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A Tribute to Andrew W. McThenia, Jr.

This Tribute gives special thanks for the heart and mind of Andrew Wolfe McThenia, Jr., better known as Uncas, who after almost thirty-four years at Washington and Lee taught his last class on December 5, 2000. That morning, the rest of us on the faculty donned the loudest, most outlandish neckties we could find (although few could actually rival Uncas's own) and converged on Classroom E for the final ten minutes of Contracts. We wanted to surprise him, laugh with him, even serenade him, but more than anything show some true if imperfect sign of love for this remarkable, original friend, this man of many colors.

Like the figure celebrated in the First Psalm, Uncas is "a tree/ planted by streams of water,/ that yields its fruit in its season,/ and its leaf does not wither."¹ Few who spent time in Tucker or Lewis Halls have left untouched by the humor and caniness of his understanding, the attentive tilt of his head, his fidelity to conversation when words seem necessary or to silence when keeping still can meet a different need. I think especially of his willingness to be a colleague – to leave manuscripts stuffed in the mailboxes of junior professors with scrawled requests for comments, or to pass along newly discovered books and talk about them at the end of a day on a walk across the footbridge. And I think of his capacity to transform a classroom with the revelation of sheer fact. His seminar, "Lawyering for Social Change," a study of the search for justice in the coalfields, profoundly engaged the students, some of whom became the nucleus of the school's related clinical program.

Most importantly, as the following essays so eloquently testify, this is a man who has challenged his time and place. To the minimalism and "pragmatism" of an age, he has posed large,

1. *Psalms* 1:3.

unapologetic questions that ask lawyers and judges to re-examine the story they think they are living.² Seeing a legal structure bent on nothing so much as separating winners from losers, he has responded with the language of "reconciliation" and "resurrection."³ Participating in civil resistance, he has kept a steady eye on the fact "that in the context of salvation we are exactly like our neighbors, lost and in need."⁴ Read any of his work and you will be forced to reassess the honesty of your own. As he wrote, "The most radical form of social criticism of the world as we know it is reality."⁵

Yet somehow his honesty about the world has not precluded hope, a flinty, hard-won "second sight," that comes with discovery and practice of "vocation."⁶ Recall his account of William Stringfellow's chosen role: to be "a companion with others along the way, to carry the message that 'you are not alone,' and to give them courage to live humanly amid the fallen powers."⁷ Stringfellow, perhaps; McThenia, definitely. Uncas has been the surest of companions, has shouldered the same message, and has helped many around him to find the meaning of their own beliefs and the nature of their own vocations, as well as unsuspected reserves of resolve and joy. As he completes his time at W&L, we ponder the poetry and belief of this singular man.

"And its leaf does not wither."

— Brian C. Murchison
Professor of Law

2. See Andrew W. McThenia, Jr., *Deciding for Others: Issues of Consent*, 5 SECOND OPINION 76 (1987).

3. See, e.g., Andrew W. McThenia, Jr. & Thomas L. Shaffer, *For Reconciliation*, 94 YALE L.J. 1660 (1985).

4. Andrew W. McThenia, Jr., *An Uneasy Relationship with the Law*, in RADICAL CHRISTIAN AND EXEMPLARY LAWYER 167, 178-80 (Andrew W. McThenia, Jr. ed., 1995).

5. *Id.* at 178.

6. Andrew W. McThenia, Jr., *Introduction: How This Celebration Began*, in RADICAL CHRISTIAN AND EXEMPLARY LAWYER, *supra* note 4, at 3.

7. *Id.* at 5.

Thomas L. Shaffer*

Uncas picked up a five-letter name when he was a boarding school student in Orange, Virginia. By now, it is the way his friends and colleagues, his students and his clients, his wife and his children and his neighbors, identify him. It works throughout the United States and in Canada. I would not be surprised to see it work in, say, the offices of the European Union in Salzburg or in the former Soviet Union. (It occurs to me that this universal name for Andrew W. McThenia, Jr., a name his boarding-school classmates borrowed from James Fenimore Cooper, shares brevity with such two-syllable, five-letter names as Moses and Jesus. The comparison has some promise, but I desist in order not to embarrass my retiring friend.)

It is a safe guess that all of the tributes that appear here will mention Uncas as a friend – both in the ordinary American sense, meaning someone who loves you, and in the Greek sense, meaning someone with whom you collaborate in the good. Friend is the way people in my family think about him: Nancy and I and our children lived up the road, on the old way to West Virginia, when he and Anne, and Andy and Paige and Tal, lived at Mackie's Tavern. We were there when Uncas almost invented a perpetual motion pump to get water from the stream in front of the house to his pond without electricity or gasoline. We were there dozens of times – eating, drinking a little wine, swimming in the pond, and chasing horses that would not stay inside the fence – when he and Anne entertained guests of every social and ecclesiastical rank.

