

# In Honor of Mortimer D. Schwartz

A TRIBUTE TO PROFESSOR MORT SCHWARTZ

*Michael Duckor\**

When I was asked to share a few memories in tribute to the retirement of Professor Mort Schwartz, it took me a while to place myself in a period of time over twenty years ago. From 1967 through 1970, when I had the pleasure of interacting with Mort on a regular basis, I remember a gentle man with a practical style and a vision for the future. On a personal level, those two traits were not only important to me as a student, but also were guidelines that I have taken with me as I pursued my career as a lawyer.

It is hard for many who were not there to know, and it is hard for those who were there to remember, how turbulent those times were. The Vietnam War, civil rights activities, student unrest in places like People's Park at the University of California at Berkeley, and many other diversions were a part of our daily lives. Mort was always a practical counsellor. He never tried to squelch expression of opinion or discussion of significant issues, but always reminded us of the practical ways to reach desired results.

We could see Mort's vision for the future not only in his concerns with the issues of the day, but in his passionate interest in issues of the "law of outer space." Twenty years later, issues in space law are still unfolding and will be a subject for the work of generations to come.

His vision for the law school caused him to work diligently for the development and expansion of something most of us took for granted, the U.C. Davis Law Library. I fear that Davis graduates fail to appreciate that a key reason for the early national acceptance of our school and its students was the untiring work that Mort put in to develop the library early and convincingly to the law school accreditors across the country.

Mort was also willing to be innovative for the benefit of the school and its students. At a time when the school was small and

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budgets and traditional law school agendas prevailed, Mort supported the development of a student-designed and student-run legal research and writing program. This was of great significance to me personally, because Mort allowed me to take that idea, develop a program, and get the school administration to approve and institute the program. The program gave students the opportunity to teach and learn from each other the important skills of legal research and writing in a small group, tutorial, near-mentor setting.

In all, Mort, I thank you, and all past graduates and future graduates should thank you, for your dedication and contributions to the law school and to their careers.

## MY FRIEND, PROFESSOR MORTIMER D. SCHWARTZ

*Theodore N. Terlecky\**

During the school year of 1967-68 I chose to forego the doctorate program in economics at U.C. Davis to instead study law at the new, untried, and untested U.C. Davis School of Law. Shortly thereafter I met Professor Mortimer Schwartz, "Mort" as I soon began to call him, and a friendship of some twenty-four years began.

I was not the first member of my family to meet Mort. Months before, unbeknownst to me at the time, my younger brother worked for Mort during the summer as an errand runner. Mort had organized a conference on computer science as it relates to law libraries, the first conference of its kind to be offered anywhere in the world. My brother, now an engineer who uses his own computer on a daily basis, couldn't understand the relationship between computers and law libraries.

Mort pioneered the application of the computer to the law library. In those early years he knew that computers were not "ready for law libraries," but he could also sense that the future would be very different. Mort was proud of having organized that initial meeting and he was also very proud of having secured a \$10,000 grant from a private foundation to finance the venture. These dollars were the *first* non-tax dollars contributed to the U.C. Davis School of Law. As I was later to learn, these were but two of many firsts that characterized his career.

At the University of Montana, where Mort started his career in legal education, he was the *first* professional law librarian. For the *first* time, the books in the law library there were expertly cataloged and assembled in accordance with standard law library practices.

At the University of Oklahoma, where Mort next moved before coming to Davis, he was again the *first* professional law librarian. Building upon his Montana experiences, he developed further refinements relating to law library administration that would become foundations of his accomplishments at U.C. Davis. He obtained a grant of \$50,000 from the First National Bank of

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Oklahoma City for the law library, the *first* grant of its kind for the law library and the largest single amount of money raised up until that time for the University of Oklahoma College of Law.

Early on, he created the Space Law Collection, the *first* collection of such law publications to be so assembled anywhere on earth. Along with this, he organized and conducted the *first* conference on space science and space law. The conference brought together the top names in the two fields for an interdisciplinary examination of current problems in space exploration. Interestingly, we are now witnessing the possibility of commercial transactions relating to the Soviet Space Station! Clearly Mort was ahead of his time!

Mort, ever the public spirited citizen, drafted and successfully lobbied for a statute in Oklahoma that brought multi-county bookmobile service to the state, another *first*. As chairman of the local public library board, he instituted the *first* children's library in the community.

Mort was the *first* faculty member hired by the fledgling U.C. Davis Law School. Dean Barrett<sup>1</sup> realized that a first-rate law school required a first-rate library. A nationwide search led him to Mort, who literally built the law library from scratch. He bought the very *first* set of books; he hired the *first* staff; he even furnished the place, specifying, for example, which kinds of chairs, tables, and other such necessities should be provided for a first-rate research center. Under Mort's leadership the new library and its staff became renowned for expertise in some of the more technical aspects of the law library profession, including computer technology, law book cataloging and classification, and style of administration. Service to students, faculty, and others using the law library was foremost for Mort.

