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## Tribute to Paul Oberst

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## Tribute to Paul Oberst

Part of the essence of the life of Paul Oberst is captured in this song, led by his son Jamie and sung by all at Paul's memorial service at the University of Kentucky College of Law on April 27, 2002.

There's a bright golden haze on the meadow,  
There's a bright golden haze on the meadow.  
The corn is as high as an elephant's eye,  
An' it looks like it's climbin' clear up to the sky.

Oh, what a beautiful mornin'!  
Oh, what a beautiful day!  
I got a beautiful feelin'  
Ev'rythin's goin' my way.\*

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When Paul Oberst retired as a University of Kentucky law professor, he continued his lifelong efforts to obtain equality for all citizens. When I was a law student in his constitutional law class, he had a great influence on my views about the need for strong civil rights

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\* Lyric excerpt from *Oh What a Beautiful Mornin'* by Richard Rogers & Oscar Hammerstein II © Copyright 1943 by Williamson Music. Copyright Renewed International Copyright Secured. All Rights Reserved. Reprinted with Permission.

legislation in Kentucky. I stayed in touch with him throughout my years as a lawyer in Hopkinsville. As Governor, I appointed him to the Human Rights Commission, Chaired by the Rev. Robert Estill. We worked together to help pass the first civil rights bill south of the Mason-Dixon Line, which he helped draft.

Paul was a gentle, but strong man with a keen legal mind. He influenced the views of hundreds of students that they had a duty as lawyers to support equal rights for all citizens. All of the law students and lawyers who were privileged to know Paul will miss him, as well as those citizens who enjoy rights which he helped guarantee. The University of Kentucky and the people of Kentucky are fortunate to have had Paul Oberst in our midst.

*Hon. Edward T. Breathitt\*\**

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I first met Paul and Libbet Oberst when they were a little older than I am now. It was more than a quarter century ago. My wife and I were looking for jobs at the same university, and we had arranged a week-long tour of six schools where we both had interviews. My personal preference was Notre Dame, in part because I had gone to college there, and in part because I thought that it was important for our marriage and our children that we live and work in a Catholic environment. And I must confess that we both had a prejudice against the southern schools because the people talked funny and they had been on the wrong side of the Civil War. But our tour took us to Kentucky first, and there we met the Obersts at a party at Biff and Mary Campbell's house. I can remember the moment as though it was yesterday. We were in the library and Libbet was sitting on a chair. After five minutes of conversation my view of our future was completely transformed. They were devout Catholics; they had five children; they told us what a wonderful parish the Newman Center was. They themselves had helped to get it started. I found myself thinking, "We could grow up to be like the Obersts. That would suit me." My wife was so excited at the end of the night that she said, "Let's just cancel the rest of our interviews. I like it here." We went through with the tour. But at the end we came back.

By coincidence Paul and I shared an interest in the same legal subjects, so we taught the same courses—in particular, Constitutional Law and Administrative Law. (Actually Paul had taught nearly everything in the

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\*\* Hon. Edward T. Breathitt, former Governor of the Commonwealth of Kentucky, 1963-67.

curriculum. When he first came to UK fresh from the war the dean told him that he would be teaching about half a dozen courses, and that he would start on Monday.) This was a real grace for me. When I began teaching I was only twenty-seven years old, and I really didn't know very much. So I would talk to Paul about my classes before and after I taught them. I think I learned more in that year than my students did.

Paul also introduced me to the Association of American Law Schools—the trade group for law professors and an organization in which he had played an important role. The AALS meets for nearly a week during the holiday after Christmas each year. Paul took me with him to annual meetings. We would share a room (to save the school money), and he would introduce me to famous teachers, of Constitutional Law and other things, over dinner, at section meetings, in the halls.

Our first child was born the year after we arrived, and we really didn't know what to do with him. He was baptized at the Newman Center. My sister Mary and my brother-in-law Barney were the godparents, but they lived far away and neither could come to the baptism. So we found ourselves standing at the baptismal font, holding a baby, like a couple of mouth-breathing teenagers, when the Rev. Elmer Moore asked us whom we had chosen to represent the godparents. We grabbed Paul and Libbet, who were standing there next to us, without even asking “Would it be all right if . . . ?”

At Paul's suggestion I took up swimming a few years into my job. He and I would go nearly every day to the pool, first at the Memorial Coliseum, then to the YMCA, and finally in 1989 to the Lancaster Aquatic Center. It was the best part of my day. We had nearly an hour to talk about law, law school politics, families, history, and our own—usually my own—personal concerns.

