MISSISSIPPI LAW JOURNAL

In Memory Of

DEAN JOSHUA M. MORSE III

Senator Trent Lott • Judge E. Grady Jolly • Justice Reuben Anderson •
Professor John Robin Bradley Jr. • Michael Horowitz

PROFESSOR AARON CONDON

Reverend Warren Black • Professor Emeritus Guthrie T. Abbott •
Professor Michael H. Hoffheimer

Published by Students at the
University of Mississippi School of Law

Volume 82 2013 Number 6
TABLE OF CONTENTS

IN MEMORY OF

DEAN JOSHUA M. MORSE III

Senator Trent Lott .................................................. 1
Judge E. Grady Jolly .................................................. 3
Justice Reuben Anderson .............................................. 7
Professor John Robin Bradley Jr. .................................. 11
Michael Horowitz ....................................................... 19

PROFESSOR AARON CONDON

Reverend Warren Black ............................................. 23
Professor Emeritus Guthrie T. Abbott ............................ 27
Professor Michael H. Hoffheimer ................................. 29
MEMORIAL

JOSHUA M. MORSE III

DEAN OF THE UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW
1962-1969
IN MEMORIAM: DEAN JOSHUA MORSE III

Senator Trent Lott

When I entered the University of Mississippi School of Law, Josh Morse was the Dean. But his reputation as a trial lawyer in south Mississippi was already legendary. His record of victories with jury trials in Pearl River County was impeccable.

While he maintained the laid-back demeanor of a country lawyer, he was dramatically changing the image of the Law School. He brought in a bevy of Yale Law School graduates and successful Mississippi lawyers to engage in a debate about ourselves and our state. The debate was often hot, but always thoughtful.

I enjoyed my contact with the Dean and took as many of his classes as I could. I especially remember his small admiralty classes. He taught the class not as a professor, but as a lawyer who had actually practiced law in that area. The give and take inspired by his style of teaching was most educational.

I developed even more contact with the Dean after succeeding Robert Khayat, a future acting Dean and Chancellor of the University, as the acting Law Alumni Association Secretary. We wound up traveling and doing events together. We developed a friendship that we both called on in future years.

After graduating from the Law School in 1967, I returned to my hometown to practice law. During the governor’s race that year, I met the local Congressman, Bill Colmer. His administrative assistant of thirty years would be retiring in the first part of the next year, and he was looking for a young lawyer in south Mississippi to take his place. He knew Dean Morse from his years of practicing law, so he called him and asked for a recommendation. I later learned that he recommended me to Congressman Colmer.

In April 1968, I went to Washington, D.C. to work in the Congressman’s office. Four years later I succeeded him as the Congressman for the 5th District of Mississippi. Sixteen years later I was elected to the U.S. Senate and served for nineteen years.
I have lived the American Dream, and Dean Joshua Morse had a lot to do with that opportunity. He taught me to think “outside the box” and recommended me for a job that led to a life of 39 years working for the U.S. Congress.

I know there are many others whose life he touched and changed. What greater thing can one say: He changed the Law School, the state, and many lives.
DEAN MORSE MEMORIAL: A REMINISCENCE

Judge E. Grady Jolly,
U.S. Court of Appeals for the Fifth Circuit

I drank a fair amount of whiskey with Josh Morse. I enjoyed his many stories, mostly relating to Poplarville and Pearl River County where he very successfully practiced plaintiff’s law; “It has always been my ambition to be the poor man’s rich friend”, he said more than once. Or: The argument over religion around a potbellied stove at a crossroads store in Pearl River County between the Baptist and the Methodist, with the Baptist raising his voice: “Are you going to sit there on that Coca Cola case and tell me that you really believe in infant baptism? Believe in it hell, said the Methodist, I’ve seen it done.” How many times have I used that story to illustrate the exercise of self-assumed powers supported by no underlying authority.

We were all young and hip, but never as cool as the Dean, fifteen years our elder. Among the regulars back then: I, an assistant United States attorney; the ubiquitous Mike Horowitz and the never-again-heard-from Bill Holder, both nascent law professors brought down from Yale; John Robin Bradley of local blood, then and still now a law professor but now of much greater distinction; Will Lewis, then a law clerk to a local federal judge and now a “statesman among Oxford merchants” — and those not so regular at the Jolly Horowitz Holder house on College Hill Road, including Yalies, Walter Dellinger, George Strickler and Ken Vinson — plus other faculty members who might also drop in.

Cool he was, but that is much too pedestrian a characterization for the karma of Josh Morse. How about insouciant fearlessness? He moved casually, rather quietly, with a sly grin at the corner of his mouth. He had a sure sense of who he was, what his potential was, what his limitations were, and what he intended to do. For all his boyish charm, it might surprise some to know that he was very much an inwardly focused person. But still, as a trial lawyer who had summed up and selected hundreds of jurors in south Mississippi, his
insights into human nature and to those with whom he interacted, were never off target. Yet, it was his inward understanding of himself, his place, of what is ephemeral and what is permanent, that gave him the fearlessness, the courage, to act quietly and with reserve when others would have retreated. That he could be fired, pretty much forthwith, or that many were waiting to give him trouble, did not seem to bother him — one way or the other.

But courage must be matched with intelligence — and with creativity — for it to matter most. The Dean famously possessed these traits, which were infused with Pearl River County cunning. These talents in finding all kinds of foundation and government money, creating bold and original law school projects that would do “controversial good”, bringing in numerous luminary legal scholars as lecturers, and increasing minority scholarships and enrollment, have been lauded in other contributions made to this memoriam.

