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PAUL G. KAUPER: AS REMEMBERED BY HIS STUDENTS

John M. Nannes,* Jerome B. Libin** & Eugene Gressman***

"A teacher affects eternity; he can never tell where his influence stops."†

The duties and responsibilities of a professor of law at a major American university are many and varied. Professors frequently serve on advisory committees within the university and take an active role in determining the direction of the law school's organization and curriculum. They are often called upon to serve municipal, state, and federal governments in advisory capacities. Professors spend years engaged in research into those areas of the law that have most captured their interests, and spend almost as much time as sounding boards for the interests and ideas of their colleagues. Professor Paul G. Kauper played all of these roles actively, fully, and well. But for the majority of a law school's students, whose direct association with a professor is limited to the classroom, the skill of a professor about which they care the most is his ability as a teacher; and in this arena Paul Kauper was at his best.

For almost four decades, interrupted only by the curtailment of the law school's operations during World War II,1 Paul Kauper taught at Michigan. It is impossible to know when he first decided to pursue a teaching career, but his interest surely sharpened during the two years he spent as research assistant to E. Blythe Stason immediately following graduation from law school.2 Joining Professor (later Dean) Stason in 1932, Mr. Kauper devoted much of his time to research in the then-burgeoning area of regulation and taxation of motor transportation, but he also received considerable exposure to the duties of a full-time professor of law. In those days

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1. Because of the demands placed on the nation's manpower during the war, enrollment in the law school dropped off markedly in the 1941-1942 school year. At the invitation of an alumnus, Professor Kauper joined the General Counsel's staff of the Pan American Petroleum & Transport Company for three years.
one of the principal responsibilities of a research assistant was to read the preliminary examinations given to first-year students, and during the 1932-1933 school year Mr. Kauper also served as the official advisor to the student moot-court and practice court program. The following year, due to a faculty member's illness, he was pressed into service as an instructor of Bills and Notes.

Mr. Kauper spent the next two years as a junior associate in the tax department of the prestigious New York law firm of White & Case. During this period he kept in close touch with the law school faculty. Letters he exchanged with Dean Henry M. Bates indicate that although the Dean viewed experience in practice as proper seasoning for a prospective faculty member, Mr. Kauper had an interest in pursuing broader aspects of the law as only an academician could do. As he wrote Dean Bates: "I can see that a tax specialist who is master of considerable technical data and rules will inevitably find himself out of touch with the broader streams of legal development." When he returned to Michigan as an assistant professor in 1936, Professor Kauper undertook to blend the skills he had acquired in practice with the broader areas of the law that were then of interest to him. For the next twenty years he taught both taxation and constitutional law on a regular basis. At various times during his thirty-eight years on the faculty he also taught courses in utility regulation and municipal corporations, as well as seminars in comparative constitutional law and freedom of religion. His concentration in constitutional law became prominent after 1956, when he last taught taxation.

From all accounts, the qualities that made him an outstanding teacher did not vary with the courses he taught. However, because so many of his students enrolled in his constitutional law courses (which were always oversubscribed)—and perhaps because of the subject matter itself—it was in this area that his superb teaching technique had its greatest impact. There was in his course first and foremost an overriding devotion to the study of law that truly inspired his students. Professor Kauper approached class sessions with an enthusiasm suggesting to students that he, as much as they, had come not merely to discuss cases but to explore the Constitution and to understand the Supreme Court as an institution. He

4. The assignment was motivated, no doubt, by Paul Kauper's success in winning the moot-court program as a student. The authors are indebted to Professor Roy F. Proffitt for much of the material recording Professor Kauper's early years at Michigan.
utilized the Socratic method to illuminate, not intimidate, and his courses were carefully, almost tenderly, organized: It was important that his students be grounded in the breadth of the Constitution as well as exposed to its depth. When, after a reorganization of the school calendar, a week was dropped from each semester, Professor Kauper made up for the lost time through a series of evening lectures. He told his classes that after careful thought he had concluded that the material was just too important to delete from the course, and the students enthusiastically responded by attending the lectures en masse. His love of the law was infectious, and he spent many hours in small sessions after class further stimulating the intellect of those students who had contracted the fever. Students stood in long lines at the beginning of each semester to register for his courses, for word spread quickly that being taught by Paul Kauper was an opportunity not to be missed. He was, of course, a true scholar, and many students elected one of his advanced courses not so much because of interest in the subject matter as for the chance to study under him.

Although Professor Kauper had strong views about the substance and direction of certain Supreme Court decisions, a student in his course could glean little indication of his personal views. Objectivity and dispassionate analysis were his hallmarks. When queried about the organization of his constitutional law casebook,7 which contained excerpts from numerous “fundamental rights” due process cases despite the ascendancy of the incorporationists on the Court, he did not respond that those cases were included because they had been correctly decided; instead, he explained that such a full enumeration of the older cases was necessary to convey to students the magnitude and significance of the Court’s change of direction. And, on those infrequent occasions when he criticized a particular opinion of the Court, the criticism was not based on disagreement with the result but on what he regarded as a disappointing deficiency in legal reasoning and analysis.

Professor Kauper never subscribed to the notion, considered perhaps more fashionable by others, that the proper way to teach constitutional law was to teach the philosophies of the nine justices then sitting, rather than to trace the evolution of historical precedents. While in no way oblivious to the significance of changes in Court personnel, Professor Kauper’s interest was in examining whether a decision reached by the then-constituted majority was legally and logically sound in light of prior Court decisions. His purpose was to teach that cases are normally won on the basis of legal arguments soundly presented, even when they are decided by

the Supreme Court. His scholarly commitment to reasoning and analysis, and the corresponding de-emphasis on rules and results, was intended to provide his students with a better grounding in the law—and to make them better lawyers as a result.

An inspiring teaching method and a devotion to the study of law are necessary characteristics of every competent professor, but only a devotion to his students can make a professor a beloved teacher. There was in each of Professor Kauper's contacts with his students, whether individually or in groups, whether in the classroom, in the halls, or in his office, a genuine interest and kindness. He was always available to answer questions about course materials, to discuss examination results and career plans, or to advise and support student organizations.

One organization that benefited greatly from his contributions was the Michigan Law Review. The many scholarly articles he published in the Review over a span of forty-three years are listed in the bibliography appearing as part of this memorial issue. Unknown to the Review's readers, however, is the generous amount of time he spent with student writers and editors discussing proposed topics and reviewing early drafts. Those fortunate enough to have had contact with him on the Review were always treated as young professionals. He would submit a manuscript for publication, providing (he always stressed) that the editors found it worthy of publication. The editors were openly flattered by his receptiveness to editorial and substantive suggestions, and soon came to realize that by treating them as professionals, Professor Kauper ensured that they would act professionally. Through his continued warmth and openness he showed that prominence in one's calling need not be accompanied by aloofness and arrogance.

The words of three, or thirty, or three hundred of Professor Kauper's students could not capture the affection in which he was held by two generations of Michigan students or the significance of his contributions to the law school. Paul Kauper was a giant—intellectually, professorially, and personally. As the last of the pre-World War II professors on the faculty, he was the link between the law school's proud past and promising future. In the minds of many graduates, a large number of whom had sought him out as a counselor in law school and continued to regard him as a good friend long after they left Ann Arbor, Paul Kauper was the personification of the law school. His untimely death is a profound loss to a great school and his many friends; but his warmth, his wisdom, and his influence will always be remembered by those privileged to have studied under him.