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APOLOGIA: A Non-Retirement Tribute to Professor Peter Winship, My SMU Law Colleague of over Four Decades

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APOLOGIA:
A NON-RETIREMENT TRIBUTE TO
PROFESSOR PETER WINSHIP, MY SMU
LAW COLLEAGUE OF OVER
FOUR DECADES

*Joseph J. Norton**

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I. MYQUANDARY

WHEN our most able SMU Law Review Editor in Chief, Laura Sundin, asked me to contribute a short retirement tribute for Professor Peter Winship, my immediate instinct was to say, “Of course.” But right after my affirmation, I found my mind in a quandary. Though being on the law faculty with Peter for over four decades, I (am embarrassed to say) really did not “know” Peter aside from what was public knowledge from his faculty “bio” and his numerous writings and speeches over the years respecting Texas, national, and international commercial law. Moreover, my most recent picture of Peter was of him from my rear-view car mirror as I caught him stridently walking down Daniel Avenue from Snider Plaza toward our law school.¹

This was certainly not the image of a person entering the retirement stage of life. When moving—then and now—Peter was always in full motion: his walking would be equivalent to a fast jog for me in my younger

* Professor of Law at SMU since 1981; adjunct 1973–1980.

1. By aside, I never saw Peter drive a car, nor bring one to the Law School. He was always fast afoot. I had one colleague describe Peter as genetically a “harrier.” In fact, Peter was a star cross-country runner at Andover Academy, and he was a top-class swimmer at Andover and at Harvard College. Also, I gather, thirdhand, that Peter was a top junior tennis player when he lived in Australia with his parents.

days. In fact, one of the first times I met Peter was years ago on the SMU jogging track where I was lumbering along, but Peter was at full throttle, lapping me God knows how many times. This was Peter: high energy and focused on the moment.

So I decided to visit with several of Peter and my colleagues on the law faculty, all of whom (as am I) are great admirers of Peter. But to my surprise, each admitted that he and she really did not “know” Peter either. It was not that Peter was unsociable or reclusive: he was very well known in academic circles around our university, nationally, and internationally. It was more that Peter had no time for self-promotion and ostentatiousness. For example, Peter’s biographical statement in our law school catalogue (from his coming to SMU in the 1970s to present) was the sparsest of any of his colleagues: “A.B., 1965, LL.B., 1968, Harvard University; LL.M., 1973, University of London (London School of Economics); candidate for the J.S.D., Yale University [1973–1974].”² It is obvious that what Peter thought most defining of himself were his undergraduate degree and law degree from Harvard, his graduate degree from the London School of Economics (LSE), and his research time at Yale. Most of us would have numerous other attributions, but Peter was both a minimalist and a private person. I remember listening to a number of Peter’s presentations, but I never remember him speaking about himself. Also, interesting to me was the fact that Peter kept his “LL.B.” designation even though he easily could have converted it (as most of his contemporaries did) to a Juris Doctorate (J.D.) designation.³ Bottomline, Peter was a very self-contained individual.⁴

II. SMU BRIDWELL LIBRARY RARE BOOKS COLLECTION

One of my law colleagues with whom I consulted cryptically suggested that if I wanted to know Peter better, I should start with the Bridwell (Rare Books) Library and the folks at the SMU Perkins School of Theology. Odd, I thought, but down I went to Bridwell. This was a true education for me. First, Bridwell is one of the leading and most respected private rare book collections in the country, and the theology school is also one the most respected divinity schools in the nation (alongside Harvard, Yale, and Duke). At Bridwell, I was reminded that all the great law schools in continental Europe, the United Kingdom, and the United States were originally formed through affiliations with leading theology schools: Harvard, Yale, Oxford University, and Cambridge University were not exceptions.

While looking through the Bridwell collection catalogue, I came across several volumes authored by a “Winship” (the name is apparently de-

2. See, e.g., SOUTHERN METHODIST UNIVERSITY GRADUATE CATALOGUE: DEDMAN SCHOOL OF LAW 402 (2018–2019).

3. I will try to flesh out and connect some of these particularities later in this Tribute.

4. Several of us on the law faculty used to joke, in good humor, that Peter would make the ideal MI-5, MI-6, or CIA agent.

rived from “friend” or “friendship”). Turns out one of these Winships was Peter’s great-grandfather (Dr. Albert Edward Winship (A.E.), 1845–1933) and another was his grandfather (George P. Winship (G.P.), 1871–1952). One of the SMU faculty I met at the theology school indicated in passing that the Winship family probably goes back to the days of the Mayflower (1620) and the first settlers of the Massachusetts Bay or Plymouth Colony.⁵

