

# THE COLLEAGUE AT WAKE FOREST UNIVERSITY

George K. Walker\*

Howard Oleck joined the Wake Forest law faculty in the fall of 1974. He resigned to join the Stetson law faculty in 1978. In that short time at this law school he made important contributions in the lives of colleagues, students, and the university.

He came to us with distinguished academic, administrative, and public service credentials. He had researched extensively and had taught corporations, nonprofit organizations, damages, and torts. Howard's particular recent interest had been nonprofit organizations.<sup>1</sup> He had been a dean from 1967–68, after having served as

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1. *See generally, e.g.*, HOWARD L. OLECK, NON-PROFIT CORPORATIONS, ORGANIZATIONS AND ASSOCIATIONS (1974); HOWARD L. OLECK, PRIMER ON LEGAL WRITING (1972); HOWARD L. OLECK, LAW FOR EVERYONE: ANSWERS TO EVERYDAY QUESTIONS AND PROBLEMS OF LAW FOR THE LAYMAN (1971); HOWARD L. OLECK, LAW FOR LIVING (1967); HOWARD L. OLECK, ANNOTATED CONNECTICUT INSURANCE STATUTES (1962); HOWARD L. OLECK, CASES ON DAMAGES (1962); HOWARD L. OLECK, CREDITORS' RIGHTS AND REMEDIES (1962); HOWARD L. OLECK, ENCYCLOPEDIA OF NEGLIGENCE (1962); HOWARD L. OLECK, DAMAGES TO PERSONS AND PROPERTY (rev. ed. 1961); HOWARD L. OLECK, MODERN CORPORATION LAW (student ed. 1960); HOWARD L. OLECK, DEBTOR-CREDITOR LAW (rev. ed. 1959); HOWARD L. OLECK, MODERN CORPORATION LAW (1958); HOWARD L. OLECK, NEGLIGENCE FORMS OF PLEADING (rev. ed. 1957); HOWARD L. OLECK, NEW YORK CORPORATIONS (1957); HOWARD L. OLECK, NEGLIGENCE INVESTIGATION MANUAL (1953); HOWARD L. OLECK, INSURANCE INSTEAD OF LIMITED LIABILITY CONTRACTS FOR BAILEES AND CARRIERS (1952); HOWARD L. OLECK, CREDITORS' RIGHTS (1948); Howard L. Oleck, *Nonprofit Unincorporated Associations*, 21 CLEV. ST. L. REV. 44 (1972); Howard L. Oleck, *Nature of American Non-Profit Organizations*, 17 N.Y. L.F. 1066 (1971); Howard L. Oleck et al., *Problems in Legal Education 1971*, 20 CLEV. ST. L. REV. 441 (1971); Howard L. Oleck, *Proprietary Mentality and the New Non-Profit Corporation Laws*, 20 CLEV. ST. L. REV. 145 (1971); Howard L. Oleck, *Non-Profit Types, Uses, and Abuses: 1970*, 19 CLEV. ST. L. REV. 207 (1970); Howard L. Oleck, *The Pompous Professions*, 18 CLEV.-MARSHALL L. REV. 276 (1969); Howard L. Oleck, *Horseplay by Employees*, 17 CLEV.-MARSHALL L. REV. 438

associate dean for a decade, and was a Distinguished Professor of Law, 1968–74, at Cleveland State University School of Law.<sup>2</sup> He had practiced law in New York City. He had served with distinction in World War II. Baldwin-Wallace College and John Marshall University had awarded him honorary degrees.

Howard had been attracted by the “balance” of the law school; i.e., its prestige that stressed scholarship but also emphasized “reasonableness.”<sup>3</sup> At a 1974 alumni meeting, he said: “Professionalism must deal with humanity . . . I think Wake Forest has retained the humanity along with the professionalism.”<sup>4</sup> (The University's motto is “Pro Humanitate,” published on its seal and embedded in front of the Worrell Professional Center that houses the law school.) In 1975