So allow me a word on the cunning part: When approached by the student committee as to whether it was in the realm of possibility to secure a United States Supreme Court Justice for the University of Mississippi Law Day celebration, the Dean thought he could handle the request. That he was not closely acquainted with any justice was no deterrent. With the committee chairman present, he telephoned his friend on the Yale faculty, an University of Mississippi law school graduate of years ago who had distinguished himself as an international scholar, and announced: “A select committee has established an award, the L.Q.C. Lamar Outstanding Graduate Award, and has just met; it has selected you as its first recipient.” The award was to be presented on Law Day; could he perhaps induce one of his former star pupils to be the speaker and to present the award to him. “Yes indeed. Would Justice Byron White fit the bill?” That would be “just right” according to the Dean. It did not seem to concern him that there had been no such committee nor the creation of such an award. Indeed it was the first and last L.Q.C. Lamar award. But it was one big occasion when Mr. Justice White spoke at Law Day on the University of Mississippi campus at a massive dinner, and presented the award to the distinguished international scholar, the former graduate of the University of Mississippi. Scores and scores of distinguished members of the state bar from up and down and across the state, were in attendance for this Law Day celebration.
No one would argue that the Morse deanship was flawless. He could have been more solicitous of those in political power. He could have been more sensitive to the hidebounds. He could have tamed his casual fearlessness with more caution. He could have held his faculty on a tighter rein. He could have demonstrated greater piousness and self righteousness about his cause. But he would not have been Josh, and I and others would not feel the affection for him as we write today, in nostalgia for a friend who slipped out of our little corner of the world long ago and who is now laid to eternal rest, which then seemed so far away.
IN MEMORY: DEAN JOSHUA M. MORSE

Justice Reuben Anderson*

I have been asked to share my thoughts on Dean Joshua Morse, and I am thrilled to do so because he played such a significant role in my life. I grew up in the 1940s and 1950s in Mississippi during some of its darkest days, when everything was completely segregated, and white supremacy reigned.

My best friend’s father was the premier civil rights attorney in Mississippi. Mr. Jack Young represented the NAACP, the Freedom Riders, and, along with Jess Brown, most of the initiatives of the civil rights movement in Mississippi in the 1950s and 1960s.

I always wanted to be just like Mr. Young, a civil rights attorney, and wear sharp suits every day.

Mr. Young advised me to go to Tougaloo College and the University of Mississippi School of Law. One reason for going to the University of Mississippi was that they had a diploma privilege, which meant that you did not have to take the bar exam if you graduated. Another reason was to meet the people that you would likely face in practicing law.

After graduation from Tougaloo College in 1964, I applied to University of Mississippi School of Law but was rejected because I did not have five graduates of the Law School who would sign my application. That was impossible for me for I did not know a single graduate.

In the spring of 1965, I received a letter from the dean’s assistant asking if I was still interested in attending the University of Mississippi and saying, if so, that I should reapply.

I reapplied and was not only accepted but received a scholarship.

* Partner, Phelps Dunbar; First African American graduate of the University of Mississippi School of Law; First African American to serve on the Mississippi Supreme Court; First African American president of the Mississippi Bar Association.
My years at University of Mississippi were difficult and challenging, but Dean Morse was truly a bright spot. He was my advisor, friend, and, quite often, my loan officer.

Because the City of Oxford was still segregated with regard to public accommodations—including restaurants and movies—I and other black students often had conflicts, which resulted in Dean Morse’s advising us on one occasion and then getting us out of jail. On other occasions, he got the U.S. Attorney’s Office to assist in integrating restaurants that would not serve blacks.

Dean Morse understood the importance and need for black lawyers in Mississippi. When I entered the University of Mississippi in 1965, there were only five black attorneys in the state.

The first time I flew on an airplane was when we took the University plane on a recruiting trip to Tougaloo College and Jackson State University in 1966.

In addition to recruiting me to University of Mississippi School of Law and advising me on which classes to take and which professors to avoid, Dean Morse helped others. Two years after I graduated, The University of Mississippi and Emory University, with eighteen black students each, had more black law students than any other traditionally white law school in the nation with the exception of Harvard, a much larger law school.

Dean Morse and some of the young professors he recruited from Yale Law School and elsewhere founded North Mississippi Rural Legal Services in Oxford. That program served, and will continue to serve, the indigent community of North Mississippi for generations. It also provided me the first job of my legal career while I was a student. This was at a time when our Bar leaders were fighting dedicated legal services programs, which took on the establishment in service to the poor, working to reform those laws and legal processes that were impediments to economic justice.

Dean Morse created a legal oasis, which served as a magnet for lawyers, black and white, with a progressive vision. Lawyers who came to this state initially associated with legal services include Victor McTeer, John Walker, and Professor John Brittain, all of whom contributed and continue to contribute significantly to our Bar. Additionally, native Mississippians were able to find their legal footing in the profession through their initial work with
legal services. These include Ed Blackmon, Johnnie Walls, Willie Bailey, and numerous others, who found jobs with legal services in the early 1970's when no traditional law firms were hiring black lawyers. The significance and impact of North Mississippi Legal Services in those early days cannot be overstated.