Mark Twain once remarked that modest people usually have every reason to be so. This is not true of Mort, certainly a modest man. During the course of my research for this tribute I learned much about this man that I should have known years ago, given the length and depth of our friendship.

Obviously, I knew that he was liked, trusted, and respected by his students. I did not know that he provided financial assistance out of his own pocket to more than one student. On one occasion he even arranged help for one student which he provided anonymously. Mort truly understands, likes, and empathizes with stu-

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<sup>1</sup> Professor of Law Emeritus, University of California, Davis.

dents; any student who gets to know Mort realizes this and appreciates the unique way that he has of expressing his feelings. For instance, near graduation, Mort would present a student-friend with a silver-colored Cross ballpoint pen which had magical qualities assuring the recipient of passing the bar. The student was instructed merely to carry the pen into the exam room at which point the pen would take over. Every student so honored passed the bar exam on their first try!

Mort loved relating with the students and alumni and even lawyers who came from other law schools, both as a law librarian and as a professor. Over his career at U.C. Davis, he taught contracts, land financing, law and medicine, legal research and writing, business associations, and, of course, legal ethics. Through the classroom, he got to know many students such as myself, who were to become lifetime friends.

Within the law library, Mort took particular pride in recruiting the topmost talent available to take care of all the demands that are required in a first-rate research facility. And it was this same sort of pride that he came alive with when he described his law library staffers. The near zero turnover rate, highly unusual among high-powered law library staffs, is a testament to the efficacy of Mort's management style. Additionally, he created and organized a biennial convocation of law library staffers from U.C. Davis, UCLA, U.C. Berkeley, and Hastings. The idea was to bring together all levels of law library personnel periodically so that they might "brainstorm" for better service for law library patrons.

No career is perfect. Mort thoroughly enjoyed the process of building the library. He derived great satisfaction from relating with the student and alumni body and he enthusiastically mastered such interests as organizing conferences and innovating law library practices. For example, it was his idea to distribute keys to the law library to each law student so that there could be round-the-clock access to the research materials. However, he took a dim view of bureaucracy and was never exactly enamored with campus democracy. An observation regarding faculty meetings comes to mind: "There always seem to be participants who believe that the right to speak on any matter carries with it the obligation to do so!" The private opinion of this gentle man regarding his faculty colleagues was one of profound admiration and respect. In almost twenty-five years I have never once heard him speak ill of any person.

I have felt Mort's influence through most of my adult life. He is

a good friend to my wife and children. I consulted with him regarding almost every career decision that I have made. At the start of my law career, he even attended my first courtroom trial. He became friends with my sons, was instrumental in my fly fishing education, and counselled family members on some very difficult business decisions. His advice in retrospect invariably proved to be the epitome of sound judgment. Mort has the unique ability to always perceive every problem from the point of view of all parties concerned. His perspective is different from that of most lawyers in that Mort is much more sensitive to the emotional aspects of any problem. This man likes and understands people.

A side of Mort that I truly appreciate is his wry sense of humor. He once dropped over to bring me a little gift. I had just finished cooking some ham hocks and beans. He had some and he enjoyed them. I inquired as to how someone from the Bronx could wind up teaching law, avidly pursue fly fishing as a hobby, and thrive on ham hocks and beans. His reply was something like, "Let's not get too profound here."

Our friendship provided ample basis for developing a relationship of something like father and son or uncle and nephew. Of course, there is an element of this. The essence of the relationship that has developed is that Mort serves as an unselfish and trustworthy sounding board with excellent judgment. He is rare among men in that he uses his ears to a far greater extent than his tongue. He never seems to tire of my war stories relating to the practice of law or to my other business activities. He likes to share the highs and he empathizes with (but never criticizes) the lows. Much of his listening has occurred during our fly fishing trips. Mort has the ability to put things in perspective. This trait seems to be particularly acute during fishing trips: "Isn't this symphony fantastic, trout raising to a *calibaetus* hatch in a gurgling stream and a bald eagle soaring overhead." Somehow the pressures of the business world vanish.

Mort is a colleague in the investment business. This has been a rewarding experience from an intellectual standpoint because over the last five years or so we have together explored virtually every imaginable investment concept. Mort's relationships with clients are not unlike those that he has developed with students: in essence, he listens, he empathizes, and he attempts to help. He is very concerned that clients be comfortable with his recommendations; he does not have his clients invest unless both they and

Mort indeed feel comfortable. By and large his judgment (as usual) has been good; his investment track record is one of which he can justly be proud.

If I could offer a preliminary evaluation of a good friend, it would be that Mort exudes compassion of the sort that exalts justice, loving, and caring. These are the qualities that he searches for not only in law but in life. The man is a rarity among lawyers because of his intense humanistic value system. It is unfortunate that future students at U.C. Davis Law School will not have the benefit of knowing this rare individual.

