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PROFESSOR ROBERT E. SHEPHERD, JR.:
TENDING TO HIS FLOCK TO IMPROVE ITS LOT

*John P. Cunningham **

*How sweet is the Shepherd's sweet lot!
From the morn to the evening he stays;
He shall follow his sheep all the day,
And his tongue shall be filled with praise.*

*For he hears the lambs' innocent call,
And he hears the ewes' tender reply;
He is watching while they are in peace,
For they know when their Shepherd is nigh.¹*

By the time of this writing in the spring of 2009, much (but not enough) has been said about Professor Shepherd's astounding accomplishments in the field of juvenile advocacy and beyond. As an alumnus of the University of Richmond School of Law, I am awed by his impact, drawn to his resilient message of hope, and proud of the legacy that his tireless work has bestowed upon the school in perpetuity. Indeed, books will be written about Professor Shepherd some day, and at that time we will all have an opportunity to help shape his influence on the human condition.

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The author would like to express his gratitude to Matthew Farley, Mary Hallerman, Glenice Coombs, and the rest of the staff of the *University of Richmond Law Review* for providing him with the opportunity to pay tribute to one of his heroes, and for their support and patience during the writing of this piece.

1. WILLIAM BLAKE, *The Shepherd*, in SONGS OF INNOCENCE (New York, Dover Pubs. 1971) (1789), available at <http://www.rarebookroom.org/Control/blkin1/index.html>.

In the meantime, there was something more profound about Professor Shepherd's life and work that could, inadvertently, get lost in translation in the pages of the *Richmond Times-Dispatch* and the innumerable press releases published in the wake of his passing in December 2008—after a lengthy and courageous battle with cancer, during which he taught right up until the end. Indeed, there is a deep-rooted wisdom within the confines of William Blake's soothing penmanship in his appropriately titled poem, "The Shepherd," recited above. If released to the imagination, it captures, in an esoteric sense, Professor Shepherd's unique complexity, intellectual dynamism, and human compassion.

Depending on one's view of the propriety of poetic license, Blake, in "The Shepherd," can be perceived as writing allegorically of the progressive, yet compassionate, professorial ilk of which Professor Shepherd was a charter member. Picture Blake's reference to a "sweet lot" as representative of the underprivileged whom Shepherd served, and Blake's gentle phrase, "from morn to evening," as a nod to Shepherd's indefatigable spirit in laboring for decades to improve the lives of children. Envision Blake's "sheep" and the "innocent" as references to the juvenile legal community for which Shepherd toiled in and out of the courts, and Blake's "tongue . . . filled with praise" as an allusion to Shepherd's zealous advocacy and positive influence in Virginia (and beyond) on behalf of his many causes. Even if you adhere to the traditional religious interpretation of Blake's "The Shepherd," as many do, the English bard clearly had in mind an exceptional model of higher being, akin to the one we honor in this book.

For better or worse, fair or unfair, we are categorized by labels, which are often synopsisized into melodic bullet points for effortless digestion by friends, family, admirers, and devotees—both during and after life. Few can argue, however, with some of the core measurements of a so-called "successful" run on this planet, a list that would include, among other attributes, compassion, humanitarianism, wisdom, intelligence, patience, flexibility, and humility. As a general principle, most of us can lay claim to perhaps a few of these highly touted human qualities. Sincerely, Professor Shepherd embodied all of them. Moreover, he carried a wild card trait in his back pocket throughout his illustrious life, which served to unify his myriad talents and, through symbiosis, max-

imize his effect as a scholar, advocate, philanthropist, teacher, and Virginia gentleman: determination.

If you are reading this, you probably witnessed his inimitable determination in one form or another. Perhaps you saw it in the confines of the academic and practical laboring he undertook on behalf of children; or his steady, assiduous improvement of the juvenile code; or his perseverance in upgrading the domestic courts system in Virginia, and in the greater United States. Maybe you glimpsed it in his refined, yet charming, proselytizing, which attracted supporters, in and out of academia, and above and beyond the legal profession, to his evocative message of legal protections for underprivileged youth. Fortunately, I witnessed all of these.