In these and other ways, Dean Morse created an atmosphere of positive change at the University of Mississippi. He sowed seeds that took a long time to blossom, but blossom they did. The University of Mississippi today would not be the respected institution that it is, shedding the shackles of a slave labor-based and closed society, without the vision and leadership provided by Josh Morse. We should all be grateful. I know that I am.
THE FIVE EVENTFUL YEARS OF JOSH MORSE’S TRANSFORMATIONAL DEANSHIP

John R. Bradley, Jr.*

TURMOIL OF CHANGING TIMES

Josh Morse had the good fortune to succeed Robert J. Farley whose long tenure as dean stood as a model that the value of the high ground of institutional integrity surpassed the worth of political expediency. But he had the bad fortune to step into an under-funded law school of an under-funded university in the poorest state in the nation. Worse still, the menace of the South’s race-relations cauldron still boiled dangerously in the aftermath of the Meredith riot of the 1962 autumn. These latter two conditions were challenges that he, perhaps surprisingly, took on and overcame while unflinchingly embracing integrity over expediency.

During Josh’s college days at the university in the 1940s, the popular history professor James Silver prodded his students to consider ideas beyond their prior experience. Josh’s war-time military service added life lessons. However, when Josh joined the law faculty in the 1962 autumn, there was little to suggest that he would become a major Mississippi figure in unraveling the “closed

* Professor, University of Mississippi School of Law. He became a member of the law faculty in June 1966 and continued throughout Morse’s deanship, and, while on leave of absence, was on the Florida State University College of Law faculty in 1970-72.

1 Though Farley resigned as dean in 1963 after reaching age sixty-five, actually he was forced out by the reactionary politics of members of the Board of Trustees who bristled at his not knuckling under to the hard-core segregationist anger at the 1954 school integration decision and subsequent attacks on racial segregation and by his support of law professor William Murphy. This story is detailed in chapters 9-10 in Charles W. Eagles, The Price of Defiance: James Meredith and the Integration of Ole Miss (2009 Chapel Hill, N.C.).

2 Ironically, Josh’s first semester on the law faculty was when James Meredith entered the university. A good account of the state’s political resistance over race in these years is in Joseph Crespino, In Search of Another Country: Mississippi and the Conservative Counterrevolution (2007 Princeton, N. J.).
“society” that Silver famously documented in his 1964 book *Mississippi: The Closed Society.* Yet a close look at Josh Morse’s deanship reveals a racially-tinged drama in which Old South ways were challenged by a protagonist equally principled as the fiction of *To Kill a Mockingbird.*

After the Supreme Court’s 1954 ruling that state-sponsored racial segregation in public schools violated the Constitution, segregationist fervor in the South was ratcheted up even higher than the 1948 Dixiecrat rebellion over Harry Truman’s integrating the military. Those white southerners who dared dissent from this outrage (or were lukewarm “moderates”), drew equal or more hatred than those (often outsiders) who openly challenged the South’s racial practices. The well-heeled segregationists usually left it at words, at least publicly, but words designed to send an unmistakable message that work by night riders was needed to protect a way of life. Action was violent and widespread. A few reminders: 1955 lynching of Emmett Till; 1959 lynching of Mack Charles Parker in Morse’s home town of Poplarville; early 1960s murders of Louis Allen and Herbert Lee; 1963 murder of Medgar Evers by an outlier of the white Citizens’ Council; 1964 Klan murder of Goodman, Schwerner and Chaney.

While white moderates were less likely to be physically harmed, overt and veiled threats were ever present, as was the specter of economic harm and social ostracism. The powerful pressure to conform was enforced by an unrelenting fear that is difficult to imagine or to convey this much later. That there are but a few examples of locals who publicly kicked against the traces proves the rule that most moderate and progressive whites found it too risky. The Greenville editor Hodding Carter, Jr., while certainly not alone, was a notable exception.

The in-state battle for change had barely begun when Josh Morse returned from Yale in 1964 as full-time dean. By then the national political tide had turned strongly against the South’s old racial ways as evidenced by the sweeping Civil Rights Act of 1964, followed by the Voting Rights Act of 1965. George Wallace’s 1963

---

3 Even more ironically, an influential Trustee who promoted Josh as dean was M. M. Roberts, a successful south Mississippi lawyer, who was one of the most vociferous voices of states’ rights and racial segregation. They knew each other from a professional relationship through law practice.
inaugural address contained the popular “segregation now, segregation forever” rant, this the same year that Josh’s lawyer-legislator cousin, Stanford Morse, moved to the Republican Party to become a lieutenant governor candidate, only to see that the party’s strategy was to “out-segregation” the Democrats. But 1964 brought in Governor Paul Johnson whose message changed from his race-baiting campaign slogan to “Stand Tall with Paul” to his inaugural remarks that “We are Americans as well as Mississippians....Hate, or prejudice, or ignorance will not lead Mississippi while I sit in the Governor’s chair.” The few hints of tolerance could have been cold comfort to a Mississippi law dean, whose Board of Trustees had just run Bob Farley and Bill Murphy off from the law school because of their moderation on race and states’ rights and whose legislative and alumni majorities were dominated by the unbending meanness of a vocal old guard.

