

# *In Memoriam—* **William Warner Bishop, Jr. (1906–1987)**

JOSEPH J. NORTON\*

Each Christmas season, the many friends and former students of Bill Bishop awaited their annual letter from this most gentle and wonderful man. This year, however, we received the following letter from Bill's devoted daughter, Betty:

My father, Bill Bishop, died suddenly but peacefully on December 29, 1987. We had spent a happy Christmas together in Ann Arbor. He was active, helped trim our lovely white pine Christmas tree, enjoyed seeing friends and exchanging gifts, and went for a short hike along the Huron River on Christmas day. . . . On the 29th Bill fed the birds and squirrels who were lively in our first big snow of the winter; apparently, he was suddenly tired, sat down on the porch, and left us. On the last day of 1987 we laid him to rest beside his beloved wife, Mary, and his parents at Forest Hill Cemetery, which is near the University Arb.

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For those who wish to know, Bill asked that memorials go to the University of Michigan Law School Fund, the American Society of International Law, or to the Wolverine Council (Ann Arbor) of the Boy Scouts of America.

Bill Bishop gave over four decades of his life in addressing the hard issues of our lifetime—issues of war and peace and the future world order. During that time he touched the lives and careers of literally thousands of students. Many of these students have drifted from these hard issues to areas of “soft law” in international law, to the practicalities of international business laws and practices, or to other areas of the law or

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business. But the students have remained constant in their devotion to and appreciation of Bill Bishop.

I was privileged to have been one of Bill Bishop's students. He affected my life and made a real difference not only in my career development, but also in my goals and values in life—which, after all, is the greatest tribute a student can pay his or her teacher.

The next pages of *The International Lawyer* stand as tribute to Bill Bishop—first by one of his close colleagues at the University of Michigan (John Jackson), and second by one of that post World War II genre of great public international lawyers to which Bill Bishop stood at the forefront (Louis Sohn).

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JOHN H. JACKSON\*\*

William W. Bishop, Jr., one of the leading figures of international law scholarship in the United States, died on December 29, 1987, at the age of eighty-one. His colleagues and friends worldwide are deeply saddened in losing their friend and co-worker. Fortunately Bill was vigorous and active to the end, teaching every year even after he retired in 1976.

Bill was born in Princeton, New Jersey, but moved to Ann Arbor, where he completed his high school education and went on to receive both his bachelor's (1925) and law degree (1931) from the University of Michigan. He was a member of Phi Beta Kappa, Order of the Coif, and Board of Editors of the *Michigan Law Review*. Bill married Mary Fairfax Schrew of Dunn Loring, Virginia, who died in 1979. He is survived by his daughter Dr. Elizabeth S. Bishop of Ann Arbor and East Lansing.

After more than a decade of practical experience, including practice in New York and an eight-year period of service in the Legal Advisor's Office of the U.S. State Department, partly as Assistant Legal Advisor, Bill entered academic life, teaching at Pennsylvania and Columbia, then joining the University of Michigan faculty in 1948 for the remainder of his career. For many years Bill Bishop has been a central academic figure

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of international law in the United States. For almost a decade (1962–1970) he was the Editor-in-Chief of the *American Journal of International Law*, a position that gave him a worldwide prominence and influence rarely matched in his subject area. He delivered the prestigious general course on International Law at the Hague Academy and was a member of the Permanent Court of International Arbitration (which plays a key role in the selection of judges for the world court). From 1966 to 1976 he was honored as “Edwin DeWitt Dickinson University Professor of Law” at the University of Michigan, and also received the University’s Distinguished Faculty Achievement Award in 1965. From 1958 to 1976 he served as co-director of International Legal Studies at the University of Michigan Law School.

Bill was a popular teacher, always filling his courses to over-capacity, and was revered as a professor in the “anti-Kingsfield” model, being one who cared about his students and who treated them with kindness and courtesy.