Peter never mentioned any of this to us at the Law School. And Peter’s great-grandfather was rather unimpressed about these genealogical considerations: he was most proud that his own father was a well-known and respected blacksmith in New England. As Benjamin Franklin was to remind us in his 1782 essay, *Information to Those Who Would Remove to America*, the craftsmen, fishermen, traders, farmers, lumbermen, shipbuilders, professionals, merchants, and blacksmiths (“the general happy Mediocrity”⁶) were the people of substantive value in building the United States in pre-Colonial and Colonial times.⁷

A. A.E. AND G. P. WINSHIP

Without drifting off further afield, in looking at some of Peter’s great-grandfather’s and grandfather’s writings, one can see that both individuals were true scholars and educators of renown. A.E. was a graduate of Andover Theological Seminary, the leading theological school in New England. Located on the grounds of the Phillips Academy-Andover, some twenty-five miles north of Boston and Cambridge, the Seminary was intimately involved with the Phillips Academy and Harvard College, and it was at the center of the fierce theological controversy raging in New England in the mid to late nineteenth century. A.E. started as a traveling minister (circuit rider) but soon shifted from theological studies to the field of education. In 1886, he became the owner of *The Journal of Education*, the oldest educational journal in the country. He changed the journal’s title to *The Journal of Education for School People in New England and Beyond* and served as its editor for forty-seven years. During that period, he had significant influence on educational methods and theories, and he wrote several books, including *Great American Educators* (1900).

5. While there is some anecdotal evidence that there might have been a Winship on the Mayflower, this is probably not correct. In any event, the Harwich Mayflower Project suggests there are probably 35 million people today who could make such a claim of ancestry. See *Harwich Mayflower Project Gains Worldwide Interest*, BBC NEWS (Mar. 5, 2016), <https://www.bbc.com/news/uk-england-esssex-35644019> [<https://perma.cc/3F7Y-UTBQ>].

6. BENJAMIN FRANKLIN, INFORMATION TO THOSE WHO WOULD REMOVE TO AMERICA [BEFORE MARCH 1784], FOUNDERS ONLINE, <https://founders.archives.gov/documents/Franklin/01-41-02-0391> [<https://perma.cc/U8S2-DYVX>].

7. In Pre-Colonial and Colonial days, skilled blacksmiths were held in high repute. They made, supplied, and repaired tools, equipment, household goods, and weapons made of iron, and some even crafted furniture. They were core components for the foundation of commerce and expansion of a new country.

G.P. Winship (A.E.'s son) was born in 1871 in Bridgewater, Massachusetts (Plymouth County), twenty-five miles south of Boston. He was a graduate of Sommerville High School, a public school founded in 1852 and located just north of Cambridge. From there, he went on to receive his A.B. degree from Harvard in 1893 and the A.M. degree in history in 1894. During this early stay at Harvard, G.P. explored Harvard's rare book collection, focusing in particular on Coronado's expedition to New Mexico and the Great Plains. Based upon this research, the Smithsonian Institution agreed to finance a trip by G.P. to that then-remote area. The deliverable of this grant was the publication of G.P.'s *The Coronado Expedition* in 1896.

Against more seasoned competition, in 1895, G.P. was chosen as the librarian for the John Carter Brown Americana rare book collection containing 15,000 volumes, located in Providence, Rhode Island. In 1904, this collection was moved to Brown University, also in Providence. Through his own scholarship and networking, G.P. doubled the size of this collection and brought it to both national and international acclaim. In 1915, G.P. decided to take on the challenge as assistant librarian of the Widener collection lodged at Harvard. From this position, G.P. transitioned to become the assistant librarian of the Treasure Room at Harvard, which at the time was the rare book collection at the Harvard College library. He was a great proponent of the notion that every great university needed within it a world-class rare book collection. He also believed that every great university ought to have a top-class university press.

G.P. continued a very active personal scholarship, teaching, and lecture schedule through his "retirement" in 1937. However, it appears he never truly retired but continued for nearly a decade and a half, a most active academic and scholarship agenda. He was particularly interested in the history of printing. In fact, he maintained and utilized his own hand-press, through which he would publish materials to be circulated to his wide network of friends, former students, and faculty members. He remained an active figure in the Club of Odd Volumes, a prestigious private social club formed in 1887 and located on Beacon Hill, Boston. This club, by its organization document, was dedicated "to promote an interest in, and a love for whatever will tend to make literature attractive as given in the form of printed and illustrated volumes, to mutually assist in making researches and collections of first and rare editions, and to promote elegance in the production of Odd Volumes."⁸ Further, G.P. continued to have an annual get-together of a special group of associates at his farmhouse on the Charles River in Dover (fourteen miles southwest of Boston). He died in Dover in 1952.