THE NEW ORDER

Josh Morse followed a long practice at the law faculty of spending his second year (1963-64) on leave of absence for study at Yale Law School. It happened that by the time he arrived at Yale, he already had been named to succeed Bob Farley as dean, this fifteen years after Morse’s law degree. During the three years upon his return as dean, he stocked the law school with a diverse array of able faculty members, most under thirty, not a segregationist among them. The Australian Bill Holder and the Texan Ken Vinson were among the first. Many others followed during the years of 1964, 1965, 1966, including five of the school’s graduates, Mississippi lawyers Harry Case, Luther McDougal, Bill Champion, Aaron Condon, this writer John R. Bradley; veteran Mississippi lawyer and legislator Joel Blass; internationalist-Hungarian Stephen Gorove; South African Michael Katz; New Yorker Michael Horowitz, Yale law, CCNY student president; Florida lawyer, Mississippian Tom Edmonds, Duke law. All arrived after prior law practice. A big splash came from the five, fresh Yale law graduates who arrived in the 1966 autumn: Joe Chubb (Yale); Walter Dellinger (University of North Carolina
student president); Fred McLane (Stanford); George Strickler (SMU); Michael Trister (Princeton). For two years from 1964 to 1966, a different public law course was taught each semester by a team of visiting law faculty: first Yale professors, then Harvard professors, next New York University, then Columbia. Two academic luminaries every month fed the students!

The interaction of this faculty with each other and with students assured that all were exposed indelibly to ideas beyond their prior experience. The school’s faculty more than doubled. Impact on the students was profound, their reactions mixed. Those least ready for a changing society were resentful. However, the dominant student temper reflected appreciation and admiration. The new law student Speakers Bureau hosted former Attorney General Robert Kennedy to speak on the campus in March 1966. Though under pressure to do so, Josh Morse never considered the outside demand to rescind the invitation. Over five thousand in the coliseum welcomed Governor Ross Barnett’s adversary with a standing ovation.

**Funds for the School**

New for the school was the influx of grants and gifts Morse obtained, especially the multi-year Ford Foundation grant, the sum of which gave the school unprecedented financial resources for faculty expansion, student recruiting scholarships, clinical education for law students, legal services for the poor, and expanded educational programs.

And this was the rub that angered the sponsors of the closed society. Squarely in the national mainstream, faculty presented contemporary views of law and society that were inimical to the old order. The school actively recruited black students with scholarships. Aaron Henry, a black pharmacist and NAACP state president, spoke to a Constitutional Law class. As galling as this

---

4 Dellinger left the faculty after two years to clerk for Justice Hugo Black at the United States Supreme Court, then to the Duke law faculty before serving as Solicitor General in the Bill Clinton presidency.

5 A small contingent of continuing faculty included Bill Bunkley, Roscoe Cross, Arthur Custy, George Stengel, and Parham Williams. The death of the colorful John Fox and departure of the storied Hector Currie contributed to the small faculty size by 1965.
was, action against the academy was constrained, not, however, their bitter, nonstop, racist criticism led by the Hederman press with the state’s two largest newspapers. One of its columnists decried Morse’s liberal agenda that made the school “a tool of the leftist Ford Foundation, the Negro Revolution and the politically minded U. S. Department of Justice’s efforts to ‘change Mississippi.’” Board of Trustees member, Hattiesburg lawyer M. M. Roberts, who joined a petition of power brokers complaining of the independent ways at the law school, was quoted as saying, “I’m embarrassed by my law school.” It was clear that the law school’s bold moves were changing the conversation in the state.

A grant to the law school from the federal Office of Economic Opportunity allowed the school to provide both free legal services to the poor and clinical education for law students. Staff lawyers (drawn from the new, young faculty) represented poor clients, often black, as aggressively as lawyers normally represented paying clients and raised the ire of complaining alumni who saw times changing and their clients brought into court. In what proved to be the final straw, the lawyers represented poor clients, in 1967, in filing a school desegregation suit against the Holly Springs school and the State of Mississippi. The resulting political outrage, already building, reached the crescendo that prompted Chancellor Porter Fortune, the university’s chief officer, to relinquish the federal grant, thus severing the legal services program from the law school. Josh Morse and the faculty were powerless to keep the program in the school. This facial slap signaled a political limit on the school’s ability to educate its students while actively serving a public need of a non-influential segment of the population.

6 Tom Ethridge, Jackson Clarion Ledger, Dec. 5, 1966 at 16.
7 In these years, law schools elsewhere, especially state schools, whose legal services programs represented poor clients in unpopular matters found themselves in sharp conflict with constituencies much more influential politically than the poor people they represented.
8 Arrangements were made to transfer the grant to Mary Holmes College, a private school (putting the transfer beyond the veto of Governor John Bell Williams), and the legal program services continues to this day as North Mississippi Rural Legal Services. The law school cooperates with it in offering clinical legal experience to students.
9 Part of the law school’s story is told in chapter 5 of Nadine Cohodas, The Band Played Dixie: Race and the Liberal Conscience at Ole Miss (1997 New York) and
REVENGE OF THE OLD GUARD

The law school’s progressive ventures garnered national attention and acclaim. But the institution whose law school Josh had transformed had constituencies, including state government, that obviously were not ready for these changes that threatened the closed society which they still championed. Make no mistake, race was the crucible of the conflict, and the over-fifty crowd called the shots. Josh was on the receiving end of a barrage of public and private criticism. The Board of Trustees was dominated by the old guard as was the school’s alumni. The university administration was a pawn. For three years Josh was denied the salary raises that came to the faculty generally and was told that the law school’s share of university funds would be cut. He was not invited to speak to the annual meeting of the law alumni chapter in June 1968. Josh’s life to that point never prepared him for being pilloried by the establishment. But through it all and with uncomplaining equanimity and his characteristic wit, he stuck to the principles that prompted him to launch the venture.