Bill’s practical experience enabled him to avoid the many fallacies to which scholarship in international law unfortunately sometimes gravitates. A commonly expressed question of international law—whether it is in fact law at all—is essentially a theoretician’s gambit. Those who have directly and personally experienced the effects of international law, whether serving in government or in other practical capacities, know that those effects are real, albeit quite different from the relatively cozy world of the domestic legal system of a powerful and stable nation. Students always have trouble grappling with those differences. Bill knew them well, and knew how to teach them.

Bill devoted much of his scholarship to teaching and leadership in the profession. His casebook for law students of international law, first published in 1949, was a classic. Characteristically it was a book not only for classroom work, but also designed to be an important research tool, with careful and elaborate notes that helped busy scholars and practitioners deal with a subject not well served by the usual legal research tools. Bill’s role as the Editor-in-Chief of the *American Journal of International Law* enabled him, in a sense, to expand his role as a teacher and advisor to the broadest possible world community.

A comment about Bill’s passing made at the law school in Ann Arbor said, “Our Gothic premises will seem emptier without Bill’s gothic presence, for surely he represented the values of the architecture around him—stability, solidness, uncompromising excellence, attention to detail, and a bit ‘old-fashioned’ in the laudatory sense of that phrase.”

Professor William W. Bishop passed away suddenly on December 29, 1987, and will be missed not only by his family, but also by his many friends, colleagues, and former students around the world. A great teacher and scholar, he was at the same time one of the most kindly and modest persons, who never sought a limelight, accepted honors with grace, and was most happy when he was informed that one of his students had achieved a position of importance.

Born in Princeton, New Jersey, Bill Bishop studied at Michigan University both as an undergraduate and in the Law School, where he was attracted to international law by one of the outstanding international law teachers, Professor Edwin D. Dickinson. He spent four years as Dickinson's research assistant and, after a year at the prestigious New York law firm of Root, Clark, Buckner and Ballantine, he returned to his native Princeton as Lecturer in Politics. From there he went to Washington and as an Assistant Legal Adviser of the Department of State became a prolific writer of memoranda on various topics of international law, many of which are enshrined in Marjorie Whiteman's *Digest of International Law*. After short stays at the Universities of Pennsylvania and Columbia, he settled at the University of Michigan Law School in 1948 and taught there not only until his official retirement in 1977, but also for several years thereafter. He was very pleased when Michigan conferred on him in 1966 the title of Edwin DeWitt Dickinson University Professor of Law, a professorship bearing the name of his former mentor and intended to honor professors who "shall have attained national and international recognition for originality and scholarly achievements; and . . . shall have demonstrated teaching skill and recognized breadth of interest as well as depth of achievement."

His brethren in international law conferred on him many honors. He was twice Editor-in-Chief of the *American Journal of International Law* (1953–1955, 1962–1970), he was elected Vice-President of the American Society of International Law in 1960 and its Honorary President in 1982. He became an Associate Member of the International Law Institute in 1961, and was appointed a member of the Permanent Court of Arbitration in 1975. He was also active: in the American Bar Association, in both the Section of International Law and Practice and the Special Committee on World Order Under Law; in the Association of American Law Insti-

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tute's Advisory Committee for the Restatement on Foreign Relations Law (1956–1965); and in *Harvard Research in International Law* (1932–1935, 1955–1961).

Bill Bishop was not a prolific writer, as he was a perfectionist who refused to publish even a short piece until he was sure that it was just right. His main interest was in perfecting his casebook on international law first published in 1953. As one reviewer said about it, his book was “a masterful reflection of its author’s own rich experience, striking a nice balance between legal theory, teaching needs, law office realism, and governmental pragmatism.”<sup>1</sup> He maintained this high standard in the later editions (1962 and 1971), admitting, on the one hand, that the “point of view of the casebook is frankly American—that of the American lawyer and the Department of State of the United States,” but pointing out, on the other hand, that he had made “an effort to present a rounded picture of international law rather than merely the views expressed by the United States.”<sup>2</sup> Some foreign reviewers quarrelled with his primarily American approach, but admitted grudgingly that in European libraries, unable to cope with the flood of volumes of American court decisions, American casebooks, such as the one by Bishop, “constitute the only accessible source of American decisions in public international law,” better than any other available sources.<sup>3</sup> Bishop’s book also had excellent notes, referring to other decisions, and containing rich bibliographies and—an important help to a teacher—pointed questions for students to try to answer.