My stark recognition of Professor Shepherd's unique determination as an educator, academic, and humanitarian started in a classroom at the law school. Indeed, it was at the law school where Professor Shepherd morphed, perhaps unknowingly, into Blake's poetic "Shepherd." His determination energized his classrooms and students. He fostered learning in an eclectic fish bowl of terrified first-year apprentices. Ultimately, he ensured that a sizeable portion of the young men and women studying under his tutelage would one day take up the torch of justice armed with the same knowledge, energy, and determination he possessed.

Law school is not, by any stretch, a zero-sum game. One student's learning does not empty out the knowledge coffers at the expense of others. Quite the contrary, the more students you reach, and the more knowledge gained by the collective group, the better off everyone will be. Professors, students, and prospective clients all benefit. Likewise, the concept of diminishing returns is inapplicable. The quality of legal advice does not drop off by teaching too well or infusing too many students with a strong foundation of legal education. This is precisely why instructors like Professor Shepherd are invaluable. He sought to reach students on a grand scale and spread his wealth and teaching acumen beyond the classroom and into the community. He did this with tremendous success, the type of success and recognition that most lawyers only dream of.

A first-year law student's initial exposure to Professor Shepherd at the law school most likely occurred in Contracts class. With the exception of Civil Procedure, no subject is as intimidat-

ing to a “One-L” as Contracts. There are many methods of teaching the nuances and complexities of the course—not the least common of which is scaring the skin off the skeletons. But, in his Contracts classroom, Professor Shepherd opted for a road less travelled. He created a fertile learning environment by marrying the notions of structured inquisitiveness and receptive patience. My experience in speaking with fellow law school alumni demonstrates that the great majority of his students agree that it worked.

For instance, picture a Socratic dialogue in the framework of an informative and open-minded educational forum. Make no mistake—Professor Shepherd’s expectations were sky-high for the students in his Contracts class. Nonetheless, the dialectical undertones he cultivated in the classroom environment promoted learning and, more importantly, resolution. And few things are as important to a first-year law student as resolution. In wading through the precarious waters of the first year curriculum, most classroom issues are not resolved until days (or hours) before exams—if ever. Thus, when an instructor, such as Professor Shepherd, provides a forum for clarity and decisiveness in the months and weeks leading up to final exams, it takes little more than a pinch of school spirit, moderate initiative, and a touch of elbow grease to take advantage of the gift and turn it into outright success.

Moreover, learning in the style promoted by Professor Shepherd stimulated interest in the subject matter of his classes. Instead of being clobbered over the head with aphoristic haymakers and recondite legal or policy concepts, Professor Shepherd’s class was like an academic petri dish in which learning cells were cultured until the organisms emerged to a level of higher legal consciousness and clarity. It was a productive cycle of give-and-take, cat-and-mouse, but with overt encouragement to reach the goal line. And if you had the stamina, patience, and wherewithal to prosper in Professor Shepherd’s Contracts course, you were to be rewarded in his primary upper-level courses—Family Law, Sports Law, and Children and the Law—in which his learning methodology remained on display, but the classes were smaller, and the subject matters more practical, interesting, and often entertaining.

Having said this, moments of clarity are relative in the context of that first year of law school. Even the metaphorically brightest

intellectual day would appear to an objective meteorologist as a long patch of stratocumulus clouds with showers in the forecast. This is perhaps where Professor Shepherd was at his best—providing an opening in the cloud cover. (It is the reason I am sitting at my laptop now, so energetically compelled to share my perspective on his legacy with you.) Indeed, it was after class at the law school where my friendship with Professor Shepherd emerged and then flourished, ultimately creating a lifelong bond grounded in our mutual passion for the law and the law's power to turn the wheels of justice. (Sadly, we were also both long-suffering Baltimore Orioles fans.)

We, as Professor Shepherd's students, represented Blake's "lambs," and our quests for knowledge were Blake's "innocent calls." Rounding out the analogy, Professor Shepherd's answers were almost always "filled with praise." The first time I stopped by his office, I did not bother to check what his office hours were. A student in his first-year Contracts class, I was perplexed by an obscure exception to the mailbox rule and determined to get some closure before heading home for the afternoon. I initiated an inquisition with my posse of more cerebral classmates, including John Guarino, Kerry Wortzel, and the three Daves—Buckley, Kazzie, and Falcon—but they offered little more than insightful confusion. So I whisked off to visit the contracts sage himself in an office space that I envisioned would have the veneer of the Oracle of Delphi. Turning the corner from the hallway to his work space on the second floor of the law school, however, I noticed something quite different—a humble room with the door slightly ajar and an outdated desktop computer. Knocking gently, I peered in and found Professor Shepherd shoulder-deep in treatises and embroiled in what was evidently an intense writing exercise.