He left the school in 1969 to become the second dean of the Florida State University College of Law. He was a casualty for the same reasons that the mossbacks got rid of the law school’s Bob Farley and Bill Murphy earlier in the decade. Although Morse was gone, as well as a number of his faculty, the pattern of those five eventful years established the course the school continued to travel since that time, largely without significant dissent from those who wished for the old days.

Josh Morse can be seen as a transformational and transitional figure in Mississippi history. Law students became the direct beneficiaries. His influence was felt far beyond the law school. Other institutions of life in the state gradually followed the school’s leadership in both accepting and promoting societal and generational change. The slow erosion of the closed society was underway.

in chapter 5 of Michael De L. Landon, The University of Mississippi School of Law: A Sesquicentennial History (2006 Jackson, MS).
UNANSWERED QUESTIONS: “WHY” AND “HOW”

Now for three unanswered questions. (1) What was it within Josh that led him to take on the progressive mission to transform the law school? (2) Why did he not take the steps more slowly in order to dampen the opposition and protect his position as dean? (3) How is it that a Poplarville, Mississippi lawyer, fifteen years out of law school, managed to conceive such a vision and corral such financial resources and such faculty talent to accomplish the venerable school’s transformation and cement its long-lasting resonance?

First is the knowledge that Josh, as a member of a distinguished family and of that Mississippi generation who went off to the War, possessed a conscience and backbone. Here was a successful lawyer whose high-minded ideals drove him to seize the rare opportunity to pursue racial justice and heightened education for the betterment of the state’s people. There are other examples of this in his generation, including his contemporary William Winter, duly lauded as the leading luminary of the state’s political and public life.

On the second, gradualism probably was not possible as a practical matter. The school had an overriding need for money to enhance its educational program. Each injection of funds led to other changes in the making of a truly vibrant school. Recruiting black students and an independent faculty created extreme, but probably manageable, friction with the establishment. But the legal services program proved to be too much. The grant for legal services for the poor doubled as the school’s vehicle for clinical education. In addition, it spoke to the profession’s role of law as a public profession to serve the needs of all—even the poor and people of color. Consequently, the school did not turn a blind eye to the legal needs of the area’s population. To have done so was hardly consistent with the school’s teaching of justice for all.

Thirdly, this complex man Josh Morse had the gift of a unique magnetism that helped him to quickly convince granting agencies, university officials and young lawyers that his vision of the school’s future was both crucial and within reach. The farthest thing from a bombastic leader, his was a relaxed charm that relied on quiet confidence and humor. The young lawyers became an admiring, supportive faculty whose occasional disagreements with
him allowed him to defer, when appropriate, in a show of respect and flexibility. That he was skilled enough to choose and assemble an able and loyal faculty served him well, for, unlike a politician who builds a following over time, during his five-year deanship he had no existing troupe to aid him. Instead, virtually all he depended on were new to his fold.

Remarkable enough that even with a year at Yale he could envision such a progressive law school in such a recalcitrant state. To shake his comfortable life into the striving necessary to pull off this unlikely feat is explainable only by something deep within him that challenged him to lift his sights and go for it. And did he ever! He transformed himself and the law school.
IN MEMORIAM: DEAN JOSHUA MORSE III

Michael Horowitz

September’s New York Times carries the obituary of a truly great man—a term I use clinically and advisedly as one who, during a lifetime in Washington, has seen the term overused, abused, and debased.¹

Dean Joshua Morse III’s obituary is worth reading for the lessons it offers about the meaning of moral courage and the means by which history can best be made. It helps make clear what Josh taught: that with grit and commitment to principle, each of us has the power to change the world for the better.

I was one of the two Yale Law School graduates noted in the obituary who Dean Morse first recruited to the University of Mississippi School of Law. And, at limited risk of seeming to boast—for it was Josh who made all that I and others did possible—I was the person who, with his guidance, helped mentor and recruit such extraordinary African-American law school pioneer students as Justice Reuben Anderson and the Honorable Constance Slaughter-Harvey. And it was Dean Morse who, at certain cost to his well being and while fully protecting mine, allowed me to invite Senator Robert F. Kennedy to speak there—a turning point in Mississippi life, politics, and culture that the obituary rightly noted. Dean Morse took the heat for establishing the law school’s joint programs with Harvard, Yale, Columbia, and New York University law schools, which he allowed me to coordinate. He took even more heat for working with me to develop a summer program that sent law school students, like Dean Emeritus Samuel M. Davis to northern, inner city legal service offices. My Pearl River County mentor also made the law school a long-term center of excellence and leadership by

appointing such faculty members as John Robin Bradley and Robert Khayat.

Josh was a special friend to my roommate when I taught at the law school—then an Assistant U.S. Attorney, now a distinguished judge of the Fifth Circuit Court of Appeals—who used to celebrate when he could keep a jury out for more than one half hour before it inevitably acquitted thugs accused of racial violence. And talk about taking heat: Josh made the law school a welcome place—an oasis—for Department of Justice Civil Rights Division lawyers suing the State for acts of segregation and racial injustice. He knew that in introducing those lawyers to our students he would create dialogues that would inform and soften the views of each towards the other, and he also knew that in so doing he was doing what great universities do at their best.