8. THE CONSTITUTION & BYLAWS OF THE CLUB OF ODD VOLUMES (1888). The term "odd" at that time referred to "rare."

B. STEPHEN (STEVE) AND NORINNE (RONNIE) WINSHIP
(PETER'S PARENTS)

We on the law faculty generally knew Peter's father (Steve) was a member of the Foreign Service, but we knew no particulars. As it appears through a little research, Steve was a highly energetic and accomplished diplomat, "a dynamo" and "indestructible," as described by an old family friend. Born in the Boston–Charles River area in 1921, Steve attended Phillips Academy-Andover and graduated from Harvard College in 1941. While at Harvard, he met his lifelong love and spouse, Ronnie.

Ronnie was born in New Hampshire, just south of Mount and Lake Chocorua, and attended local schools. She won a New Hampshire state scholarship to attend Radcliffe College, the sister College to Harvard. There, she met Steve. She married Steve in early 1943, right after he enlisted in the U.S. Navy in 1942, and she deferred finishing college until 1976 when she graduated from the University of Maryland.

In the Navy, Steve went through aviation training; he became a flight instructor and flew sea planes in the Caribbean. During his first two years in service, Steve and Ronnie lived in Pensacola, Atlanta, San Juan, and Miami. Due to the housing shortage during the war, they lived on a two-masted schooner based out of Miami. On Steve's joining the Foreign Service, the couple sailed the schooner up the Potomac river, mooring it there. It appears as tiny youngsters, Peter and his sister Rebecca shared in part of this adventure.

Steve then had assignments abroad for the next thirty years, winding up at his last assignment attached to the Joint Chiefs of Staff and Office of Military Assistance in Washington, D.C., doing political–military work in Saigon and Bangkok. While abroad, it appears the Winships took their children along—Peter most probably spent time in Jamaica, Argentina, Australia, Sweden, Pakistan, and (maybe) France. It is said that Steve and Ronnie were most gracious diplomatic hosts. It seems that their favorite posts were in Perth, Australia and in Peshawar, Pakistan (where Steve served as Consul). Together they enjoyed truck drives through the bush of Western Australia and horseback rides over passes in the Hindu Kush mountains of northern Pakistan. In the early 1970s, Ronnie learned to fly in Vietnam. On summer and home leaves, the couple would try to get back to their farmhouse in New Hampshire, which they considered their permanent home.

Post Steve's "retirement" in 1977, the couple set off on another adventure. They bought a forty-five-foot ketch sailboat, named after the schooner they lived on in the mid-1940s, and set sail for eight years. They cruised the Caribbean and the East Coast of the U.S.—they even sailed to the Galapagos Islands. Steve enjoyed working with his hands, making wood cutouts and toys for his grandchildren, and orally reading aloud his favorite prose and poetry. Ronnie enjoyed gardening, entertaining family and old friends, bird watching, and enjoying mountain views. Steve died

in 2006 and Ronnie passed six years later. What a special life together they had!

III. PETER

Peter had all the accoutrements of an “upper-class” education and “privileged” background: Phillips Academy, Harvard College, Harvard Law School, LSE, and Yale. But Peter was not a product of any wealth or familial aristocracy. What I never fully appreciated was that the so-called aristocracy were “privileged” in not having to work very hard; they rarely endured the rigors of what an “upper-class” education required, but Peter did.

That said, I conjecture that Peter’s real education came from the years he spent abroad in different regions of the world, dealing with different cultures and legal systems. Peter’s four years post-Harvard (1968–1971) as a legal adviser to the Ethiopian Government and as a lecturer with the Haile Selassie I University in Addis Ababa must have been a most enriching experience. Peter never sought out affiliation with any law firm or profit-seeking corporation as many of his colleagues did (including me), which he could easily have done. As an academic, he is a true purist. Peter values the importance of the role of law, of the rule of law, of equitable and inclusive legal systems, of quality legal scholarship, of good law libraries, and of interdisciplinary linkages.

As a legal craftsman (or “blacksmith”), Peter meticulously mastered his craft as a leading Texas, national, international, and comparative scholar in the commercial law arena. Peter grounded himself in each of the arenas that commercial law comprises: sales, secured transactions, negotiable instruments and payment systems, bank–customer relationship (U.C.C.), creditors rights and bankruptcy law, and even admiralty and business enterprise law—literally, Peter covered all the bases. As the leading U.K. commercial legal scholar recently told me: “Do you realize your colleague, Peter Winship, is one of the top three commercial law scholars in the United States—notwithstanding his major contribution to the U.S. ratification of the Convention on International Sales of Goods (CISG)?” I must say, from writing and researching this Tribute, I have gained a much richer view of Peter as the consummate commercial law scholar.

