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In Memoriam: Edward A. Mearns, Jr.

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be forgiven for wanting him to come back again to bless us as he did for all the years he was ever so much with us.

Laura Ymayo Tartakoff[†]

What good fortune to have had Ted Mearns as a teacher! A lottery assigned me to his class, and little did I know the consequences this would have. Therefore, to Providence or destiny—call it what you may—I owe having had Ted Mearns as my constitutional law professor. To him I partly owe studying legal philosophy’s link to Kantian dignity with Italian professor Giovanni Bognetti, serving as a clerk for Judge Frank Joseph Battisti, and realizing that one of my vocations was to teach constitutional law—as I have done at the undergraduate level at Case Western Reserve University since 1994. In fact, Professor Mearns knew and happily accepted my using his final exams’ right-wrong proposition format in my midterms and finals. Using his format recently, once again, gave me the opportunity to tell my students about Professor Mearns’s insight, which was so often evident, including when he once observed that one of the few things he had in common with Justice Scalia was having had nine children.

During my first semester of law school, I discovered that Professor Mearns’s clarity, patience, and examination formula were excellent. Not long thereafter, Professor Mearns simply became Ted, and, with the passage of the years, I came to understand that he exemplified in many ways C.S. Lewis’s *The Four Loves*—a book of reflections on affection, friendship, romantic love, and charity.¹ Although difficult to summarize in a short discussion, affection is, in the words of C.S. Lewis, “the humblest love,” common between parents and their children, and possible between any two individuals.² Friendship is essentially a tendency towards cooperation; romantic love can blend nicely with friendship and be enriched by it. Just ask Ted and Pat or Pat and Ted. When it comes to the mystery of love, the sixty-year-long marriage of Ted—the law professor—and Pat—twice-elected Shaker Heights mayor—speaks for itself. They adored each other. According to C.S. Lewis, since affection, friendship, and romantic love often break down, we need a higher love—not to replace but to fulfill and order them, or even to give them a reason for existence.³

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1. C.S. LEWIS, *THE FOUR LOVES* 31, 57, 91, 116 (1960).
2. *Id.* at 33–34.
3. *Id.* at 125–27.

Ted was Catholic with a lowercase *c* and an uppercase *C*. In its lowercase form, the word means “universal.”⁴ Ted belonged to Our Lady of Peace Catholic Church near Shaker Square, where he at times even did janitorial work. At the Mass of Christian Burial on July 6th, 2013, Reverend Gary Chmura spoke of Ted’s peaceful charm and unswerving integrity. He said Ted Mearns’s life was itself a gospel, a series of glad tidings. Father Chmura frequently advised couples preparing for the sacrament of marriage to speak with Ted. Yes, the couple and family that Pat and Ted formed is truly America at its best.

For Ted Mearns, crucial questions about love and faith, about courage and constitutional law, and about literature and music were not just passing or temporary concerns. They were his lifelong quests and endeavors. In his constitutional law class, we studied cases I would never forget, for example: *Yick Wo v. Hopkins*,⁵ *Korematsu v. United States*,⁶ *Brown v. Board of Education*,⁷ *Reed v. Rhodes*,⁸ and *Plyler v. Doe*.⁹ For Ted, who was so deeply egalitarian, *Yick Wo*, Fred Korematsu, Linda Brown, Robert Anthony Reed III, and the children of illegal immigrants in *Plyler* were more than just Chinese, Japanese, African American, or Hispanic. They were real people, human persons.

Professors Boggetti and Mearns brought to life the dignity invoked in the Preamble of the 1948 Universal Declaration of Human Rights, which recognizes that “the inherent dignity and . . . the equal . . . rights of all members of the human family is the foundation of freedom, justice, and peace in the world[.]”¹⁰ They highlighted the importance of this framework in human rights law and practical politics, both in American court decisions and in Germany’s Basic Law.

Closer to home, I learned the controversy on racial segregation in Cleveland schools had divided the city and resulted in the unsettling *Reed* decision. In this decision, Judge Battisti held that the State of Ohio and the Cleveland public schools intentionally created and maintained a segregated school system, violating the

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4. Merriam-Webster’s Collegiate Dictionary 195 (11th ed. 2003) (expounding that the word especially refers to “broad in sympathies, tastes, or interests”).
 5. 118 U.S. 356 (1886).
 6. 323 U.S. 214 (1944).
 7. 347 U.S. 483 (1954).
 8. 422 F. Supp. 708 (N.D. Ohio 1976).
 9. 457 U.S. 202 (1982).
 10. Universal Declaration on Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

Fourteenth Amendment rights of Robert Anthony Reed III and other similarly situated Cleveland school children.¹¹ Ted served as a special expert in the Cleveland school desegregation case and helped draft a remedial order. The Cleveland public schools ended up implementing an integration program—which included cross-town busing and academic improvement requirements—and spent the 1980s and 1990s trying to achieve racial integration.

