



Volume 64

2011

A Tribute to Hank Lischer

Linda S. Eads

Southern Methodist University, leads@smu.edu

Follow this and additional works at: <http://scholar.smu.edu/smulr>



Part of the [Law Commons](#)

Recommended Citation

Linda S. Eads, *A Tribute to Hank Lischer*, 64 SMU L. Rev. 639 (2011)

<http://scholar.smu.edu/smulr/vol64/iss2/3>

This Tribute is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in SMU Law Review by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

A TRIBUTE TO HANK LISCHER

*Linda S. Eads**

IN our life's travels we meet many intelligent, interesting people who care about their communities and their professions. But sometimes a person stands out and adds to our understanding of our profession in a special way. For me, this person is Henry (Hank) Lischer. Simply put, Hank is a virtuous man, as defined by Aristotle to be a person who seeks balance and the attainment of the golden mean. Let me explain.

Hank is a prolific tax law scholar and worked hard to keep current in the swirling world of constant tax law changes. You could find Hank at his desk every day, working diligently on a variety of projects. You also could find Hank preparing carefully for class. No matter the deadlines he faced for his scholarship, Hank never allowed himself to forget his commitment to his students and his promise to give them the tools to practice law well.

But Hank also is a great father and husband. He always makes time for his family and for his hobbies. For example, Hank likes to camp and fish. (I assure you my views on fishing were not what led us to our friendship.) Each summer he would retreat to his home in Montana to follow his bliss. Given how wired our world is, Hank could maintain his scholarly output even while physically removed from the law school. This all was important to Hank because what made life worthwhile for Hank is the balance between his professional calling and his devotion to his family and to other exquisite aspects of life. This is my understanding of the golden mean and how achieving this creates a virtuous life. Hank showed me that each of us decides every day how we want to live, and in making that decision we define our character.

Clarity in thought and word is one characteristic that people often notice when they first meet Hank. When he speaks, you are sure you understand his point. When he writes, it is clear. In many faculty meetings Hank would summarize hours of faculty debate clearly and succinctly and then proceed to state the options for the vote of the faculty. I often sat in awe of his ability to be so clear and so elegantly concise.

During one meeting we were debating whether to add a course called "Lawyering" to the curriculum. This course would require each first year law student to meet in small groups and to engage in practical skills training such as interviewing clients, drafting contracts, etc. Obviously, this

* Associate Provost, Southern Methodist University; Associate Professor, SMU Dedman School of Law.

course would require a heavy investment by the tenured faculty if we decided that some full-time faculty would teach it. On the other hand, if full-time faculty were not involved at all, this risked sending a message that the course was considered less important than other courses. After hours of vigorous and intelligent debate, we were all a bit overwhelmed by the pros and cons of each approach. At that point, Hank stepped in to summarize and outline our options with such clarity that we were able to proceed to a vote.

Yet, precision and clarity can be experienced as cold and distant. These characteristics can stop a debate just as often as enhancing it. But once again, Hank Lischer combined his gift for clarity with his deep respect for his academic colleagues so that his clarity was not heard as being arrogant or high-handed. At these times he strove for more than clarity; he also appreciated the contribution of others who might not be as precise but were every bit as invested in reaching a good decision. Hank's ability to balance these elements—his ability to achieve this golden mean—helped me as a member of the faculty and helped the law school faculty thrive. We are all indebted to Hank for this effort and balance.

The word "resolve" introduces the last example of how Hank's academic life is a tribute to the idea of virtue and the concept of the golden mean. I have learned from Hank that to be resolute is not the same as being strong. Strong people are often courageous and often accomplish great things, but sometimes this is by accident or through fortune rather than a product of thought followed by resolution.

I have learned from Hank that being resolute is complicated. It requires considering whether a course of action is worth the effort, whether speaking out will serve any positive purpose, and whether the price to be paid for this show of strength is worth the cost both to the person taking the action and to the institution that is affected by such acts of resolve. In order to answer these questions, a person must engage in honest evaluation.

Law school faculty continually face vexing issues on many levels. Should the next faculty appointment ignore the needs of the clinic? Can a particular law school make a sufficiently big splash in the international law arena to justify devoting resources to it? Should tenure be awarded to a particular person? How closely should the faculty request a dean adhere to the bylaws? Should a law school even have bylaws? If the law school revised the curriculum to follow the suggestions of the Carnegie Report, how would that affect a faculty member's chances of teaching his or her favorite seminar?

For a faculty member, it is a matter of choice how forceful to be in advocating for one position or another and a matter of choice whether to stir up the passions of other faculty members. Many times we make these choices without first engaging in the sort of honest evaluation mentioned earlier. We just act and react.

But Hank showed me another way. At times I knew he disagreed with a particular course of action, and he would articulate this disagreement briefly. But only rarely would he push his viewpoint beyond stating his objection. He only went further when he had resolved in his own mind that further action and advocacy on his part were required. When he made this decision, his resolve was inspiring. It was steady and balanced, firm and clear. Hank's resolve was not based just on his strength, although he is strong; it was based on a balanced assessment—a virtuous assessment—of why something should or should not be done. Hank often paid a personal price for these decisions, but I know he was at peace with his decisions.

One example of Hank's resolve stands out in my mind. Our faculty was concerned with the voting procedure for faculty who could not attend a meeting because of travel or other work obligations. This is a complicated problem because our faculty members are quite active in conferences and often travel internationally. The issue was whether they should be permitted to cast "absentee ballots." The absentee-ballot solution is not perfect because a faculty member's vote is often informed by the debate heard on the matter in a faculty meeting. Other proposed solutions also were not satisfactory, and Hank was resolute that we should ask our law school's Executive Committee to study the matter and carefully bring forward a solution or solutions. To Hank, this was an important question of procedure and faculty governance and required more than one faculty meeting to study. This was something worth pushing for and worth the cost of strong advocacy.

I will miss more than the "virtuous" Hank. I also will miss the witty and thoughtful Hank—the Hank who is always there when you need him. I am grateful that my professional life was touched by Hank Lischer and hope that others will fill his role so that new faculty will receive the same benefits as I did. Our law school and the legal academy will be the better for it.