Fortunately Mort will have ample opportunity to positively influence others. He has been serving as a special distinguished visiting law librarian at the University of Houston and he is now discussing a similar role with another institution. Not one to be left by the wayside, Mort has started work on a "healing project" through a special program sponsored by the Sutter Health Services in Sacramento. Mort's thesis is that only by first healing the healers, as he terms both physicians and lawyers, can an adequate start be made in rendering competent service to clients. To achieve this goal, Mort is developing approaches to the interrelation of law and medicine and to concerns generally about legal ethics, problems of addiction, bias, and emotional disorders. We can all be assured that the discussion of these issues will benefit from Mort's unique perspective and his seasoned judgment.

I have tried to paint at least a partial picture of a long-time friend and associate. I feel honored to have been asked to do so, and I regard the opportunity to participate in this tribute as one of the durable satisfactions that grew from my earlier decision to turn to law.

## A TRIBUTE TO MORTIMER D. SCHWARTZ

*Richard C. Wydick\**

Our mutual friend, Mortimer Schwartz, is a man of broad interests. Mort has written about space law—30 years ago, Mort was one of the real pioneers in the law of outer space. Among Mort's many contributions to library science, Mort was a pioneer in the application of computer technology to law libraries. Mort has taught a variety of legal subjects, and was a pioneer in the use of television as a sustained teaching device in law school classrooms. Mort has written about many subjects: he wrote, or edited, or contributed important parts of more than 20 books.

That seems odd for a librarian. Librarians are always complaining about running out of shelf space. This one kept contributing to the problem, by turning out all those books. Mort's books and articles cover a broad range: he has written on the environment, on eminent domain, on legal ethics, as well as on the law that ought to apply in outer space exploration. He has a strong interest in legal history—he has written about Supreme Court Justice Joseph Story, and Chief Justice Earl Warren, and Sir Francis Bacon, and Clara Shortridge Foltz (who was the first woman attorney in California).

Allow me to augment this biography with two other matters. The first concerns accomplishments, and the second concerns memories.

When I was little, I occasionally got sick and could not go to school. On those occasions, my mother would bring out some otherwise forbidden objects to keep me entertained. One of those special objects was a watch that had been in her family for years. It was shaped like an ordinary man's pocket watch—but it was smaller, about the size of a quarter. It had a button on top. If you pushed the button half way down, the front lid popped open—so you could read the time. If you pushed the button all the way down, the back lid would pop open too—so you could look inside at the works of the watch, with all the little levers and wheels.

I used to sit for hours, staring into the back of that watch—trying to figure out how the little wheels and levers operated

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together to make it work. I never could figure it out. Most watches of that era made a tick-tock noise. This watch seemed totally silent—if it made a noise, I couldn't hear it. With most watches of that era, you could see the second-hand moving in little jerks. The second hand on this watch seemed to flow around, frictionless. And, this watch kept perfect time. I never could figure out how the parts of that watch functioned—but I did reach one conclusion: Whoever designed and made that watch must have been a master of the craft.

To us here at Davis, Mort Schwartz's most obvious accomplishment is our magnificent law library. I've stared into the back of that law library often in the past 20 years. It reminds me of the watch. The law library has many components, human and otherwise, that operate together, without apparent friction. Like the watch, it works perfectly, and (unlike some other parts of our university) it does its business without making much noise. I don't know what makes the law library work so well. But I do know that the person who designed and made that law library was a master of the craft. And his library will keep on running through time, as a permanent symbol of our friend Mortimer's accomplishments.

Now for memories. We each have our own memories of Mort. Mine have been built during a friendship of two decades. They include some sadness, some tragedy. But they include many happy memories. Some of my family's happiest times were spent at Mort's ocean cabin at Jenner. Mort and I share good memories of working together on our legal ethics book, and of team teaching that subject for some seventeen years.

Then there were the occasions when our doorbell would ring—there would be Mort, unshaven, stinking of fish, holding up a big plastic bag containing a steelhead or giant salmon he'd just pulled out of the river. He'd say: "This is one of the *little* ones we caught today."

Twenty-eight years ago, Mort wrote an article for the ABA Journal. The title is *How to Utilize the Talents of Retired Lawyers*.<sup>1</sup> In the article, Mort foresees his own retirement. He argues that retired lawyers, including law teachers, offer a large pool of under-used talent. He suggests twelve ways these talented people can go to work for the benefit of law students, law schools, and society at large. A person who undertook even two or three of

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<sup>1</sup> Mortimer Schwartz, *How to Utilize the Talents of Retired Lawyers*, 49 A.B.A. J. 266 (1963).

those twelve suggestions would have a rigorous agenda. Mort, we are all looking forward to having you around for many more active years—and we hope you can work your way clear to the bottom of the list.