(1968); Howard L. Oleck et al., *1967–1968 Problems in Legal Education*, 17 CLEV.-MARSHALL L. REV. 189 (1968); Howard L. Oleck et al., *1966–1967 Issues in Legal Education*, 16 CLEV.-MARSHALL L. REV. 1 (1967); Howard L. Oleck, *Research and Writing for the Professional Market: The Financial Aspects*, 19 J. LEGAL EDUC. 325 (1967); Howard L. Oleck, *Non-Profit Organizations as a Law School Course*, 17 J. LEGAL EDUC. 457 (1965); Howard L. Oleck, *Proxy Voting Power in Non-Profit Organizations*, 14 CLEV.-MARSHALL L. REV. 273 (1965); Howard L. Oleck, *Non-Profit Associations as Legal Entities*, 13 CLEV.-MARSHALL L. REV. 350 (1964); Howard L. Oleck, *Facts and Fictions About Evening Law Schools*, 12 CLEV.-MARSHALL L. REV. 1 (1963); Howard L. Oleck, *What to Do About Delay in Court*, 4 LAW OFF. ECON. & MGMT. 45 (1963); Howard L. Oleck, *New Medicolegal Standards of Skill and Care*, 11 CLEV.-MARSHALL L. REV. 443 (1962); Howard L. Oleck, *Foundations Used as Business Devices*, 9 CLEV.-MARSHALL L. REV. 339 (1960); Howard L. Oleck, *Thirteen Years of the Adversary Method*, 13 J. LEGAL EDUC. 83 (1960) [hereinafter *Thirteen Years*]; Howard L. Oleck, *Doctor, Lawyer, and Hospital Administrator: A New Triangle*, 8 CLEV.-MARSHALL L. REV. 416 (1959); Howard L. Oleck, *A Cure for Doctor-Lawyer Frictions*, 1958 TRIAL & TORT TRENDS 383; Howard L. Oleck & Elmer I. Schwartz, *Occupational Dermatitis in Railroad Cases*, 7 CLEV.-MARSHALL L. REV. 218 (1958); Howard L. Oleck, *Reforms Needed in Negligence Practice*, 6 CLEV.-MARSHALL L. REV. 388 (1957); Howard L. Oleck, *What's Wrong with Negligence Practice?* 1957 TRIAL & TORT TRENDS 137; Howard L. Oleck, *Nuisance in a Nutshell*, 5 CLEV.-MARSHALL L. REV. 148 (1956); Howard L. Oleck, *Bank Account Trusts – Should They Be Presumed To Be Fraudulent?* 91 Tr. & Est. 39 (1952); Howard L. Oleck, *Maxims of Equity Reappraised*, 6 RUTGERS L. REV. 528 (1952); Howard L. Oleck, *Specific Performance of Builders' Contracts*, 21 FORDHAM L. REV. 156 (1952); Howard L. Oleck, *The Adversary Method of Law Teaching*, 5 J. LEGAL EDUC. 104 (1952) [hereinafter *Adversary Method*]; Howard L. Oleck, *Historical Nature of Equity Jurisprudence*, 20 FORDHAM L. REV. 23 (1951); Howard L. Oleck, *Specific Performance of Contracts Through Arbitration*, 6 ARB. J. 163 (1951).

2. He was a member of the American Law Institute and had been president, in 1963–64, of the Ohio League of Law Schools, a regional organization analogous to the Southeastern Association of Law Schools, of which Stetson and Wake Forest Universities are members.

3. James K. Roberson, *Professor Howard L. Oleck*, 5 WAKE FOREST JURIST 6 (1974).

4. *1974 Law Alumni Homecoming*, 5 WAKE FOREST JURIST 12, 13 (1974).

he wrote, “[Wake Forest] is a great university — better than many of its own people seem to realize. I am very glad to be here. I wish that I had come to work and to live here years ago.”<sup>5</sup>

Higher education was in transition during the Seventies. The civil rights movement continued, the Vietnam War was winding down, and Watergate revelations were eroding the Nixon presidency and confidence in government and institutions. On some campuses there was outright violence; e.g., the Kent State University shootings.<sup>6</sup> There was no violence at Wake Forest,<sup>7</sup> although I was told ROTC staff were threatened when they made casualty calls.<sup>8</sup> Neighborhood children taunted me when I returned from Naval Reserve meetings. Our house and cars were vandalized.

Legal education was in transition, too. Women and minorities were coming to law schools in larger numbers than ever before; within a few years the percentage of women at Wake Forest Law School climbed from ten to thirty-three percent, reflecting national trends.<sup>9</sup> Vietnam veterans returned under the G.I. Bill, adding an older group to the student body. Some, influenced by one of the more unpopular wars in U.S. history, joined peers in the general campus unrest.<sup>10</sup> Most, however, came to Wake Forest to study law and to

5. Howard L. Oleck, *Professor Delivers His Verdict*, WAKE FOREST MAG. 10, 11 (Jan. 1975) [hereinafter *Professor Delivers*].

6. See generally JAMES A. MICHENER, KENT STATE: WHAT HAPPENED AND WHY (1971).

7. Led by a campus chaplain, some students placed 1100 crosses, one for each North Carolinian dead in Southeast Asia, in a “Flanders Field” near campus. Other students tried to pull them up, and a watch system was established for the week they were there. Some students sent the local paper's editorials, advocating withdrawal from the war, to other papers and relatives. There were panel discussions on the war and a memorial service for alumni who had died. Conversation with Rev. Edgar D. Christman, Wake Forest University Chaplain (Sept. 2, 1997); see also John McCrae, *In Flanders Fields*, in THE PENGUIN BOOK OF FIRST WORLD WAR POETRY 81 (Jan Silken ed., 1979).

