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## JAMES W. PAYNE, JR.

*William D. Dixon\**

For those of us who knew him well, the utterance of any sort of tribute to Jim Payne, either oral or written, is a painful experience this soon after his death. There has simply not been enough time to heal the sense of loss or to fill the void which the departure of such a man inevitably leaves in the lives of those at all close to him in life.

The approach necessarily has to be a personal one—again those of us who knew him well will find it impossible to approach his demise in any other vein. I did not know Jim as a student, though it was as a teacher that he was chiefly known. Others can speak of him in that role. I did not know him as a colleague on the faculty of the law school. There were those who did and who can speak of him in that regard.

I come to the task from a somewhat unique point of view, for my initial contact dates back to 1946 when we became fellow students in the law school in a class of two. This was during a time when semesters were divided into two sessions to accommodate returning veterans of World War II, and Jim and I were the sole entrants in the spring of that year. Aside from always having to be prepared in a class of that size, this odd situation led to one of my most often repeated boasts—that I finished second in my class in law school! No one who knew him should be surprised at all as to how easy it was to finish second to Jim Payne in a class of two.

This story is retold for a purpose. The closeness and intimacy which this situation created gave rise to a rare and priceless opportunity to work and study together on a daily basis for two years, which, in turn, gave me a rare and priceless opportunity to observe at close range the inner workings of that rarity of rarities—a truly first rate mind. If we remember nothing else about this man, we must recall that intellect which shone so brightly for far fewer years than it should have endured.

This period in time also made me acutely aware that I was studying in the presence of a born teacher, one to whom the art came as naturally as most of us acquire the knack of putting on our clothes or performing some other menial chore. This man had a natural gift for imparting

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knowledge to others and a rare joy in so doing. In truth, it was his very reason for being, a driving motivation which is difficult to imagine being satisfied by any other calling. Again, if the reader will pardon still another personal note, I was perhaps the earliest beneficiary of this gift, for it was against this early skill as a teacher that I was able to test my knowledge of each course we took together and often to learn more than I learned in the class itself.

With some awareness of this fact, he was sometimes tempted to say in jest, and with a familiar twinkle in his eye, that all that I was and all that I ever hoped to be I owed to him. Allowing for some inevitable exaggeration, I suspect there was more truth in this humorous remark than either of us would ever know. I further suspect that the truth of it applies to many others than myself, and that there are a number of us, both his friends and his students, who must admit that much of what we now are and much of what we yet hope to be we owe to him.

I feel it when I find myself still attacking legal problems and attempting their solution with techniques learned from him. I acknowledge the debt, publicly now as I never did when he was still alive, when finding that my own respect and love for the law itself, and that mysterious process sometimes known as legal logic and legal thinking, was learned from him. If this much was acquired from him as an equal, then I suspect the numbers of those must indeed be legion who learned the same things from him as students. In that sense, we all march to a degree to the beat of his legal drum, and the shame of it is that more will not learn how to do the same.

I suppose that most of us who write and speak about Jim now will concentrate on the lawyer and the teacher. That is just as well, perhaps, for as great as the loss was there, it is not so great to those of us who knew him well as the loss of the man himself. Here, indeed, was one of life's genuine people of whom there are entirely too few. If any reader could have shared his love for the mountains, as I was privileged to do so many times over the years since our student days, one could have felt first hand his love and concern for nature and his environment. Further, in the still of a cold winter night, with only the lights in the valley below to disturb the darkness, one could have felt and heard expressed his concern for other men. It was a passion which ran deep within him and was perhaps of so much concern to him that it was a fatal drain upon his own life sustaining energy.

I think we shall never meet a man who cared more deeply for other men. Perhaps he cared too deeply for his own good—who can tell? But if he cared too much, then I think he must leave us who have survived with the uneasy question of whether we care enough. I think we all drew something from that rare and talented man until finally he had nothing left to give. Yet I knew him well enough to know he would not have had it any other way. That was the mark of the man.