At the time, and probably still today, the law school was the most important institution of higher education in all America relative to the community it served. As such, and in many other ways, Dean Morse was a central figure in the life of a state that was both accurately and patronizingly seen as America’s central battleground in its struggle to achieve racial justice.

Dean Morse taught outsiders like me that Mississippi was so much more than its caricature—and also helped slay the dragon that taught many young Mississippians to be ashamed of where they came from and to be without hope for the state’s future. The native shrewdness about human nature that so many Southerners possess—qualities that made Josh a highly successful trial lawyer—helped him teach our students about the strengths within themselves that would serve them well in all places and settings. A wonderful story teller with an unhurried style and a memorable laugh, Josh understood and exemplified why the South has been the greatest source of America’s literary genius. He showed us all how, once freed of overt racism and at-all-costs-segregation, Mississippi’s rooted culture possessed critical strengths that could help America achieve greater racial accommodation and harmony and lead us all in many other ways.

That race in America has become so centered on such issues as quotas, income redistribution, and Black Caucus agendas is, to me, a sad fact. For this reason alone, there is urgent need to find men and women who, like Dean Morse, can help America make
progress without lasting bitterness and in ways that make
winners of all. Those of us lucky enough to have been influenced
by “the Dean” know that when we share the lessons he taught us
with the young men and women with whom we deal, we honor
both our country and the still vibrant legacy of our great friend
and mentor.
MEMORIAL

AARON CONDON
PROFESSOR AT THE UNIVERSITY OF MISSISSIPPI
SCHOOL OF LAW
1966-1989
IN MEMORY OF DR. AARON CONDON

Rev. Warren Black*

We gather this morning to worship God and give God our deep thanks for the faithful life of Aaron Condon; child of God “crowned with glory and honor,” devoted husband, loving father and grandfather, teacher, mentor, counselor, storyteller, trusted friend.

When I think of Aaron Condon, I think of the first Psalm:

Blessed is the man who walks not in the counsel of the wicked, nor stands in the way of sinners, nor sits in the seat of scoffers; but in his delight is in the law of the Lord, and on his law he meditates day and night. He is like a tree planted by streams of water, that yields its fruit in its season and its leaf does not wither. In all that he does he prospers.¹

“Like a tree planted by streams of water,” life is foremost a gift from God, who made us in God’s image, “A little lower than the angels,” and Aaron knew that and lived a life of gratitude and worked to make that image a reality for all persons.

“We are made in God’s image; red and yellow, black and white they are precious in God’s sight.” Aaron learned that early and lived personally and professionally based on that truth. Relationships and human dignity are really all we have. Aaron bet his life on that.

In the family for more than sixty-one years, Lillene, Aaron loved you and loves you still. Your love for each other is a reflection of God’s love; it is a gift, and as stated in our wedding liturgy, “your love found expression in concern and service to the world.” Aaron served in World War II and Korea, practiced for several years in Attala County where he served as County Attorney and prosecuted several civil rights cases successfully, he then moved to Oxford in the mid 1960’s. Aaron served in teaching

---

* Senior Minister, Oxford University United Methodist Church. These are the Reverend’s words from the memorial service honoring Professor Condon’s life.

¹ Psalms 1:1-3.
and counseling students, served the legal profession in countless ways, and the law school—in friendships with colleagues and students and ordinary people along the way.

Relationships are really all we have, and Aaron valued friendships. I think of Aaron’s relationship with Bill Champion over the years. What a friendship; what a great wit and laughter, respect and loyalty; what great love. Aaron was there at the hospital in Bill’s last illness, cheering him up as best he could, tears welling up in his eyes as he saw his friend suffering.

I think of Cicero’s words: “Friends are together when they are separated, they are rich when they are poor, strong when they are weak and—a thing even harder to explain—they live on and after they have died, so great is the honor that follows them, so vivid the memory, so poignant the sorrow.”

Life is a gift, and what Catherine, you, and Carol meant to your dad and him to you. He spent time with you growing up; the greatest gift he could give. “Stay with your children and be what you teach” as someone said—Aaron did that.

He will never be far from you, in moments of joy and celebration, in difficult times and in times when you need wisdom.

Life is a gift; it is also influence. Aaron influenced the lives and practice of 100’s of lawyers. Aaron’s influence was about civility, integrity, and trust; something we so desperately need from the halls of congress to the local courthouse.

Aaron knew about the prophet Micah’s words and tried to live them out: “What does the Lord require of you, but to do justice, and to love kindness, and to walk humbly with your God.”

Aaron Condon went the distance for many of you, for those struggling for basic civil rights, for the law school, and the Bar he loved. I told Aaron that he and Bill helped “humanize” the legal profession. Aaron quickly responded, “You don’t mean ‘demonize’ do you?”

Life is a gift; life is influence. Life is eternal reality as we rest in the love of our creator.

Our lives are richer and fuller for sharing part of the journey with Aaron Condon.

“The steadfast love of the Lord never ceases.” That love will hold and heal you today and tomorrow. “Love bears all things,
believes all things, hopes all things, endures all things. Love never ends . . .”² Thanks be to God!

² 1 Corinthians 13:7-8.
IN MEMORY OF AARON S. CONDON

Guthrie T. Abbott,
Professor Emeritus of Law and Butler, Snow, O'Mara, Stevens
and Cannada Lecturer in Law Emeritus

Aaron Condon joined the Ole Miss Law faculty in 1966 and taught until he retired in 1989. Aaron and his wife, Lillene, moved from Kosciusko to Oxford as Aaron started his teaching career, but Aaron’s heart stayed in Attala County, which he often referred to as “The Center of the Universe.”