8. At Wake Forest, as on other campuses, there were sit-ins and protests, but no buildings were burned, which was the experience elsewhere. See generally STANLEY KARNOW, VIETNAM: A HISTORY 611–12 (1983); SUZANNE RAU WOLFE, THE UNIVERSITY OF ALABAMA: A PICTORIAL HISTORY 225 (1983). This behavior was not confined to college campuses; e.g., arson destroyed part of The Breakers Stables and its unique carriage and sleigh collection in Newport, R.I., after a dance sponsored by a military organization there.

9. See ROBERT BOCKING STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S, 245–46 (1983).

10. Cf. *id.* at 235. A college president once recounted to me experiences in dealing with unrest, adding that, as alumni, some members of classes during the times of protests were still militant in relations with the university years later. Today's abolitionist

put the war behind them.<sup>11</sup> The principal unrest in the law school came from within, over a controversial labor law institute<sup>12</sup> and growing pains of adding new courses, new programs (e.g., clinics), new faculty with different and differing personalities, and adjustment to and absorption within the institution.<sup>13</sup>

The number and size of law schools, as well as the size of the student bodies, were expanding;<sup>14</sup> even the names changed to "law centers."<sup>15</sup> Faculties were growing in size because of larger entering classes and accrediting agency pressure to reduce student-faculty ratios. In the early Seventies, ratios of 35 to 1 were not unheard of, and classes of 300 and up were not unusual, although the biggest classes at Wake Forest had 180 registrants.<sup>16</sup> Clinic courses began to appear, and curricula included courses not widely taught in law schools before then. Law libraries, once compact<sup>17</sup> and consisting mostly of reporters, statutes, treatises, and journals, began an exponential explosion. Computers were only a blue glow on the horizon.

Wake Forest Law School was then in Carswell Hall, built for 200 but teaching over twice as many students, with a faculty of about a dozen and a relatively small library.<sup>18</sup> In 1975, Howard

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may become tomorrow's reconstructionist.

11. There were student protests to deal with, nonetheless. *Cf.* George K. Walker, *Developing Appellate Advocacy Programs at Wake Forest University's School of Law*, 29 *J. LEGAL EDUC.* 78, 83 n.32 (1977) (describing the end of student protests over Wake Forest's legal bibliography program). Student protests are nothing new on U.S. college campuses. *See, e.g.,* WOLFE, *supra* note 8, at 106–09 (showing student revolt over military discipline in 1900).

12. *See* J. EDWIN HENDRICKS, *WAKE FOREST UNIVERSITY SCHOOL OF LAW: ONE HUNDRED YEARS OF LEGAL EDUCATION 1894–1994*, at 96–97 (1994). Faculty turmoil is not a new phenomenon either. *See, e.g.,* WOLFE, *supra* note 8, at 129, 204, 207, 223, 240 (recounting faculty discontent over academic standards, salaries, and administration policies).

13. *Cf.* STEVENS, *supra* note 9, at 211, 213, 216, 277–78.

14. *See id.* at 236.

15. Today, the School of Law shares the Worrell Professional Center with the Babcock Graduate School of Management in a condominium unique to legal education. *See generally* HENDRICKS, *supra* note 12, at 117, 119–21.

16. Two decades earlier the American Bar Association requirement had been 75:1, although good law schools cut it to 25:1 or less. In the Twenties, some schools had ratios as high as 283:1. *See* STEVENS, *supra* note 9, at 181–82 n.13, 207, 282 n.29.

17. *Cf. id.* at 218 n.22.

18. Reflecting national trends, the student body had grown from 235 in 1970–71 to 478 in 1977. A planned reduction, the "440 Plan," shrank the student body to about 440 students, where it remains today. *See* HENDRICKS, *supra* note 12, at 87, 107–10. Today the faculty has 29 tenure-track positions. *See id.* at 124. The law library grew from

thought the Hall was functional, served well, and was adequate for the time being, but that it needed “more space, more library, more study rooms, and more faculty offices.”<sup>19</sup> Many faculty, like those of other schools then, had received at least part of their education at Wake Forest.<sup>20</sup> And also like many law schools then, the emphasis was on state law. Electives were few. There was a special program, primarily for veterans or those with families who had to return to income-producing occupations as soon as possible, to complete school in five semesters. Tuition was low, the library budget was low, salaries were modest, and there were three secretaries<sup>21</sup> to share for typing what research could be accomplished between teaching and grading. The student-organized law review had operated for a few years,<sup>22</sup> the appellate moot court program had just begun,<sup>23</sup> and the first clinic courses were being offered.<sup>24</sup>

As a junior faculty member, I interviewed Howard and voted to invite him to join us as a professor of law. I remember little of interviews and faculty discussion, except to recall being impressed with him as a potential colleague.