After about thirty seconds of pondering the logic of my off-time invasion, he turned, spotted me, and smiled broadly. As I initiated an apology for the intrusion, he stopped me in my vocal tracks, waved me in, cleaned off a seat, and assured me that there was "no such thing as an interruption." While I do not remember whether we actually resolved my mailbox rule quandary, I specifically recall asking about it, along with part of his response. With glowing enthusiasm, he admonished playfully that there were "no dumb questions" (music to a first-year law student's ears) and "no thoughts too small" (although I was not quite

sure how to take that remark). We proceeded to engage in an hour-long conversation about school, family, his work in the juvenile and domestic justice system, and our parallel passion for all things baseball.

I remember several nuggets from that first meeting in his office, and many others over the course of the multiple conversations that followed during my second and third years in law school and after graduation. These included consistent reminders from the shepherd to “open your mind to all possible answers” in dissecting legal issues, to “form your own conclusions” because there is often more than one “right” answer to any legal predicament, and to “listen to every word in class,” a rarely utilized but obvious method for dramatically increasing your odds of acing exams. He was right on all fronts. But that will not surprise anyone reading this.

Professor Shepherd was indisputably a beacon of higher learning and an archetype of the multitalented, renaissance teacher who, rather than wasting away in an ivory tower, converted his knowledge into intellectual wealth, and his intellectual wealth into human progress. At graduation, he enthusiastically greeted my family, and posed patiently and happily for pictures. On holidays, my sisters still mention him as one of the nicest men they ever met. How is that for a legacy? To add fodder to my theme that Professor Shepherd could not, in fact, have had a more appropriate surname, after my graduation, he took pains to write recommendations on my behalf for clerkships and other jobs, and I partially owe my multifaceted career as a law clerk, prosecutor, and private sector attorney to his generosity of time, effort, and guidance.

As the years passed after law school, our most memorable conversations involved baseball or the Washington Redskins. He knew all the old Orioles, and could roll the starting lineups for the franchise’s three World Series championships (1966, 1970, and 1983) off his tongue with the likes of Tom Marr and John Miller. After several years of talking about sojourning to Camden Yards together for a summer game, we finally made it happen in 2004. The Orioles beat the Red Sox that August afternoon, 5-3. The shepherd was glowing all day in the bleachers, and not just because our Birds beat the Red Sox. That game meant a lot, more than he would let on. I would soon find out just how much.

About two years ago, I was invited to participate in the *Law Review's* Allen Chair Symposium, entitled "The Role of the Death Penalty in American Criminal Justice: Reflections, Perceptions, and Reform." This was an absolute thrill for me—I was beyond flattered to contribute to two institutions I hold in such high regard (the law school and the *Law Review*). Not to mention, I wrote and spoke on a subject I am passionate about, and in the law school's sublime Moot Court Room, which invariably gives me goose bumps as I enter its hallowed halls. During my talk, I looked around the audience for Professor Shepherd, but he was not there.

With mild disappointment, but recognizing that the good professor was likely tied up on a busy weeknight, I subtly asked around during the reception about his whereabouts. Nobody seemed to know. Later, as I was engaged in conversation with a student attending the Symposium, this giant of a man grabbed me around the neck, gave me a bear hug, and apologized for his tardiness. "I absolutely cannot believe I'm late, John," he lamented. "I had an afternoon meeting and came over as quickly as I could—just to hear you speak." We laughed, broke bread, and caught up on life, work, and, of course, all things Orioles. As I turned to leave the atrium to head back to my world, for which he was partially responsible, he shouted, "Hey, John, let's catch a home stand in July. Yankees. Yankees okay? Shoot me an e-mail. And send me your article, I want to see exactly what bill of goods you sold your sheep in there."
