

R. DALE SWIHART: A FRIEND AND COLLEAGUE

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Dale Swihart and I have known each other for 40 years. We were faculty colleagues for about eight years of those years—six years at the University of New Mexico, three semesters at Washington University of St. Louis, and a summer session at the University of Iowa. Most people, if they are lucky, have two or three true friends over a lifetime. In addition to everything else friendship means, true friends are those who may not see each other for months or years, but when they do get together, their minds are sufficiently attune that they can pick up a conversation as if their last meeting had been an hour before. They also tell you when you are wrong and support you if you do it in any event. Dale is a true friend, a fact that I note only to point out that what is set forth below is not a neutral statement. It is, I hope, as accurate a statement as a biased person can make.

If I were appointed Dean of a new law school and, thus, could pick the first faculty member without having a faculty meeting, my choice would be R. Dale Swihart. Over the years, he has been a superb classroom teacher, one who demanded extraordinary efforts from students and received it. Some students have viewed me as a demanding teacher, but my efforts pale in comparison with Dale's. More than anyone I know, he imposed high performance standards on himself and students who enrolled in his class. He gave of himself to students and the institution. Some would say, I among them, that he may have over-prepared for class, although I suppose he would say there is no such thing as over-preparing.

Dale is a bright, principled, and caring person with a fine analytical mind, whose interests go well beyond the classroom. He has been a consistent and effective advocate of freedom of expression, with a broad interest in the overall academic process and a strong institutional loyalty to Washington University as a whole as well as to its law school. His judgment is sound. He accepts people for what they are, warts and all, although he has been known to comment about the warts now and again.

Dale and I met in the spring of 1958. As the junior member of the law faculty at the University of New Mexico, I was the designated greeter of prospects coming to Albuquerque to interview for open faculty positions. Thus I went to the airport to meet Dale's plane. It landed, the passengers got

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off, but I saw no Swihart. There were only two people left in the gate area. I was there and someone I took to be a 16-year old boy whose parents apparently forgot to pick him up. I knew he could not be a prospective law professor. The young boy, who was Dale Swihart, looked me over and knew I could not be meeting him because the Dean has said that a *young* faculty member would pick him up, and I, with my gray hair, obviously was not that person. We finally got together. He interviewed, was offered the job, and took it despite a salary scale in which the senior faculty member at the law school was paid \$7,500 a year.

We were colleagues at New Mexico from 1958 to 1964. Even by the standards of the day, the law school was small—six full-time faculty members, a Dean, a librarian, a registrar-secretary for the Dean, and a faculty secretary. The library employed a librarian and a bookkeeper-secretary, although with a \$4,000 acquisitions budget, it is hard to know why a bookkeeper was necessary. Approximately ninety students entered each fall and from 12 to 17 earned degrees annually. The flunk rate was above 50% and the withdrawal rate about 25%. No adjunct teachers plied their trade at New Mexico. Each of the six faculty members taught three courses one semester and two the other. The Dean taught one course per semester and the librarian taught legal bibliography. With a sabbatical program in place, each faculty member taught close to the entire student body for five of the six semesters they were in school. All upper division courses were elective, but to earn a degree, students had to take virtually every course offered. Despite the relatively heavy teaching loads, faculty members at New Mexico during those years were productive scholars.

Dale was viewed by the students at New Mexico as a superb teacher, who, although the newest and youngest member of the faculty, even then was the most demanding of us. As tough an exterior as he occasionally showed, he became physically ill when, after turning in his first set of grades anonymously, he discovered that he had given an “F” to a quadriplegic student. Dale and I matured together as faculty members during the New Mexico years. That maturing process got a boost in the fall of 1960, when Vern Countryman left practice to become Dean at New Mexico. He was a joy to work with and work we did. We worked hard, played hard, and learned how to be productive teacher-scholar-citizens. Although the era of the House Un-American Activities Committee and the Joseph McCarthy hearings in the Senate were long over, the anti-communist movement surfaced in New Mexico in the early 1960’s and demands were made for an investigation of communist activity at the University, and particularly at the law school. The furor lasted six to eight weeks, and Dale, along with most of the law faculty, the President of the University, and several lawyers in the

State, worked long and hard to beat back the attacks, which were totally unsupported by any facts.

During the 1963-64 academic year, Countryman was a Visiting Professor at Harvard and he accepted an offer to remain there permanently starting in 1964. With his departure, Dale was one of the three faculty members who left New Mexico, going to Texas as a visitor for the 64-65 academic year and then to Washington University of St. Louis in 1965. I moved on to the University of Washington in Seattle for two years and then to the University of Iowa.

Dale and I became faculty colleagues again after we left New Mexico. As noted, he taught at Iowa for a summer session, and a few years later I was a visiting faculty member at Washington University for a full academic year. I spent an additional semester there a year later. Although attitudes about legal education had changed substantially over the years, Dale seemed to me to have remained constant, focusing on teaching, insisting on high standards, demanding that students meet those standards, and often finding that demand met. The Washington University graduates I got to know while I was in St. Louis, particularly those in the tax area, were uniformly affirmative about Dale as a teacher and a person.

With Dale Swihart now retired and not teaching at all, the educational experience of the 1997-98 first-year class and those who follow will not be quite as rich as it would have been had Dale continued to teach.