Despite its length and attention to Ted's record of accomplishments in academia, sports, the Navy, family life, and community service, *The Plain Dealer* obituary¹² did not mention Ted's love of literature and his musical talent. That probably would take a book—still to be written.

I have on my desk a note, dated March 20th, 2009, which Ted sent to me. He crowned his handwritten lines with Rabindranath Tagore's poem, "Where the Mind is Without Fear":

*Where the mind is without fear and the head is held high;
Where knowledge is free;
Where the world has not been broken up into fragments by
narrow domestic walls;
Where words come out from the depth of truth;
Where tireless striving stretches its arms towards perfection;
Where the clear stream of reason has not lost its way into the
dreary desert sand of dead habit;
Where the mind is led forward by thee into ever-widening thought
and action—
Into that heaven of freedom, my Father, let my country awake.¹³*

I remember the pleasure of discovering that, in addition to poems by Tagore, Ted treasured novels by Evelyn Waugh and Graham Greene, appreciated the ethical legacy of Jacques Maritain, and loved traveling and teaching in Italy, where he was a Fulbright professor in Rome and Mesina. More recently, in addition to his experiences in Italy, Ted also enjoyed teaching in Russia, Switzerland, Croatia, and Bosnia-Herzegovina.

Regarding music, Ted's instrument was his voice. After retiring from Case Western Reserve School of Law in 1998, he sang every week—with George Foley at the keyboard and Gene Epstein on the bass—in Irish pubs on Lee Road. My husband and I were often thrilled and delighted to join Pat and others to hear them. Ted gave me a copy of their CD, "Some Good Old Ballads" (June 2007), and

11. *Reed*, 422 F. Supp. at 796-97.

12. Grant Segall, *Notable Local Death: Edward Mearns, Jr., CWRU Vice President, Vice Dean*, CLEV. PLAIN DEALER, July 9, 2013, at B5.

13. Adapted from RABINDRANATH TAGORE, *A TAGORE READER* 300 (Amiya Chakravarty ed., 1961).

his heartfelt singing of those ballads often blesses my kitchen and moves me to dance when no one is watching. One of those songs is “Love Is Here to Stay,” its music and lyrics written by George Gershwin and his brother Ira. As reflected in the song’s refrain, Ted’s love for Pat—and us—is here to stay:

*It’s very clear our love is here to stay,
not for a year but ever and a day.*

...
*In time the Rockies may crumble, Gibraltar may tumble,
they’re only made of clay, but our love is here to stay.*

*It’s very clear our love is here to stay,
not for a year but ever and a day.*¹⁴

As the Hebrew proverb puts it, “Say not in grief ‘[Ted] is no more’ but live in thankfulness that he was.” And I add, “Let’s live in thankfulness that he is.”

Finally, to borrow lyrics from another ballad, “[w]hen the world is cold, I will feel a glow just”¹⁵ remembering Ted Mearns.



FACULTY RESOLUTION ADOPTED IN 1998 ON THE OCCASION OF PROFESSOR MEARNS’S RETIREMENT

*Faculty of Case Western Reserve University School of Law,
1998*

Edward A. Mearns, Jr. served Case Western Reserve University with distinction and grace for nearly a quarter century as a member of the Faculty of Law, Vice Dean of the School of Medicine, and Vice President for Undergraduate and Graduate Studies. In the School of Law, he has taught in the areas of Constitutional Law, Civil Rights, Comparative Law, Torts, Law and Medicine, Law and Psychiatry, and Legal Philosophy. A gentleman and a gentle man in every way, Ted has brought an extraordinary breadth of knowledge and experience, an intense love of learning, and a profound sense of what

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14. GEORGE GERSHWIN & IRA GERSHWIN, *Love is Here to Stay*, reprinted in THE ESSENTIAL GERSHWIN SHEET MUSIC COLLECTION 100, 101–02 (2010).
 15. DOROTHY FIELDS (lyrics) & JEROME KERN (music), *The Way You Look Tonight*, reprinted in THE JEROME KERN SONG BOOK 169, 169 (Oscar Hammerstein II, ed., Albert Sirmay, arr., 1955).