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A TRIBUTE TO PROFESSOR ARTHUR AUSTIN

Leon Gabinet[†]

I met Arthur Austin in 1968. I had just arrived in Cleveland from Oregon to begin my career as a law professor after fifteen years of practice.² Arthur arrived at the same time from Cleveland State University, where he had already been a law professor for some time. It was a strange and exciting period. Tanks were lined up along Adelbert Road, and students were in revolt. After all, it was the era of the Hough Riots and Vietnam.³ Although the Kent State affair was still a couple of years in the future,⁴ a strange and eerie quiet pervaded the law school. Our students, most of whom were somewhat older than the undergraduates and some of whom were Vietnam veterans, remained (for the time being) aloof from the feverish aura of revolutionary talk that pervaded other parts of the campus. Undergraduates appeared on the stairs of the old law school building offering to “liberate” the school, but our students declined their assistance.

This was the state of affairs when Arthur Austin and I first began a forty-four year discourse, a conversation that has endured to the present time and that continues notwithstanding his recent retirement. Arthur was a Korean War veteran, and I was a veteran of the Second World War. We both shared a healthy respect for the rule of law, the

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¹ *Meet Our Faculty – Leon Gabinet*, CASE WESTERN RESERVE UNIVERSITY SCHOOL OF LAW, <http://law.case.edu/OurSchool/FacultyStaff/MeetOurFaculty/FacultyDetail.aspx?id=103> (last visited Nov. 3, 2011).

² See *The Hough Riots*, THE ENCYCLOPEDIA OF CLEVELAND HISTORY, <http://ech.cwru.edu/ech-cgi/article.pl?id=HR3> (last visited Nov. 3, 2011).

³ JOE ESZTERHAS & MICHAEL D. ROBERTS, THIRTEEN SECONDS: CONFRONTATION AT KENT STATE 8 (1970) (describing the incident at Kent State University on May 4, 1970 when twenty-six members of the Ohio National Guard opened fire on a group of student demonstrators, killing four and wounding nine).

democratic process, and the common law tradition that had shaped our country and its institutions. We looked with awe and wonder at a generation that seemed not to care for those things and that regarded them as “irrelevant.” What a time to be teaching Antitrust and Federal Income Taxation! How less “relevant” could we be?

Still, Arthur’s classes (and I am glad to say my own) were filled. I can say with assurance, based on my conversations with students, that Arthur made Antitrust very relevant. His combination of intellectual rigor and wry wit made him one of the most popular teachers in the law school, and deservedly so. As for me, my ongoing discourse with Arthur has gone beyond shared observations about government and politics to cover such matters as Arthur’s deep interest in southern writers, and particularly William Faulkner. We recently had a serious debate about Faulkner when I was required to write a critical paper on *The Sound and the Fury* for the Novel Club of Cleveland. Well, even good friends cannot agree about everything. I trust that I make up for this deficiency in my understanding by sharing Arthur’s views about footnotes in our learned legal journals.

It was Arthur’s love of Faulkner that gave our erstwhile basketball tournament its name, i.e., Phlegm Snopes.⁵ I regret the passing of those wonderful Phlegm Snopes events at the old Coliseum. They were part of Arthur Austin’s amazing combination of intellect and his love of the game. He could never understand my own fascination with hockey.

Arthur’s retirement, along with that of Morris Shanker, makes me the oldest codger on the Law School faculty. But to ease my discomfort in this new and undesired position, Arthur drops into my office on his frequent visits to the law school to continue our forty-four year conversation, and to make the case for William Faulkner. May he continue to do so for many years to come. He brightens my day, just as he has brightened the lives of so many of his students.

⁵ Flem Snopes is a central character in Faulkner’s “Snopes” trilogy. See, e.g., WILLIAM FAULKNER, *THE HAMLET* (1940) (Flem was a particularly controversial character among a cadre of contentious personas).