I think it was then that I began to learn the difference between being wise and being smart. I'm not sure what were Paul's private thoughts about me when I was twenty-seven, or thirty, or forty. I was a fairly brash, cocky, sarcastic, and impetuous young man, and he never said anything critical about my behavior. He always listened carefully. And sometimes he asked questions in that polite, drawling, hesitant way he had. He wasn't really in doubt about things or having trouble keeping up. He was ahead of me, but he had no ego invested in how he pointed out the right way.

There came a time when I actually was sharper at some things than he was. He'd forget where we parked the car when we went to swim, and I would remember. We would go to AALS meetings, and I would have the pleasure of introducing him to people, rather than the other way around. One year we were taking a walk in New Orleans and Paul tripped on the sidewalk and fell and broke his glasses. It was a long way down for such a

big man, and he cut his forehead. I was worried for a bit. We went back to the hotel, and I got a small screwdriver and some tape to fix his glasses. Then I called Libbet and said, "Paul has got a cut on his forehead, but he's fine. We got in a fight in a bar." She laughed.

I thought I was taking care of him. What I didn't understand until recently was that he was still teaching me. Your feet don't always work the way they should. You eventually start to forget things. (My Mom is getting this way. We don't say she is having trouble remembering. We say it is an improvement in her forgetting.) But this happens to everyone. We have to learn how to do this, just as children learn how to walk and talk, teenagers learn how to work, and young adults learn how to raise children. Someone has to show us how to grow old. It isn't a downhill slide, for people who are past their peak. It is the most graceful period of life. People like Paul are wise and patient. You have to live a long time before you can acquire those virtues. They also exhibit true humility—the ability of someone with marvelous gifts to say, "You know, my life's work doesn't amount to a whole lot. But God has done some good things that I get the credit for. And he and I work together better now because I don't get in the way so much."

I said that Jeanne and I first met Paul and Libbet when they were only a little older than we are now. This is a heartwarming fact. It means that most of what I learned from Paul I am just now getting a chance to put into practice. I hope I will do as well at it as he did, though I doubt I will. He was a wonderful teacher.

*John H. Garvey\*\*\**

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Over fifty years have passed since I first met Paul Oberst. I was a nineteen-year-old black male with the dream of becoming a lawyer. In response to demands from African-Americans for access to professional and graduate education, the state—rather than opening UK to all of its citizens—elected to upgrade Kentucky State College to University status. With unwarranted optimism I applied and was accepted to a law school that did not in fact exist. Over the summer of 1948, steps were taken to offer law courses at Kentucky State College at Frankfort. Professor Oberst was one of four University of Kentucky law professors who agreed to travel to Kentucky State College twice weekly to teach the school's first student. In retrospect, I wonder what Professor Oberst thought of me. Was

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\*\*\* John H. Garvey, Dean and Professor of Law, Boston College Law School.

I sufficiently naive to believe that I could be educated in the law without benefit of a law library and the stimulation of other students? He was friendly and open. I recall conversations around hopes and dreams. I told him that my interest in law grew from awareness of the role Thurgood Marshall, James Carter, and other NAACP lawyers were playing in advocacy for civil rights for black Americans. It seemed to me that unequal protection under the law best explained disparity in access to the opportunity structure in Kentucky and the nation.

At nineteen, the world as I saw it was less complex. All four of my grandparents had been slaves in Kentucky. They gained their freedom in 1865. I assumed that I was entitled to all rights of citizenship that white people enjoyed. As gently as he could, Professor Oberst discussed patterns of culture that he saw as perhaps stronger than law and common sense. It took time and experience for me to understand the truth of his comments. I now think of the post-1865 period as one of transition from second-class citizenship toward full citizenship. As long as white men from any place on earth can step in front of any black citizen cuing up for jobs, housing, education, and political office with a high level of acceptance from white Americans, it is clear to me that race matters more than intellect, character, and patriotism. Applying to law school under the circumstances pertaining in 1948 was not well-reasoned. I was an inconvenience at best to many important people at the University of Kentucky, Kentucky State, and the NAACP. NAACP officials suspected me as a collaborator with state interests while the state assumed that I was being advised by the NAACP. Both were mistaken. I wanted to be a lawyer and lacked resources to study out of state. I believe Paul Oberst understood this motivation and was not surprised that a young black person should aspire to play a role in re-crafting those systems that so vitally impacted his life and the lives of other black Americans. In 1949, the Federal District Court declared Kentucky State Law School inadequate. In the fall of 1949, I entered the University of Kentucky College of Law and attended for one semester. During this time I studied at a separate table in the law library. University policy recommended that chairs on both sides of me in classrooms should remain empty. Professors Oberst and McEwing did not observe this protocol.

I returned to the University of Kentucky in 1994 as Law Day Keynote Speaker. Professor Oberst was pleased on learning that I was holder of the William Rand Kenan Professorship in Public Health at the University of North Carolina at Chapel Hill. I remembered his decency toward me and

his honesty during difficult times. I thanked him for his enduring commitment to human rights. I cherish his memory.