His colleagues often implored Bishop to give them also a textbook that could be a worthy companion to his casebook and that would answer the tantalizing questions scattered through that book. He usually replied, with a smile, that he was not yet ready to do it. He was finally persuaded, however, to present at the Hague Academy of International Law in 1965 the general course on international public law, disclosing his views on the latest developments in international law. While he usually was considered a cautious conservative, his lectures finally disclosed that he was willing to accept some views that then were still considered rather liberal or even radical. He pointed out, for instance, that although the General Assembly of the United Nations “has been given no broad legislative powers,” nevertheless “international practice seems to be treating (its) resolutions as having some force, not so much as a more formal treaty, but yet an expression of agreement.” He recognized that certain General Assembly resolutions have had “considerable influence as a source of law,” and that in particular the International Declaration of Human Rights “has come

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1. Freeman, 48 *AM. J. INT’L L.* 340 (1954).

2. Third edition, at viii.

3. See, e.g., Seidl-Hohenveldern, 90 *JOURNAL DU DROIT INTERNATIONAL* 284 (1963).

to be regarded as an authoritative statement, at least for purposes of the United Nations.’<sup>4</sup>

Bill Bishop also noted that the work of the International Law Commission (ILC) constituted “a separate source of international law,” and that at the very least “the joint efforts of the members of this Commission should rank on a par with the ‘teachings of the publicists of the various nations,’ ” and because of “its official and multinational character, the texts agreed upon by the ILC would seem to merit special mention.” He applauded, in particular, the statement by the then Professor (now Judge of the International Court of Justice) Sir Robert Jennings that the United Nations, by establishing the ILC, has created “a genuine law-making, or if you like law-shaping, machinery of actual as well as of political importance, which has already reached a stage of considerable sophistication. . . . We have at hand and actually working a procedure which is not limited to drafting and proposing, but is, within its limits, genuinely lawmaking; and if we can bring ourselves to cease following the mirage of international statute-law, we may find that there is developing under our eyes the very machinery of international law-making that we have been looking for all these years.’<sup>5</sup>

Once Bill Bishop decided to speak, he spoke boldly and did not hesitate to abandon cherished prejudices of traditional international lawyers. The older he became, the younger he was in spirit, searching for new truths and positive approaches. He ended his lectures on a hopeful note, looking forward “to an international legal system in which the law is likely to be far more intense and to cover many more aspects,” at least between like-minded nations. But he added quickly, that despite their differences, states of all major groups of nations are coming to recognize that “under present conditions all need international law in order to continue to exist together on this planet.’<sup>6</sup>

We should, like Bill Bishop himself, be guided by the quotation from his mentor, Edwin Dickinson, with which Bill concludes his beautiful farewell statement on the passing of that great internationalist:

History teaches that without ideals there can be no progress, only change. The stars that guide[,] you may never touch with your hands, but “following them you will reach your destiny.’<sup>7</sup>

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4. 115 RECUEIL DES COURS 147, 242 (1965).

5. *Id.* (citing Jennings, *Recent Developments in the International Law Commission: Its Relation to the Sources of International Law*, 13 INT’L & COMP. L.Q. 389, 390, 397 (1964)).

6. *Id.* at 467.

7. 55 AM. J. INT’L L. 637, 644 (1961) (quoting from Dickinson, *Progress: The Middle Way*, 47 AM. SOC’Y INT’L L. PROC. 2, 7 (1953), a disquisition on law and justice in international relations, and the need “to bulwark justice with a better law”).