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This issue is dedicated to the memory of Burke Shartel

BURKE SHARTEL

Memorial Resolution by Law School Faculty Concerning Burke Shartel

Burke Shartel, Professor Emeritus of Law, died at San Diego, California, on January 15, 1968, at the age of 79 years. His colleagues on the Law Faculty and a host of friends, including a large body of former students, mourn the passing of one we respected as teacher and scholar and cherished as a friend.

Burke Shartel's family roots were in the Southwest. Born in Sedan, Kansas, in 1889, he spent most of his earlier years in Oklahoma City. For his education he came to the University of Michigan where he attended both the Literary College and the Law School. He received his A.B. degree in 1911 and the J.D. degree in 1913. Following his graduation from Law School he practiced law in Oklahoma City for four years. During World War I he served in the United States Navy Intelligence Service. Subsequently he undertook graduate legal study at the Harvard Law School and was awarded the S.J.D. degree in 1919.

In 1920, after teaching a year at the University of Illinois Law School, he accepted the invitation to join the University of Michigan law faculty. Thus began the long and fruitful association which continued for 38 years until the time of his retirement in 1958. In the year following his retirement he taught at the College of Law of California Western University located at San Diego. Thereafter, he and Mrs. Shartel resumed their residence in Ann Arbor. Professor Shartel continued to reside in Ann Arbor after Mrs. Shartel's death in 1966.

To his teaching and writing alike, Burke Shartel brought not only a superbly equipped and well-trained mind but those intellectual and spiritual attributes which distinguish the genuine scholar: a zest for learning, curiosity, open-mindedness, a spirit of critical inquiry, thoroughness in examination of a subject, and a meticulous concern for precision and clarity.

Many generations of law students recall Burke Shartel as an extraordinarily effective teacher. During a major part of his teaching

career he taught sections of the first-year Property and Criminal Law courses and also a second-year course in Rights in Land. Later he taught a section of the first-year Introductory Course, with emphasis on legal method. Those fortunate enough to have had him as a teacher in these courses can attest to his patience, his helpfulness, his good humor, and his genuinely kind and sympathetic bearing in encouraging student responses and in leading students to an understanding of the problems under discussion. This patience and helpfulness bore witness not only to his intellectual qualities but also to the respect he had for students as persons, his interest in their problems and achievements, and his readiness to counsel with them. He remembered his students, recalled their names, and followed their careers with interest and pride.

While Burke Shartel taught undergraduate courses with remarkable effectiveness and thereby reached large masses of the student body, he achieved a special distinction in the Seminar in Legal Methods which he initiated and developed primarily for the benefit of graduate students preparing for a law-teaching career. This seminar and his preparation for it offered a rich opportunity to explore legal philosophy and related intellectual disciplines. Skeptical of abstruse systems of philosophic thought, impatient with dogma and authoritarian thinking, Burke Shartel approached legal philosophy as a pragmatic social scientist. His concern was to penetrate into, portray and illuminate the basic characteristics of our legal system, the function it serves in our social order, the values it conserves and advances, the means whereby law is created and interpreted, the processes whereby the law operates, and the basic norms and concepts which both undergird and inform the legal structure. The materials he prepared and the class discussions he led were the avenue for a stimulating and provocative intellectual adventure. As attested by a great succession of graduate students, this seminar was extraordinarily helpful in giving a perspective on the total legal system and gaining insights into its processes. The pervasive influence of this teaching and its impact on the teaching of others cannot be measured.

During the years following World War II Burke Shartel's contributions assumed a new dimension. In the wake of the German col-

lapse and at the initial stages of the program to rebuild a new constitutional structure, Professor Shartel was invited by the State Department to deliver lectures to, and hold discussions with, groups of German law students and teachers in various parts of Germany. Thereby he established associations with the German academic world which have borne much fruit. Later he served as a guest professor at the Universities of Heidelberg and Munich. These experiences and associations in turn stimulated his interest in programs whereby German law students came to our law school for graduate study—a program in which he took a leading role. A vital aspect of this was the warm and genuine personal interest which Betty and Burke Shartel evidenced in these foreign students and the hospitality graciously extended to them. Many foreign students recall with pleasure the hours spent in the Shartel home—the coffee and cake, the receptions and dinners, the amiable conversation in the living room. Nor should we forget the hours on hours Burke Shartel gave generously to counsel with these students on their problems, personal as well as academic, and his continued interest in them after they returned to their home countries. In his death our foreign students have lost one of their best friends and counselors. Who can measure his constructive influence in helping to build bridges of good will and understanding through the contributions he made to the comparative study of law, the enlarged international perspective, and the impact of genuine warm personal relationships? Professor Shartel and his wife were American ambassadors of good will in the highest and best sense of that term.