Howard's office was a door down the hall from mine. Carroll W. Weathers, dean emeritus and later professor emeritus, and I were also office neighbors. During afternoons after classes, Dean Weath-

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40,000 to 75,000 volumes during the Seventies. Today over 250,000 volumes are in the library. *See id.* at 98, 119.

19. *Professor Delivers*, *supra* note 5, at 11. Carswell Hall was expanded twice in the Seventies. The law school moved to the Worrell Professional Center in 1992–93. *See generally* HENDRICKS, *supra* note 12, at 7–8, 85–87, 95.

20. This is not true today. *See generally* HENDRICKS, *supra* note 12, at 51, 59, 93–94, 98, 137–41. A faculty of mostly their own graduates was the case for many law schools at mid-century.

21. *But see* Bob Manuel, *Administrative Staff*, 5 WAKE FOREST JURIST 8 (1975) (reporting that secretarial support, some shared with administrators, had increased to seven by 1975).

22. *See* Board of Editors, *Introduction*, 1 WAKE FOREST INTRAMURAL L. REV. iii (1965). Until 1970 it was an intramural journal; the first four volumes were typewritten instead of being typeset. *See* HENDRICKS, *supra* note 12, at 74; Carroll W. Weathers, *Dedication: James Fulton Hogue*, 7 WAKE FOREST L. REV. vii (1970). New journals often begin that way. *Cf.* 1-6 YALE STUD. WORLD PUB. ORD. (1975–81).

23. *See generally* HENDRICKS, *supra* note 12, at 95; George K. Walker, *Crisis in the Courts: A Response of Legal Education to the Charges of Incompetence in the Defense of Criminal Cases*, 24 N.C. B. 13, 17–18 (1977); Walker, *supra* note 11, at 83 n.32.

24. *See generally* HENDRICKS, *supra* note 12, at 95; Walker, *supra* note 23, at 18–21; Walker, *supra* note 11, at 92–93; George K. Walker, *Wake Forest's Student Appellate Advocacy Program*, 87 F.R.D. 233 (1981).

ers and I visited; he and Professors James E. Sizemore, Hugh W. Divine, and Leon H. Corbett were my first mentors. Howard soon joined that group of senior colleagues upon whose good judgment I could rely.<sup>25</sup>

In his years of public service, practice, teaching, scholarship, and deaning, Howard had seen it all and had done it all. "Been there, done that," we would say today.<sup>26</sup> Or, as George Santayana said, "Those who cannot remember the past are condemned to repeat it";<sup>27</sup> that is true for the history of academic institutions as well. Once after chatting about a particularly egregious, unprofessional episode in the life of a law school, I asked him how often law schools went through something like that. "As soon as they forget how bad it was the last time," he responded.

The stories he told of students, colleagues, and administrative problems informed and reinforced my judgment on issues as they came. All too often matters were trivial in the larger perspective of the law and legal education. His remarks about the ephemeral nature of these traumas of the moment fit an aphorism attributed to Henry Kissinger: The reason academic politics are so vicious is because the stakes are so small.

We talked about teaching. He employed a variant of the Socratic method, assigning students opposing sides of issues for mini-moot courts,<sup>28</sup> a practice I occasionally use today. A former student described the process:

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25. I was fortunate in having colleagues at other universities to help me weather the storms, too. Most importantly, my father, who taught biology and chaired the department and the premedical-pre dental committee at the University of Alabama for nearly a quarter of a century; and my uncle, then-Mercer University president and a former law dean and president of the Association of American Law Schools, also gave me sound advice. I recall well my father's advice, "Keep your head down and your mouth shut," when I told him of one tempest; he reminded me of a similar situation at Alabama, saying the individual would not last six months. He was wrong by 30 days; it took seven months instead of six.

26. Letter from J. Randolph Ward, a former student, to Author (Aug. 29, 1997) (on file with Author).

27. 1 GEORGE SANTAYANA, *THE LIFE OF REASON: OR, REASON IN COMMON SENSE* 284 (1905-06).

28. See Howard L. Oleck, *The Adversary Method of Law Teaching, Summarized*, 27 J. LEGAL EDUC. 86 (1976). He had employed this method for many years. See also STEVENS, *supra* note 9, at 213-14; *Adversary Method*, *supra* note 1, at 104; *Thirteen Years*, *supra* note 1, at 83.