Aaron had a brilliant and inquiring mind, which was never in neutral. He coined many great phrases, which will live on forever. He would often come up with quips such as: “They broke the mold before they made Guff Abbott.” Well, the Lord truly did break the mold after He made Aaron Storer Condon, who was a unique character with so many wonderful and endearing qualities.

Aaron was generous and caring, and his generosity had a major effect on me and my wife Patsy. Not long after I joined the law faculty in 1970, we were invited to contribute to the Christmas gift fund for custodians at the school. I wrote a check and took it to the desk of the dean’s secretary. She wasn’t there, but I did see a check that Aaron had left for ten times what I was about to leave. I left and tore my check up. After talking to Patsy, we joined the “Aaron Condon School of Generosity” for that cause and many others. We just needed a caring leader.

Aaron was my mentor for teaching Mississippi Civil Practice. Aaron had taught the course and edited the class materials for several years before I signed on to teach the course. That course was very difficult and confusing and especially so before the adoption of the Mississippi Rules of Civil Procedure.

I could not have made it without Aaron’s wisdom and help. The class met at 8:00 a.m., and only a true friend would have put up with my panicked calls to his home at night and very early some mornings before the 8:00 class. If Aaron didn’t really know the answer, he was a master at making something up.
Aaron even influenced my pedagogy. To this day, I take a short break after forty-five minutes in classes that last an hour and twenty minutes. I do so because Aaron did that on the basis of his observation that “[t]he mind can only absorb so long as the ass can endure.” Once again, Aaron was absolutely correct.

On the occasion of Aaron’s retiring from the law school in 1989, Professor William M. Champion wrote a dedication to Aaron, 59 MISS. L.J. ix-xi (1988), in which Bill stated: “Perhaps Aaron’s most telling attribute is his willingness to do whatever is required to help others . . . .” What a true statement! Aaron did not just “talk the talk.” He “walked the walk.” I often think of his brave and caring acts many years ago when we had a student suffering serious delusional psychological problems. A number of faculty, including me, had dealt with the student and knew that something was wrong, but we did not act. Aaron counseled with the student at length and was able to take the student for voluntary commitment to get the professional help that was needed. As Bill Champion advised, Aaron would step up and do “whatever is required to help others.”

Aaron Condon was a loyal friend to many people, and he had many loyal friends, none better than our mutual friend, Bill Champion.

When we lost Bill Champion, we all cried in our hearts, and Aaron’s heart was truly broken. At Bill’s service, Aaron cried real tears of love for his departed friend. Our friend Aaron is missed in the same manner.
AARON STORER CONDON: SOCRATIC MEMORABILIA

Michael H. Hoffheimer*

Paul only means you [Jonah] make too much of justice.
There’s such a thing . . .

Robert Frost¹

Professor Aaron Condon welcomed my wife Luanne and me to Oxford in 1987 with a story she remembers. A young man from out of town approaches an old man sitting on his front porch. The young man introduces himself and tells the old man he is thinking of moving to town. He asks the old man what it is like there.

The old man pauses and asks what it is like where the young man comes from.

The young man explains, “The people are petty and self-centered. They complain about each other behind each other’s backs. It is a very unpleasant place to live.”

The old man replies, “Well, you will find exactly the same thing here.”

The next day, another young man from out of town approaches the same old man. He, too, asks what the town is like.

Again, the old man asks the young man what it is like where he comes from.

The young man explains, “The people are openhearted and generous. They support each other through thick and thin. It is a wonderful place to live.”

The old man replies, “Well, you will find exactly the same thing here.”

Professor Condon would not have added the obvious moral. But I can still see the twinkle in his eye with which he shared

---

* Professor of Law and Mississippi Defense Lawyers Association Distinguished Lecturer, University of Mississippi School of Law.

stories, newspaper clippings, and—one of our favorites—official communications from the IRS.

I will miss Professor Condon. He introduced me to the pleasures of fried catfish. He and his wife, Lillene, did not laugh at Luanne and me for not knowing how to eat hushpuppies with our fingers.

During my first two years in teaching, I regularly lunched with Professors Condon and Bill Champion. They embraced me in their friendship, sharing stories about their experiences in law and legal education. Topics veered wildly from early childhood experiences to the challenges of growing older as men.

Despite his extraordinary erudition, Professor Condon was one of the two people I have known who most internalized the values of a true philosopher. Like Socrates, he was ever mindful of how little we know about what is most important. Far from finding this depressing, Professor Condon looked on humanity with charitable good humor. He saw comedy in the ambition and vanity that drives much human activity. While he delighted to point out the ridiculous and hypocritical, he was disposed in the end to treat his fellow humans with mercy.

Photographs of graduating classes decorated the main wall of the (new) old law school building. Disappointed at the sight of too many graduates who had been convicted of crimes or sanctioned for ethical violations, Professor Condon privately referred to the wall as the “Wall of Shame.” And yet Professor Condon was the first to offer his services—and I believe did so more than once—to assist a lawyer who had made serious ethical mistakes, fearing the Bar’s quest for justice might punish human failings too severely.