Burke Shartel's writings revealed the same qualities of mind that shone through his teaching. He was a perfectionist in his written work: those acquainted with his writing habits and the discipline he imposed upon himself know how frequently he rewrote to achieve a lucid presentation. The articles and the reviews he wrote reflected the range of his interests, the probing qualities of his mind, and his concern with questions of functional importance. Three articles may be singled out for special attention. His article, "Sterilization of Mental Defectives," a pioneer treatment of a subject just beginning to receive attention in the legal world, appeared in the *Michigan*

Law Review in 1925. It received wide attention and was republished in three other journals. The comprehensive and creative work on the appointment, suspension, and removal of federal judges, published in three instalments in the *Michigan Law Review* in 1930, has lost none of its vitality and challenge through subsequent decades. Probably his best known and most influential writing was the article entitled "Meanings of Possession," written for the *Minnesota Law Review* in 1932. Reflecting the pragmatism that dominated his legal philosophy, this article was designed to show that a well-known term in the law like "possession" cannot be reduced to some single definition or conceptual content but acquires its meaning in a particular context from the use to which it is put and the purpose which it serves. Burke Shartel is well remembered by the many law teachers and law students who have profited from this functionally perceptive analysis and critique of a concept central to the law of property.

Apart from his own contributions in legal periodicals Professor Shartel made a very substantial contribution to legal scholarship during the years he served as faculty editor-in-chief of the *Michigan Law Review*. He took painstaking care with every piece published in the *Review*, personally edited all the articles and all the student work, and spent much time with the student editors in order to improve their legal writing. This personal attention and his criticisms and suggestions were an invaluable contribution to the education of the student editors.

In his later years Professor Shartel focussed his literary efforts on the production of materials which grew out of and related to his Seminar and course in Legal Method. When his colleagues honored him with the invitation to deliver the Thomas M. Cooley Lectures in 1948, he chose the occasion to refine and elaborate upon materials in legal methods earlier published in tentative form. The well-known book, *Our Legal System and How It Operates*, based on these lectures, was published in 1951. In addition he prepared a set of readings in jurisprudence which first appeared in 1954 and which thereafter, as revised in collaboration with Professor B. J. George, was published as *Readings in Legal Methods*, currently in its second edition. In addi-

tion he was a joint author of *Introduction to Law and Equity*, published in 1953.

For a number of years Professor Shartel delivered lectures at the University of Michigan Medical School on medical jurisprudence. He shared this interest with Professor Marcus Plant, and together they published in 1959 *The Law of Medical Practice*.

Some of his writings grew out of his interest in German law and also his concern in interpreting American law to German lawyers and scholars. In collaboration with Hans J. Wolff he wrote an article on civil justice in Germany which appeared in the *Michigan Law Review* in 1944. An unpublished text in German on the spirit of American law furnished the basis of lectures he delivered in Germany. A thorough review of a report on German legal education appeared in the *Journal of Legal Education* in 1962. The distinctive contributions Burke Shartel made to the study and understanding of German law, to the interpretation of American law to the German legal world, and to the good will and fruitful relations he had helped to create were fittingly recognized when the University of Heidelberg conferred an honorary Juris Doctor degree on him in 1953.

Professor Shartel's intellectual alertness and his interest in current legal developments continued undiminished during the years of his retirement. During the last three years and until physical incapacity forced abandonment of the effort, he was working steadily on an extended article dealing with the Supreme Court's decisions in the *Escobedo* and *Miranda* cases.

Burke Shartel was an intensely human being. Despite his academic achievements he remained a modest and always a kind, friendly, and generous person. Even when in the final months the growing infirmities of the flesh limited his physical vitality and mobility, he did not allow this to quench his good nature or impair the buoyancy of his spirit.

The end has come for a life rich in years, rich in accomplishments, and rich in quality. We, the Faculty of the University of Michigan Law School, adopt this resolution to express our sympathy to the daughter and grandchildren, to voice the personal loss we feel in the

death of a colleague and friend whose qualities of character and personality enriched our lives, and to record with appreciation the significant contributions Burke Shartel made to the law, to the Law School which he served with selfless devotion, and to successive generations of law students who knew him as a teacher, counselor, and friend. He has left us with a good heritage. For this we are grateful.

February 1968