He brought to the classroom a practical side of law which previewed what many of us would experience in practice. He taught in an adversarial style, always relying on students to advocate the conflicting positions on any issue. . . . [W]e learned, early on, to be advocates for our “clients,” seeking to establish or maintain our position under the law. . . . [T]his process helped to prepare us to represent real clients and to be better lawyers.<sup>29</sup>

If classroom debate cooled, he threw in provocative questions. “I can see him at the front of the class now,” one former student recalled, “trying unsuccessfully to mask a smile when the debate recharged. . . . [C]lass with Professor Oleck was never dull.”<sup>30</sup> He was regarded highly.<sup>31</sup> Students liked him. He was popular with many.<sup>32</sup> “He was a wonderful teacher,” a “law teacher's teacher.”<sup>33</sup> He truly loved the classroom experience and was genuinely enthusiastic about sharing wisdom he had acquired through years of teaching.<sup>34</sup> As in the case of teaching students, some of whom were willing and some who were unwilling,<sup>35</sup> his direct and occasionally strong convictions<sup>36</sup> were not pleasing to some, but you knew where you stood with Howard. “He used direct, even provocative verbiage to punch through the ennui of students steeped in classrooms for sixteen years [before coming to law school], and engaged [them] with the real world passions of litigants.”<sup>37</sup>

At Wake Forest, Howard taught business organizations or corporations, damages, a nonprofit organizations seminar, and torts. Besides making dry subjects interesting, he went beyond the basic subject matter. For example, “[h]e stressed the role that corporations play in our society. He felt very strongly about the concept of

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29. Letter from Robert M. Elliott, a former student, to Author (Sept. 2, 1997) (on file with Author).

30. Letter from Prof. Suzanne Reynolds, a former student now on the Wake Forest law faculty, to Author (Sept. 3, 1997) (on file with Author).

31. See Elliott, *supra* note 29.

32. See Letter from Emeritus Prof. James E. Sizemore to Author (July 3, 1997) (on file with Author).

33. See Letter from Prof. David F. Shores to Author (July 28, 1997) (on file with Author).

34. See *id.*; Reynolds, *supra* note 30; Sizemore, *supra* note 32.

35. Cf. Reynolds, *supra* note 30.

36. See Letter from Stephen P. Karr, a former student, to Author (Aug. 26, 1997) (on file with Author).

37. Ward, *supra* note 26.

corporate citizenship and often discussed the impact corporations have had on our democratic political process."<sup>38</sup>

To my colleague, David Shores, his first and most lasting impression of Howard was that he was

an "idea man." He simply did not know the word "complacency," and if I were to describe Howard in a word or two, it would be "intellectually energetic." I was always amazed at his ability to generate new ideas. Some were accepted by his colleagues and some were not. But that never seemed to matter greatly [to him]. One of Howard's many fine attributes was the ability to disagree without being disagreeable.<sup>39</sup>

He was truly a "Renaissance man."<sup>40</sup> I recall his forward thinking on many issues inside and outside legal education; perhaps his active Unitarian faith promoted this.

He was a prolific author, not only writing conventional legal articles and treatises,<sup>41</sup> but also a newspaper column,<sup>42</sup> poetry,<sup>43</sup> and fiction.<sup>44</sup> Writing was relaxation for him.<sup>45</sup> While at Wake Forest he worked on the next edition of his treatise<sup>46</sup> and published two articles,<sup>47</sup> a short piece on legal education,<sup>48</sup> an essay on legal writing,<sup>49</sup>

38. Karr, *supra* note 36.

39. Shores, *supra* note 33; cf. Alfred, Lord Tennyson, *Ulysses*, in G. ROBERT STANGE, *THE POETICAL WORKS OF TENNYSON* 88 (1974) ("How dull it is to pause, to make an end, To rust unburnish'd, not to shine in use!").

40. Sizemore, *supra* note 32.

41. See *supra* note 1 and accompanying text.

42. See *Law for Living*, weekly column for the WINSTON-SALEM SUBURBANITE; Virginia Mahoney, *Faculty Notes*, 7 WAKE FOREST JURIST 14, 15 (No. 2, 1977). He published in over 30 North Carolina newspapers.

43. See Howard L. Oleck, *Growing Old*, 8 WAKE FOREST JURIST 16 (No. 1, 1977); Howard L. Oleck, *Better or Verse*, 9 WAKE FOREST JURIST 16 (No. 2, 1978).

44. See, e.g., HOWARD L. OLECK, *THE LION OF ISLAM* (1977) [hereinafter *LION OF ISLAM*]; see also HOWARD L. OLECK, *A SINGULAR FURY* (1968); David Kinney, *He Teaches Law, Writes of War*, WINSTON-SALEM J., Nov. 20, 1977, at C4.

45. See Kinney, *supra* note 44.

46. HOWARD L. OLECK, *NONPROFIT CORPORATIONS, ORGANIZATIONS, AND ASSOCIATIONS* (4th ed. 1980) (published after he joined the Stetson faculty).