Early in Professor Condon’s teaching career, the law school policy was to fail many students and require them to reenroll. Professor Condon referred to the second-timers as “retreads.” And yet the only stories he ever told about them concerned those who, after readmission, experienced great success and graduated at the top of their class.

A maverick intellectual, Professor Condon read widely. Not long after he retired, I saw the TALE OF GENJI in his car. GENJI is one of those acknowledged literary masterpieces—an extremely long, medieval Japanese work, sometimes credited as the first
novel by a woman. Professor Condon is one of the few people I have known who actually read this classic. I am confident he is the only person I have known who read it twice.

No one in my acquaintance ever knew more than Professor Condon about a long list of subjects, including archaic native projectile points (Indian arrowheads) from North Mississippi and the feeding habits of armadillos. I benefited repeatedly from his sound aesthetic judgment: he introduced me to Wallace and Gromit.

A true philosopher in a second sense, Professor Condon, like Socrates, communicated his insights orally, and often peripatetically. When he joined the law faculty, the legal academy did not require or prize publication, and he leaves behind no articles or books. Future generations will make a serious mistake if they think the absence of a record of published writings betokened an absence of genuine scholarship.

Though he never published a word on the subject, Professor Condon was a master of Mississippi criminal law, comprehending its texture and evolution. In the age before Google, he had a firm grasp and rapid recall of details of statutes and cases—including cases that produced no written opinion. He shared his personal database generously. From Professor Condon, I learned that the Mississippi Criminal Code was copied in the 1800s from some Eastern source. Lexis and Interlibrary Loan later made it a simple matter to establish the details.²

From Professor Condon I also learned about the de minimis defense. Once he had defended a foreign student, unfamiliar with local customs. The student had purchased a refrigerator from a local retailer. When she experienced a problem with the refrigerator, she returned to the retailer. After she refused to leave, she was charged with criminal trespass. Professor Condon persuaded the trial court to dismiss the charge on the grounds that her violation was de minimis.³ The defense, omitted from the standard Criminal Law curriculum, was new to me. For Professor

² The homicide statutes were copied verbatim from the New York Code of 1829. See generally Michael H. Hoffheimer, Murder and Manslaughter in Mississippi: Unintended Killings, 71 Miss. L.J. 35, 60-61 n.69 (2001).

³ See MODEL PENAL CODE § 2.12 (1962) (stating a violation is de minimis if it “did not actually cause or threaten the harm or evil sought to be prevented by the law”).
Condon the need for a flexible doctrine that served to prevent the over application of the rule of law was self-evident.

One final example of Professor Condon’s mastery of criminal law is the seriocomic case of the slungshot. He could have published a series of articles on how, due to typographical error, the prohibition of carrying concealed slungshots morphed into a prohibition of slingshots.4

No one will ever appreciate better than Professor Condon the combination of arrogance, carelessness, and ignorance required to generate such an error; the bureaucratic inertia needed to perpetuate it; and the moral indifference expressed in the injustice of executing the letter of this particular law. He would have been appalled—and also amused—to discover the same creeping error at work in other jurisdictions.5 His skepticism would have equipped him better than any mastery of the keyboard to understand how the same dynamics can infect databases on which we have come to rely.6

Lest my objectivity be questioned, I should, perhaps, end by recalling one enormous failing that Professor Condon displayed. In his final decades, the Colonel waged a long, losing battle against

---

4 Miss. Code Ann. § 97-37-1 (2006) (listing slingshots among the deadly weapons the concealment of which is punishable by six months imprisonment). See id. § 97-37-17 (2006) (listing slingshots among weapons prohibited on educational property). The slungshot is a maritime tool comprising a heavy weight (shot) attached to a rope. It became widely used as a gang weapon in the 1800s. See Slungshot, WIKIPEDIA, http://en.wikipedia.org/wiki/Slungshot (last updated Mar. 13, 2013). Carrying concealed slungshots was prohibited by 1880. Miss. Rev. Code § 2985 (1880). The prohibition was repeated in recodifications in 1892, 1939 and 1942. E.g., Miss. Rev. Code Ann. § 2079 (1942). As the original meaning was forgotten, editors assumed that the word was a misspelling of slingshot, without pausing to ponder whether slingshots are really deadly weapons or whether children who carry them in their pockets should be imprisoned for up to six months. Only Professor Condon noted the unintended change.

5 See United States v. Woodfolk, 656 A.2d 1145, 1147 n.3 (D.C. Cir. 1995) (referring to a statutory prohibition on slingshots where original statute refers to slungshot). A Lexis search (“slingshot w/15 conceal!”) of the Federal and State Cases Combined yielded twenty-four hits (Mar. 25, 2013), most of which were citations to criminal prohibitions against carrying concealed slingshots, which probably originated as prohibitions against slungshots.

6 The online text of Brown v. State, quotes the state code as prohibiting carrying any concealed “slingshot.” 1913 Miss. LEXIS 209, at *9 (Mar. 1913). The official reports accurately quote the Code of 1906 as prohibiting a concealed “slungshot.” 62 So. 353, 355 (Miss. 1913).
moles in his backyard. Testing one reputed remedy, he placed sticks of Juicy Fruit chewing gum in the tunnels. This, he concluded, may have promoted tooth decay but did not reduce the mole population. It is a humbling reminder of the limits of human reason that this giant among intellectuals—classics scholar, Phi Beta Kappa member, law professor extraordinaire—succumbed to the delusion that he had a chance against the moles.