

PHILIP MECHEM

It is pleasant to be afforded the opportunity of writing even a brief appreciation of a colleague and friend as he stands on the threshold of retirement from the Law School. For over forty years, Philip Mechem has been a teacher of law, first at Idaho, later at Chicago, then at Kansas, Washington, Iowa, and, finally, during the past fifteen years, at the University of Pennsylvania. A scholar, a man of learning, a teacher, a past president of the Association of American Law Schools, he has lent distinction and added lustre to the reputations of all the law schools which he has served, particularly our own.

Son of a celebrated father, also a professor of law, Mr. Mechem began teaching in 1922. Much courage is required to follow in the footsteps of a famous parent, for, as the historian Sallust remarks, distinguished ancestors shed a powerful light on their descendants and forbid the concealment of their merits and defects. Yet, through his writings and his teaching, Mr. Mechem has continually added to the renown of a name that ranks with those of great American law teachers. His legal writings have illumined difficult problems in the law of agency, property, and decedents' estates, and his casebooks furnish, and will continue to furnish, basic learning for students throughout the country. The wide range of his interests is attested not only by those writings and by book reviews but by the range of subjects which he has taught and which proceed through the alphabet from agency, to bills and notes, corporations, decedents' estates, equity, future interests, jurisprudence, partnership, restitution, torts, trade regulation, trusts, and wills. In all that he has done, there is a meticulousness of approach, a thoroughness of treatment, and a clarity of exposition that assures his work a permanent place in the annals of law teaching and in the areas of legal scholarship to which he has so notably contributed. Criticism without captiousness, skepticism without cynicism, humor without derisiveness, have characterized both his teaching and his writing, and not the least of his qualities is a sense of urgency to arrive at common-sense, rather than doctrinaire, solutions of difficult and intricate problems.

To the layman, St. Paul's injunction to avoid contentions and strivings about the law may seem provident and wise. Yet such efforts are among the principal instruments by which legal education in this country progresses. Mr. Mechem has an ingrained and wholesome distrust of generalities, of the major premise that seldom provides a solution for the concrete case. His debates about the "unwitty di-

versities" of real property law are never-ending and have helped continually to illustrate the scope and limitations of even such accepted doctrines as worthier title or the Rule in Shelley's Case. The assumptions of celebrated chancellors, judges, and law professors he subjects to constant scrutiny, and it is a joy to see him belabor them ("at the risk of appearing obnoxious," as he is wont to say) when the occasion requires. He suffers no fool gladly, and he would be among the first to disagree with John Chipman Gray that we must revere the gods. Ancient English cases he views much as Lord Westbury viewed conveyancers' documents—difficult to read, impossible to understand, and disgusting to touch. This unwillingness to defer to authority or to accept unquestioningly the judgments and conclusions of others has led him continually to search out new materials for his courses, and it accounts in substantial measure for the excellence of his casebooks, which abound in fresh and provocative materials in each new edition.

Max Radin used to say that when we are not killing each other we should be educating each other, for that is what civilization means. Education in this sense is hardly confined to formal teaching in the classroom but extends to all occasions and all persons with whom we associate. In this respect, a singular open-mindedness, a sense of humility in the presence of difficult problems, and a continual willingness to learn from others have made Mr. Mechem particularly admired and respected by his colleagues and students. While at Iowa, particularly, he guided and exerted a continuing and vital influence on younger colleagues who have since gone on to make names for themselves as teachers of law. He would have won the high praise of Chaucer for meeting the ideal of the man who would gladly learn and gladly teach.

As fifteen years of happy association come to a close, there are a multitude of remembrances of things past, not the least of which are his kindness, his conviviality, his personal warmth and friendliness. His companionship is always felicitous both because of the range and variety of his personal and professional interests and because, in a world where so many men willingly talk of nothing, he has much to say. Ahead lie fruitful years for the cultivation of friendships, for travel, and above all for the scholarly accomplishments which years of accumulated learning and release from regularized teaching assignments can assure. In looking, therefore, to the future as well as to the past, it seems appropriate to modify and to extend to him the ancient salutation: *Ave neque vale*.

George L. Haskins †

† Professor of Law, University of Pennsylvania.