47. Howard L. Oleck, *Trends in Nonprofit Corporation Law in 1976*, 10 AKRON L. REV. 71 (1976); Howard L. Oleck, *Remedies for Abuses of Corporate Status*, 9 WAKE FOREST L. REV. 463 (1973).

48. Oleck, *supra* note 28.

49. HOWARD L. OLECK, *PRIMER ON LEGAL WRITING* (3d ed. 1974).

a law alumni magazine article,<sup>50</sup> continuing legal education materials,<sup>51</sup> and an assessment of the law school in the university alumni magazine.<sup>52</sup> He supervised student seminar papers that became *Parliamentary Law for Nonprofit Organizations*.<sup>53</sup> *Parliamentary Law* is a fine example of how good classwork can proceed, with faculty leadership and editing, to become a lasting contribution to the profession. Howard's research assistant recalled working with him during the summer of 1977 to convert the papers into a "user friendly textbook."<sup>54</sup> He added:

Professor Oleck encouraged his students to be creative and to explore the law. At the same time, he provided guidance to keep his classes and research projects on track. He was superb at providing a good balance between exploration and guidance. It was a pleasure being his student and his research assistant.<sup>55</sup>

His nonprofit organizations treatise remains a standard; as David Shores put it:

[H]e was . . . an outstanding scholar and writer. His areas of expertise did not overlap mine [in taxation and antitrust]; however, I have sometimes had occasion to draw on his work, especially his multivolume treatise on non-profit corporations. I invariably have been impressed with the depth and scope of his knowledge. Few legal writers achieve the clarity of thought and expression found in Howard's work.<sup>56</sup>

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50. Howard L. Oleck, *Morality Versus Legality*, 6 WAKE FOREST JURIST 16 (1976).

51. HOWARD L. OLECK, TRENDS IN NONPROFIT ORGANIZATIONS LAW (1977) (coursebook for an American Law Institute-American Bar Association seminar at Wake Forest in 1976). These were among the seeds for growth of the law school's continuing legal education program; HOWARD L. OLECK, TORT TRENDS: JAN. 1 TO SEPT. 14, 1976 (1976).

52. *Professor Delivers*, *supra* note 5.

53. HOWARD L. OLECK, PARLIAMENTARY LAW FOR NONPROFIT ORGANIZATIONS, at ix-x (1979) (published anew as HOWARD L. OLECK & CAMI GREEN, PARLIAMENTARY LAW AND PRACTICE FOR NON-PROFIT ORGANIZATIONS (2d ed. 1991)).

54. Letter from William H. Sturges, a former student, to Author (Aug. 27, 1997) (on file with Author).

55. *Id.*

56. Shores, *supra* note 33 (referring to, e.g., HOWARD L. OLECK & MARTHA E. STEWART, NONPROFIT CORPORATIONS, ORGANIZATIONS & ASSOCIATIONS (6th ed. 1994) and earlier editions); *see also supra* note 1 and accompanying text.

My experience was the same.<sup>57</sup> He was also faculty adviser for the Wake Forest law alumni magazine student staff, bringing “new ideas” to the *Jurist*.<sup>58</sup>

Howard had good humor about him. When his novel, *The Lion of Islam*,<sup>59</sup> was published, he gave me a copy, noting the cover statement that it was printed for the first time in paperback. We chuckled about that. *The Lion* had never been behind hard covers; it was a publisher hype. Writing thriller fiction as a diversion was typical of his wide-ranging interests. Much of his fiction appeared under pen names.<sup>60</sup>

He encouraged my research and supported my year as a Sterling Fellow at Yale; we kept up through letters and conversations during that absence. Howard wanted me to consider entering fields he had studied. However, he never patronizingly tried to force me into a mold or to commit to fields in which I had no interest, particularly when I was feeling my way toward developing areas of interest.<sup>61</sup> In the end, I decided to pursue other subjects, and he remained supportive and helpful, offering positive criticism when I sent him offprints. He did not know the phrase “put down.” When junior colleagues come to me, I have tried to follow those precepts. Academic freedom, and lawyers' independence, particularly for those in academe, are two bedrocks of our society, and they operate best in a positive environment where seniors offer support and counsel if junior faculty wish such. Each faculty member, like each practicing lawyer, must develop as an individual.

Public service was a strong suit with Howard while he was with us. He was a consultant to legislative committees,<sup>62</sup> advisor to boards, and a trustee in the Unitarian Fellowship in Winston-Sa-

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57. See *infra* note 59 and accompanying text.

58. See Norman D. Kohl, *The Editor's Page*, 6 WAKE FOREST JURIST 4 (1976).

59. See LION OF ISLAM, *supra* note 44.

60. See Kinney, *supra* note 44.

61. Only once did I venture into nonprofit organizations law, and then to help the Wake Forest continuing legal education program that his symposia had started. See George K. Walker, *Non-Profit Organizations*, in WAKE FOREST CONTINUING LEGAL EDUCATION, NORTH CAROLINA BUSINESS PRACTICE HANDBOOK 90 (1981); see also *supra* note 51. When I was asked to research and write this, my first call was to Howard. As ever, he was generous with time and suggestions. I remain pleased that he liked the result.