As to Peter’s critical importance to the completion and ratification of the CISG, when my former colleague Professor *Emeritus* Beverly Mae Carl told me she was getting Peter involved with the CISG, I politely thought to myself that she was doing him no favor. The U.S. already had the best commercial code in the world (the U.C.C.) and there was no need to diminish this by adopting an amalgam of common law and civil law approaches in the CISG. I agreed with the English position on the superiority of English commercial law and its application by seasoned English judges, and also in the absence of any compelling reasons to

change this, a position the U.K. maintains to the present. But Peter's tenacity in moving forward as to U.S. ratification of the CISG prevailed.

Peter's prowess in the private international commercial and business law areas is not based on only one factor (i.e., the CISG). Peter is an accomplished scholar in international business law, private international law, and international trade and commercial law. In addition, over the past several decades, Peter served as editor in chief of the American Bar Association's (ABA) *International Lawyer*, was a contributing member of the Board of Editors to the *American Journal of Comparative Law*, and was an important participant in international bodies such as UNCITRAL and UNIDROIT, as well as the ABA's Section on International Law and Practice. All of this led the ABA, in 2007, to award its prestigious Leonard J. Theberge Award for contributions to private international law to Peter. Peter made no fuss over this, and I reckon hardly any of my colleagues at SMU were aware of this, or of its significance. Prior awardees were the late Professor Willis Reese of Columbia, the late Professor Louis Sohn of Harvard, Professor Alan Farnsworth of Columbia, the late Professor John Honnold of Pennsylvania, and the late Sir Joseph Gold of the International Monetary Fund—quite an illustrious cadre of legal “superstars.”

IV. CONCLUDING REMARKS

From the above, one can reasonably conclude that the Winships really do not “retire” in any traditional sense. This generally reconfirms my initial intuition as to Peter's own “non-retirement.” In reflecting on Peter's doings over his own seven decades, he has a peripatetic strand to him. Though deeply rooted in the Massachusetts–New Hampshire region, particularly the Boston, Cambridge, and Andover areas, Peter has been traveling most of his life. In the forty years I have known him he has had visiting positions at numerous of the best law schools in the U.S., U.K., and Continental Europe. I suspect his journey is far from over. Peter, I wish you well in your journey(ies) ahead.

Peter is a genealogical offspring of a series of “blacksmiths”⁹—hardworking, skilled, focused, and highly energetic individuals who played to their own drummers and who all were successes. Similarly, Peter has his own drummer. He also has the spirit of a harrier and the stalwart character of his formative days at Andover: “non sibi.”¹⁰

In a somewhat flippant manner, I would like to express my further admiration for Peter in being the only scholar I know who has secured a

9. Yes, good lawyers are like good blacksmiths.

10. “Non Sibi” is the Andover motto meaning “not for self.” CLAUDE MOORE FUESS, *MEN OF ANDOVER* (1928). It was originally inscribed on the School's seal, minted in 1778 by Paul Revere. *Id.* Andover instilled a concept of our role to serve, and it emphasized the molding of character, virtue, and self-reliance.

visiting position with the Cayman Island Law School.¹¹ Is this the real Peter?

On a serious note, I would like to express my apologies to Peter for never recognizing that he was one of the first law teachers in the U.S. to teach a banking law course in the 1970s, and he did it rightfully so as a “commercial law” course. The first two years I was full-time at SMU, Peter was away. I structured the course more as a regulatory course. I wish I had the benefit of his wisdom and methodology in the area before striking off on my own academic journey.

On a final note, in looking back on Peter’s career, I think his greatest gift to the Academy is his daughter, Verity, a most competent and nationally respected business law professor at the University of Illinois. The Winship name and heritage will remain in good hands.

Peter, all God’s blessings!

P.S.: This Tribute provided me with an opportunity to better appreciate how law schools developed in the U.S. and the U.K.—not in isolation, but from the roots of morality, ethics, and yes, religious values—how critical good libraries are to a university and its law school, and how important rare book collections are (here, on these latter two points, I would like to recognize the sterling efforts of Professor Greg Ivy and his superb staff at our own Underwood Law Library and its Rare Book Room). Going off on a slight tangent, I remember in 2015, Peter, myself, and others of our colleagues gathering at the McKnight Rare Book Room in the Underwood Law Library for the ninetieth birthday celebration of our late, revered, and much missed Professor Joseph W. McKnight. Then add to this my recent journey through the SMU Bridwell Rare Book Library at our Divinity School. In sum, these experiences have made it more apparent how SMU has been a good, nurturing, and supportive environment for Peter, me, and all our SMU Law colleagues.

11. This island law school is apparently a cooperative effort with the University of Liverpool law faculty. *Truman Boden Law School*, CAYMAN ISLANDS GOV’T, <http://www.lawschool.gov.ky/portal/page/portal/lawhome> [<https://perma.cc/VG98-Q2WG>].