It was a real loss in 1948 when Professor Philip Mechem left the faculty of the College of Law at the State University of Iowa to join the faculty of the Law School at the University of Pennsylvania. We did everything we could to prevent it. On a number of other occasions the green pastures elsewhere yielded to the greener pastures of Iowa and we had been able to hold him here. He liked Iowa and the people here liked Phil Mechem, not only in the law school, but throughout the University and in our community. He was a professor on the Iowa faculty for eighteen years with the exception of two years when he was on leave of absence with the Department of Justice in Washington. When he came back from his government position, we thought we had him forever, but there is in the law school world what is known as legalized robbery. The perpetrator of this crime acts with honor and takes pride in the conquest. The robbers are skilled in finding rich stores of intellectual loot, and, although it is a compliment to be plundered, it does not make the loser happy.

It was with deep regret that we lost a person of the high quality of Philip Mechem. We still claim him as one of our own, and take great pride in him, although his nomadic spirit caused him to yield to the enchantment of Pennsylvania. We know he carried with him the richness of his work at Iowa, as is very evident from his leadership in legal education. We cannot really complain because, after all, we stole him from Washington University at St. Louis. We cannot be both saint and sinner.

Philip Mechem made a distinct contribution to the College of Law at Iowa and his departure left a vacuum which has not been filled. The same loss will be felt at Pennsylvania with his retirement. His diversified interests and wide range of intellectual inquiry are not easy to replace. His productivity as an author in the law of wills, agency, and future interests has been expansive and well received among American Law Schools. His law review writings include some of the best in legal literature. They penetrate deep, and he has not been reluctant to be critical. All of his writing has style, usually in abundance. Where praise is deserved, he is most generous and articulate. An example of this is found in his book review of "Some Problems of Equity" in which no finer comment could be made than that expressed about its author, Zachariah Chaffee.¹ Where criticism is needed, no one is more accomplished in giving it. Anyone who has not read his article "The Jurisprudence of Despair" has an evening of exciting and thoughtful reading waiting for him.² The reader may not agree with all that Philip Mechem says, but he will sharpen his

¹ 99 U. PA. L. REV. 1245 (1951).

² 21 IOWA L. REV. 669 (1936).

wits by watching the author shoot pointed arrows into inflated balloons created by those whom he designates as the New Realists. Back of it there is the thoughtful idea that law is the product of reason and that reason must be the moving force in the process of change. Psychology, sociology and the philosophy of the realists may influence, but cannot replace, the basic sources of the law in the application of reason and experience in the formulation of legal conclusions. Time has demonstrated the soundness of his conclusions that the realists had not discovered for the first time the new source of inquiry, or a different standard of evaluation, or an easy method of solving all of the critical problems of the law. Courts still write opinions, they continue to be sometimes frozen but are more often searching, illuminating, and resourceful in their solution of the tough problems with which they deal. No legal gimmick or new fantastic approach, nor even a carefully developed idealistic principle is going to make easy perfect-justice quickly found.

The ingenuity and dexterity of Professor Mechem's mind are found throughout his writing. His books show his keen insight into legal problems and his ability to communicate his ideas with incisive clarity. His writings in periodicals bring out the type of brilliance, imagination and understanding which are so typical of him as a person. His fiction writing while at Iowa must not be overlooked. In 1932 he wrote the blood curdling mystery, "The Columbine Cabin Murders," and ten years later his book, "And Not for Love," wove together a story of complicated conduct which was surely not motivated by love.

With all of the scholarly writing by Philip Mechem, his greatest contribution is as a teacher. His effectiveness is exceptional. He brings to the classroom something that stimulates a student's desire to learn. Students are not always comfortable in his classes and it is a painful experience to be there if unprepared. Through the Socratic method and some undefinable other process which is all his own, he causes students to think out their own conclusions. His classes are excitingly alive with his sharp comments, his meaningful distinctions, his astatic analysis, and his pointed humor. Although demanding, his kindly interest makes him a warm friend. While he was at Iowa, there was no teacher appreciated more by students, nor more feared by them if a night out prevented their study. His impression upon students at the Iowa Law School has been long-lasting. Even after many years students, when they return to the law school, ask about Philip Mechem. The College of Law at the State University of Iowa is happy to join in honoring him at the time of his retirement at the University of Pennsylvania. As a scholar, as an associate in the teaching of law, and as a friend, he is one of the best.

Mason Ladd †

† Dean, University of Iowa Law School.