62. For example, as consultant to the California Law Revision Commission on that State's Non-Profit Corporation Act. See Mahoney, *supra* note 42, at 15.

lem.<sup>63</sup> Liberal in his religious beliefs, once he smiled and said that there should be room for fire-worshippers.<sup>64</sup> Howard had been president of Scribes, the American society of writers on legal subjects, 1972–73, and he domesticated it at Wake Forest during his tenure here. Scribes continues to advocate clear, forceful legal writing.<sup>65</sup> Howard was a longstanding foe of legal gobbledygook.<sup>66</sup>

Conversations with him revealed that commitment to public service had begun long before he came to Wake Forest and Winston-Salem.

Howard served as a tank officer in Europe during World War II in the Italian campaign and later in France and Germany. He and I swapped tales of that war, which I could appreciate because of developing interest in international law and as a former destroyer officer in the Mediterranean Sea fifteen years after V-E Day. Although his stories were replete with more danger and horror than I saw in 1960–61, the central theme was the human beings involved and how they reacted. For him, it was the concentration camp corpses, the result of Nazi tyranny and racism; for me, it was little markers and plaques on doors where victims had lived.

War and those who engage in it are not perfect paradigms for contention in other contexts, but the motivations of people remain the same. The stakes are higher and the goals are different, but those who violate the law of war and those who pull scams, commit crime, or do other evil are about the same, as are those who oppose the illegality. Howard was in the latter camp.<sup>67</sup>

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63. He revised and redrafted the Fellowship constitution, bylaws, and organizational rules in 1976 and assisted in reincorporating the church and reestablishing its tax-exempt status over the next two years. He was a building committee member; an addition was erected in 1978. Later he was on the Fellowship's Social Concerns Committee, which supported the local Crisis Control Ministry and Battered Women's Shelter. He was a Sunday service speaker. See Notes of Mrs. Martha Spudis (Aug. 25, 1997) (on file with Author); Sizemore, *supra* note 32.

64. Perhaps he was thinking of the fictional fate of early religions, including the fire-worshippers. See JAMES A. MICHENER, *THE SOURCE* (1965).

65. In 1973, Howard drafted Scribes' articles of incorporation as a nonprofit corporation under North Carolina law. Scribes was given tax-exempt status in 1976; its journal, *The Scrivener*, was co-edited by Joseph Marticelli and Kenneth A. Zick, now professor of law and a Wake Forest vice-president, and an honorary student membership based on a published writing competition was established. See generally H. Sol Clark, *The History of Scribes*, 52 N.Y. ST. B.J. 332 (1980); Thomas M. Steele, *The Advisor*, 27 STETSON L. REV. 373 (1997).

66. See also *supra* note 55 and accompanying text.

67. Perhaps because of his duty in liberating a concentration camp, he had a spe-

I cannot forget his story of liberating an extermination camp and shooting in self-defense a young SS lieutenant who came at him from a closet, gun drawn;<sup>68</sup> how Howard was last out of a burning tank before it exploded; or his account of seeing General George Patton defying strafing planes.<sup>69</sup> Later I sent him a clipping on recovery of looted art, recalling his tale of discovering a mine shaft full of it and reporting to the Allied command. And who could forget his memory of accepting the surrender of a general, desperate to surrender to U.S. forces instead of the Soviets? The general begged that Howard accept his surrender, although it was protocol for generals to surrender to generals, and to accept his youngish-looking adjutant's surrender too. "O.K.," Howard recalled saying, receiving the sword, only to discover later that the "adjutant" was the general's son. The general had feared for their lives in the face of advancing Soviet forces.

There was no fixation of memory (i.e., reliving these events for their own sake, as some psychologists might claim for a combat veteran), or any gloating as Howard recounted these stories. He, like many then, had a job to do and did it. When peace came he returned to civil life.<sup>70</sup> As with anyone, these experiences became part of him.<sup>71</sup>

Memories of law practice also evoked tales of tort and other claims he had handled, and I traded a few from my trial experience. Like his military service, these were not "war stories"; they were told to drive home a point about people and the law.<sup>72</sup> I have used

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cial dislike for the SS. See Kinney, *supra* note 44.

68. His sergeant picked up the SS lieutenant's pistol, handed it to Howard, and said, "Major, you have saved us the cost of a war crimes trial." Howard still had the pistol when I visited with him. See *id.*

69. "Howard Oleck could project the bearing and confidence of the tank officer for Gen. George Patton he had been." Ward, *supra* note 26.