*John Hatch\*\*\*\**

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Paul Oberst first came to the College of Law at the University of Kentucky in 1936 as a first-year law student. Except for a seven-year period during which he completed an advanced law degree at the University of Michigan, practiced law, and served as a naval officer, he remained a distinguished and integral part of the College of Law until his death in 2002.

In the fall of 1936, when Paul arrived at the law school, the University was quite different from the University of today. Paul remembered that during his time as a law student, the University was so small and intimate that on Fridays the President's wife invited the entire student body to tea at Maxwell Place, their home.

Like so many of his generation, Paul did what was expected of him. He was graduated from college, received his legal education at the University of Kentucky and the University of Michigan, entered the practice of law, and then left practice to serve his country as a Naval officer during World War II. He returned from the War, married his sweetheart, put down roots, started a family, and began a new job. In Paul's case, this new job was as a law professor at the University of Kentucky.

He was hired in 1946 by Dean Alvin Evans to help teach the anticipated increase in law students that inevitably would follow the end of the War. Paul recalled that he had his Naval officer's uniform re-tailored for civilian use. Clothes, he said, were in short supply at the time.

During the next fifty-six years, Paul was a teacher, scholar, civil rights activist, trustee of the University, Acting Dean of the College of Law, and the list goes on. He taught generations of law students in various subjects but always is best remembered for his work in the area of constitutional law.

He was a moral compass and tireless worker for civil rights. He served for twenty-two years as a member of the Kentucky Human Rights Commission and as Chairman of the organization for seven years. He was Chairman of the Kentucky Advisory Committee to the United States

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\*\*\*\* John Hatch, Kenan Professor Emeritus, University of North Carolina, School of Public Health, Chapel Hill, N.C.



Commission on Civil Rights. He helped draft Kentucky's 1966 Civil Rights Law and is praised for his role in the passage of that legislation.

But as was so often the case with Paul, he seemed to be most pleased by contributions that never made the papers, contributions that were on a more individual level.

One of his favorite stories involved the integration of the law school. Paul thought it was one of the great moments for the law school and showed what decent people working together for a decent purpose can accomplish.

In 1948, John Hatch was denied admission to the law school because of his race. Initially, the law faculty responded by taking the law school to him and teaching him, one on one, in Frankfort. Later, Mr. Hatch was admitted to our law school but, apparently, was given strict instructions about how he should act. He should assume a modest and unintrusive demeanor. He should keep to himself and not try to mix with the white students.

As Paul told the story, the first day Mr. Hatch attended Paul's class in old Lafferty Hall, Mr. Hatch took a seat in a back corner of the large lecture hall. The rest of the students had claimed the middle of the room in the front rows and had missed entirely the fact that Mr. Hatch had joined the class. During the course of the hour, however, the students discovered that Mr. Hatch was in the class with them, and they also apparently understood the rules that had dictated his seat alone in the back corner of the room. The next day when Paul came into his classroom, he found that all of the white law students had joined Mr. Hatch in the back corner of the room, leaving the center of the room entirely vacant. One can only imagine the pride Paul must have felt when he ordered everyone, including Mr. Hatch, down into the center of the room and then continued with his class.

Paul's most enduring and endearing qualities were the simplicity, decency, and elegance of his beliefs. He believed in integration and that no one should have to ride in the back of the bus. He believed that in the best of worlds, rules should be color-blind. He believed in equal access and equal opportunity. He believed in sharing and helping the less fortunate in our society and that the government should strive to protect the weak and underprivileged. He believed that all of us working together and through our religious, private, and governmental organizations could make this a better world.

*Rutheford B Campbell, Jr. \*\*\*\*\**

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\*\*\*\*\* Rutheford B Campbell, Jr., Law Alumni Professor of Law, University of Kentucky.

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I was both a student and colleague of Paul Oberst's. My student days were spent in close association with professors and fellow students in Lafferty Hall, a nondescript building distinguished only by its location—strategically situated for coeds walking between classes to enjoy (or not) the remarks of law students gathered on the front porch. Lafferty's first floor consisted of an entrance hall, the library, a classroom, and faculty offices; the first floor was connected by a stairway to the basement, which housed law journal offices, a locker room of sorts, a seminar room, and the courtroom. There were about forty graduates in my class, taught by ten professors in a curriculum with very few electives. In this tight environment, we knew each other well.

Paul Oberst taught Torts and Constitutional Law to everyone, and I elected his Constitutional Law seminar in my third year. In the seminar, we read the briefs of pending Supreme Court cases and wrote opinions as if we were the justices deciding the cases. Heady stuff for law students.

