UNC-CH, and the community as a whole became more modern and cosmopolitan.

It was during this time of change that Mel assumed leadership responsibilities in the Jewish community. In 1967, Mel became president of Durham’s conservative synagogue, which had been the arena that housed the community’s internal debates between traditionalism and modernity. His deft intellect, very genteel manner, and long-time commitment to Jewish causes commanded respect from individuals in all camps, yet his leadership assertively directed the synagogue towards what he considered to be the community’s future: one receptive to newcomers, open to pluralist expressions of Jewish practice, and eager to collaborate with university resources to build a vibrant cultural, intellectual, and religious—but not solely religious—community.
Mel’s other contributions to Durham’s Jewish community are well known. He served as Chairman of the Durham-Chapel Hill Jewish Federation from 1973–1975, he quietly inspired an impressive local effort during the worldwide campaign for Israeli Bonds during the 1973 Yom Kippur War, and he returned to the synagogue’s presidency—which one member likened to taking bitter medicine twice—from 1975–1978. He certainly was generous with his time and his talents. But those of us who came to Durham after the years of transition are particularly appreciative of his leadership.

Fifty years after Mel’s arrival, Durham is still home to Jewish newcomers from the north, and they (we) are deeply grateful to find a vibrant community waiting.

Barak D. Richman
Assistant Professor of Law
Duke University School of Law

Speech: On the Occasion of Mel Shimm’s Retirement
April 27, 1996

Those of us here tonight are part of a tradition we too seldom celebrate. Our tradition began in 1779, when George Wythe was appointed a professor of law in the College of William and Mary. It was only a few years later that our brother Shimm was appointed a Professor of Law at Duke. Because their careers were so close in time, it seems to me right to call attention tonight to certain similarities between the late Professor Wythe and our Mel.

George Wythe taught in all about two hundred law students. He instructed Jefferson that men are equal in their moral status and their right to participate in law and government and then assisted his student in drafting the Declaration of Independence. He taught his student John Marshall that the courts of Virginia had a duty to enforce the constitution of the Commonwealth and, as a judge, he provided an example of judicial review of legislation, invalidating an enactment supported by Virginia legislators, among whom was John Marshall. And he taught his student Henry Clay that the right of self-government requires forbearance. It is not imaginable that any other law teacher will ever teach three students whose careers made such a positive difference in the lives of so many people. Without all three of them, we would not be here tonight.

If it is not given to any one of us to teach men and women such as Jefferson, Marshall, and Clay, it is nonetheless proper on occasions such as this to remind ourselves of the importance of the tradition established by Wythe and of our part in that tradition, a part played so ably by our brother Shimm over the last forty-three years. His similarities to Wythe are numerous.
First, George Wythe was a very gentle, even a selfless, man. Our brother Shimm shares that quality and has excelled Wythe in at least one department—his selflessness; it is that quality that has made him perhaps the premier legal editor of his generation. No law professor in America has contributed so much to the work of other scholars as has Melvin Shimm. While he also edited the *Journal of Legal Education* and provided random service to many of us, he invested himself in our *Law and Contemporary Problems*, making it a world-class journal. I have seen, with my own eyes, dog-eared copies of symposia edited by Melvin Shimm that were residing on the shelves of law libraries in Europe and Asia. In this alone, his contribution to the international repute of this school, although perhaps less visible, has been as great as that of any of us.

Second, both Wythe and Shimm manifested a deep passion for the law that sustained a daunting integrity. So forthright was Wythe that he was known as the American Aristides; it was said of him that no dirty coin ever got to the bottom of his pocket; that he was above all suspicion; that he would never know anything of crooked and indirect ways; that whatever he had to do, he would do openly and would not accept success on any other terms, that he was an incarnation of justice. And all these things could be said of Melvin Shimm, who has no deceitful bone in his body.

Third, as teachers, Wythe and Shimm were rigorous. Wythe publicly tested his students’ reading and spoke sharply to those engaged in what he denounced as “skimming.” He required them in assembly to argue cases and did not blanch at calling attention to deficiencies in their preparation. One of his students reported at the time that he was “prodigiously alarmed” by Wythe’s teaching, but that student survived the alarming experience to become a United States Senator. Our brother Shimm, for all his gentleness of spirit, has also frightened a few students in his day, and more than a few have survived his kindly doom to go on and make quite a lot of their lives, strengthened by the rigor of his instruction. He demanded that his students master such arcana as the Uniform Commercial Code and, God save us, the Bankruptcy Act, and generally they did. I have heard him liken our role as teachers to that of the old Yale football coach who said that his job was to keep the alumni sullen, but not mutinous. Mel has never had a mutiny, and only a few of his students have been sullen. For the most part, Mel’s students have responded favorably to his ministrations.

While Wythe and Shimm were rigorous teachers—and sometimes frightening ones—and while they demanded that their students master the law’s intricacies, it was not the content of the legal texts that they chiefly taught. As wise teachers, they know that knowledge of legal principles and legal texts is acquired largely by self-help and is transitory. Most of what their students learned about such arcana as the doctrine of consideration or the doctrine of preference or fraudulent conveyance is the result of their own lonely efforts at the lamp, to which even great teachers such as they can
make only a slight contribution. Moreover, that learning obsolesces and, unless used, vanishes like the morning dew. Indeed, if all our brother Shimm had achieved in forty-three years at the rostrum was to cram a few more principles or exceptions to principles into the heads of his students, this evening would be far less an occasion for celebration than it rightly is. For like the dew, teaching such as Wythe’s or Shimm’s provides nurture even as its tangible form vaporizes. What Wythe nurtured and what brother Shimm has nurtured these forty-three years are certain moral precepts that are learned in the process of a rigorous struggle with a demanding law teacher. Shimm, like Wythe, has been, in a sense, a secular priest.

Tonight is not an occasion for reviewing the morality of law, and I am not the right speaker in this august body to speak of those moral principles. It is enough for us to recall and to take pride in the fact that it is those principles we teach, by example and by indirect means, that tend to assure equality in the law’s protections, that tend to assure the obedience of government to law, and that inform and sustain that forbearance that great lawyers practice and that enable free men and women to share with civility our common government. Those moral principles are, we know, imperfect and our obedience to them is incomplete; yet it is they for which our country is most honored elsewhere in the world. What Wythe and Shimm did was to show their students what it means to be a worthy citizen in a democracy—for it is, more than any other quality, citizenship that marks the great lawyer in a democratic society.

Henry Clay eulogized Wythe as a man "whose republican virtues were unequalled even by the 'best of the worthies of ancient Greece and Rome.'”10 And, in 1851, near the end of his own life, Clay wrote that the lapse of a half century had failed to dim Wythe’s distinct image in Clay’s mind. We can be sure that others will, in say 2046 or 2050, look back and see the distinct image of Mel Shimm and recall that he was indeed also a man equal to the best of the worthies of ancient Greece and Rome. And so we can tonight in anticipation of such future recollections say to our brother, “Hail! Worthy citizen, hail!” And “Well done!”

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