70. He did write about the war, however. See, e.g., HOWARD L. OLECK, *COMBATE: BATALLAS DE LA SEGUNDA GUERRA MUNDIAL* (1965); HOWARD L. OLECK, *EYE-WITNESS WORLD WAR II BATTLES* (1963); HOWARD L. OLECK, *HEROIC BATTLES OF WORLD WAR II* (1962). Often he used pen names for articles in magazines like *Battle Cry*. See Kinney, *supra* note 44.

71. Cf. Tennyson, *supra* note 39, at 88 ("I am a part of all that I have met; Yet all experience is an arch wherethro' Gleams that untravell'd world whose margin fades For ever and for ever when I move.").

72. Cf. James R. Elkins, *The Stories We Tell Ourselves in Law*, 40 J. LEGAL EDUC. 47 (1990).

his classroom parable technique<sup>73</sup> to develop points in civil procedure and other courses.<sup>74</sup>

My wife, Phyllis, and I were among many who enjoyed Howard and Helen Oleck's company. Social engagements that included them were always a delight.<sup>75</sup> The mentoring process continued for us over cocktails and dinner in their home. They were generous to a fault with support and encouragement.

Howard resigned from Wake Forest in 1978 to accept Stetson's offer to join its law faculty. Internal turmoil had taken its toll.<sup>76</sup> A colleague and I spent a long and unsuccessful time urging him to stay. We could not persuade him, I think, for two reasons. First, he had accepted the Stetson offer and, for Howard, a commitment was a commitment. Second, he had made up his mind. While Howard could and would listen, sometimes for a long time, when his mind was made up, he would move quickly and could not be persuaded otherwise. There was no wish-wash about Howard, and for that I admired him. He was not a gutless wonder.

Howard and I kept in touch through the years, and we talked by telephone from time to time. He wanted me to consider coming to Stetson. Phyllis and I thought about it carefully, for we would have liked to have been again in Howard and Helen's company. South Florida's summer heat decided the issue. The prospect of that heat was discouraging, and I said no. Summers were Howard's only

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73. A former student recalled an example from class:

[His] most enduring lesson would be remembered by the title, "Pay the Ticket." He told . . . of a client who believed strongly that he had been wrongfully charged with the violation of a parking ordinance. The . . . lawyer, failing to provide needed practical advice, took his case to the highest courts. After much expense and effort, and no satisfaction from the courts, the client resented his lawyer, perhaps, most of all. . . .

[He] believed in fighting for principle and conveyed his confidence that the legal system could provide a fair forum for significant issues. But his beliefs . . . were tempered by his pragmatism — that we, as lawyers, should counsel clients to "pick their battles," to fight when there was some significant right at stake, but to have the judgment to know when to let things go.

Elliott, *supra* note 29. The parable method is not unique to Howard or me. The New Testament's gospels attest that teaching by telling a story is at least 2000 years old.

74. My father underscored biology lectures with chalk drawings of anatomical specimens; e.g., a heart in systolic and diastolic functions. I do the same with diagrams, doodles, or cartoons, in class. Students tell me they remember points of law from the diagram, doodle, or cartoon.

75. See Shores, *supra* note 33.

76. See *supra* note 12 and accompanying text.

strong complaint about life in Tampa-St. Petersburg.

Although separated by miles, it was a delight for us to stay in touch with Helen and Howard. Long after I was awarded tenure, and as teaching, research, and service interests grew and I sent him offprints, Howard always wrote notes of encouragement and support. Negativism, so often seen in its contagious form, was not a part of his philosophy. We traded holiday cards, and it was always a treat to hear from Howard and Helen through the years and academic sojourns.

A little over a year ago Helen wrote us. Howard had passed away. Some who served with him had taken that journey ahead of him. Those remaining at Wake Forest from Howard's short time here remember him, and remember him for all he sought to do for a law school emerging into national status. Phyllis and I shall miss him, remembering all he meant to and did for us.

Howard leaves great legacies: former students who continue to reflect his insistence on excellence;<sup>77</sup> former colleagues who recall him with fondness and gratitude for his being a part of their professional and personal lives; academic lawyers and the bench and bar, who continue to benefit from his scholarship and insistence on high quality research and writing. They too shall miss him.

Howard was strong and enthusiastic in his will to strive, to seek, to find, and not to yield.<sup>78</sup> More importantly, he encouraged those virtues in all he met.<sup>79</sup>

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77. Professor James A. Webster, who taught property courses for many years at Wake Forest and authored *REAL ESTATE LAW IN NORTH CAROLINA* (1971), once told me he had been doubly blessed. He was very proud of the legacy of his family, and he was proud of the influence he had on many law students.

78. *Cf.* Tennyson, *supra* note 39, at 89.

79. *Cf.* Reynolds, *supra* note 30.