I knew of Paul's passion for civil rights and, under his direction, I wrote a law journal comment on a case that applied *Brown v. Board of Education* to public transportation. He must have seen something in my work that caused him to think I would be a good teacher because he urged the UK College of Law to hire me, first as an adjunct teaching Legal Method, and later as a tenure track member of the faculty. To a large extent, I owe my career to Paul.

I joined the law faculty as an assistant professor in 1969, a year of turmoil on the campus and within the law school. Paul, along with Burt Ham and Fred Whiteside, formed a core of decency in that period of divisiveness. I never heard Paul say a mean word about anyone, and I never heard anyone say a mean word about him. He treated faculty and students with kindness and respect and gave of himself whenever asked. He had a strong moral compass, acted on his convictions, and led by example.

When he retired, he stayed on at the law school as, he put it, "Associate dean of the coffee." He presided over the faculty lounge with a cheerful greeting and often with a story from the long history of the law school—perhaps a story about dean Alvin Evans or dean Elvis Stahr, perhaps a story about the post-war years in which he taught most of the curriculum to the returning veterans. He was a fixture in the faculty lounge and we miss him.

He didn't forget his students when they graduated. He came to the reunions of the class of 1964 well into his retirement, knew our names, and seemed interested in our careers and families. We respected and loved Paul

Oberst, the teacher and the man, and we are better people for having known him.

*William H. Fortune\*\*\*\*\**

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August 22, 1923, began as an idyllic summer day—the sky was clear, the air was cool. Nevertheless, Paul, age 9, was told to stick close to home; there was trouble brewing in town. The previous evening the town council had denied the Ku Klux Klan use of the courthouse lawn for a planned rally. Sitting on the Oberst front porch, Paul eventually got a glimpse of the cause of the day's excitement. Rev. E.H. Lougher, of Lexington, the Klan organizer, marched through the streets of Owensboro carrying a megaphone and announcing that the rally had been relocated to the farm of R.E. Massie. (An event attended that evening by an estimated 4000 people.) Lougher was accompanied by cohorts in monk-like white robes who carried signs crudely announcing the Klan's thesis: America would best be rid of African-Americans, Jews, and Roman Catholics. Some forty-five years later, driving with friends to a board meeting of the Kentucky Civil Liberties Union, where the organization's role in school desegregation efforts would be discussed, Paul recounted the events of that August day, explaining in his wry manner that reading the Klansmen's signs taught him who were his friends.

Tutored by the Klan's vile message, Paul's efforts to combat bigotry and intolerance became a lifelong mission carried out both as a well-published scholar of constitutional law and as an organizer and leader of numerous organizations. Within the University of Kentucky, and then beyond, he championed academic freedom, student and faculty diversity, and broad faculty participation in academic governance. Toward those goals, he helped organize and lead a campus chapter of the American Association of University Professors. Based on its successes, he encouraged and guided formation of similar chapters in colleges and universities throughout the Commonwealth, helped create a state conference of those chapters, and served on the AAUP's national governing board and its Academic Freedom Committee. He was similarly active in organizing and guiding the Central Kentucky branch and statewide chapter of the American Civil Liberties Union, the Bluegrass chapter of what was then the National Conference of Christians and Jews, served on the executive

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\*\*\*\*\* William H. Fortune, Robert G. Lawson Professor of Law, University of Kentucky.

committee of the Association of American Law Schools, and, of course, played a key role in launching both the local and state Human Rights Commissions. Those who observed Paul's generous dedication of time, effort, and resources to these activities realized that in no small measure they reflected not only his upbringing and ideology, but also Libbet Oberst's compassion, determination, and intellectual support for these causes.

Paul Oberst's leadership manner was one of counsel, encouragement, and enthusiastic, but cautious, exploration of goals and methods. It was the same style he brought to law teaching. Most who sat in his classes recognized that he was a fine teacher of law. More importantly, many students, including all of the brightest, and the privileged colleagues who team-taught with him the Current Supreme Court Litigation Seminar, realized that Prof. Oberst was the Master teacher of legal analysis. He tested reasoning with probing questions, offered scholarly perspective, occasionally debated, but always encouraged digging deeper, wider, and more critically, in hopes of finding even better answers.

Paul Oberst lived through times of considerable turmoil and great change. He did not stand aside. He was an active participant whose thoughtful, concerned approach offered wisdom and hope in the quest for justice, liberty, and decency.

*Alvin L. Goldman*\*\*\*\*\*

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\*\*\*\*\* Alvin L. Goldman, William T. Lafferty Professor of Law, University of Kentucky. Professor Goldman studied Constitutional Law under Paul Oberst at New York University School of Law in the Spring of 1960.