Every person in our family (including those of our children who had moved on and met Uncas and Anne only on holidays) would say, as Nancy and I would, that Uncas is our friend. Good friend. The sort that would do anything for you. Anything honest and decent. And, I suppose, if what a friend wanted from him were dishonest or indecent, friend Uncas would find a way to redeem it before he did it. He can redeem a friend's dishonesty and indecency because he knows without pondering that each of his friends – each of his students, each of them a friend – is a gift from God.

He is one of the least pretentious thinkers in our trade, but he really is a thinker. When I search for words for Uncas as an intellectual, I am drawn to the essay he wrote about the late Christian lawyer and theologian William Stringfellow. Uncas is too modest to claim resemblances, but I see a resemblance between what he believes and does and what he wrote that Stringfellow believed and did.

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With one important exception: Uncas is a lot less solemn about thinking than Stringfellow was. Stringfellow, for all of the saintly virtues Uncas wrote about, was a glum person; Uncas is not glum. He probably has had some glum days, but I cannot think of any as I write this.

Uncas, as Stringfellow was, is a lawyer and a churchman (same denomination, in fact). And he, like Stringfellow, sees the combination as odd, as a life in "relentless tension." Uncas is fond of quoting Flannery O'Connor's paraphrase of the Gospel: You shall know the truth, and the truth will make you odd. He enjoys the quotation, more than either Stringfellow or O'Connor would, because Uncas has sense of irony; he seems to know that irony, down deep, brings a knowing smile.

His is a life rooted in worship. Many of his friends know that from praying with him, and for him, as we know that he prays for us. (I think of kneeling beside him at the quiet, sparsely attended early service at St. Bob's in Lexington.)

Effective prayer, too -- although he knows that effectiveness is limited by what God has in mind. Uncas is rooted in prayerful conscience, which he sees as "the breaking in of the Holy Spirit."⁸ Uncas wrote that conscience, if a person (a lawyer) listens carefully, is both "utterly unpredictable" and "intensely political."⁹ He is, to be sure, unpredictable and political; his friends will understand better the things he surprises us with if we understand that they come from Uncas's prayerful conscience.

I learn from him that conscience is where the tension is. And so Uncas talks about a spiritual life, a churchly life, as he talks about being a believer who proposed to, one way or another, teach and practice law. (I think of Bill Stringfellow's saying somewhere that he did not practice a profession, but that he was a biblical person who worked in the law.)

Uncas has lived out his own relentless tension by joining striking miners who, with him, lay down in front of coal trucks in southwestern Virginia. He has lived it out with picketers and law breakers in the streets of Washington, D.C. At the "professional" end of the tension, he has lived his conscience just as much when he maintained influential friendships with partners in Hunton and Williams and sat as a member of the Virginia component of the Commissioners on Uniform State Laws. He has even written law review articles published in such places as New Haven, Connecticut.¹⁰

8. Andrew W. McThenia, *An Uneasy Relationship with the Law*, in *RADICAL CHRISTIAN AND EXEMPLARY LAWYER* 167, 175 (Andrew W. McThenia, Jr. ed., 1995).

9. *Id.*

10. Andrew W. McThenia, Jr. & Thomas L. Shaffer, *For Reconciliation*, 94 *YALE L.J.* 1660 (1985).

One way to meditate on Uncas's special way of living in relentless tension is to understand that he is a prophet – in the Hebrew Prophet sense. Uncas has been a Hebrew Prophet in law review articles and speeches and such things as his essay on Stringfellow. But mostly he has courted offense in more direct ways, understanding, as he said of Stringfellow, that "the offense of prophecy has always been in its particularity."¹¹

He offends (and somehow manages not to offend for long) in faculty meetings and learned colloquia. He offends in the church; his witness there is like the witness of the Hebrew Prophets in Israel: "The mainline church," he said, "has made a near fatal accommodation with power" in America.¹² It has nourished and protected distinctions among people (gender, racial, sexual-preference distinctions). He says, even in church, that the church manages not to see – has to depend on its prophets to remind it of – "more radical theological differences about who God is and how we respond to God's world."¹³

The law is also a protector of differences, and the law is less likely than the church to hear its prophets (not that that fact would silence Uncas): "Without a view of the world beyond difference it is inevitable that we will put ourselves or our institutions – like the law – where God ought to be."¹⁴

Uncas finds the church in church buildings and offices, but he also has a way of finding the church where he finds it: "wherever two or three are gathered together in My name."¹⁵ Not least at St. Bob's but not only there. I found the community of conversation at Uncas's law school to be more open to Christian moral discernment than any other community I have lived in (including church communities).

There is no way my friend Uncas will not sooner or later say what he thinks about a moral situation, and to explain with uncustomary candor how he comes to think as he does. As he puts it: "Christianity offers not a standard for rational criticism but a vocation to worship and witness that may be lived out anywhere, including within the calling of the law."¹⁶

Candor – being unpredictable and political – is how Uncas manages to be a remarkable lawyer – remarkable particularly in his ability to tell the truth about the law. ("No matter how many layers of bureaucracy separate the Supreme Court from the executioner, it is the voice of law that pulls the switch."¹⁷) He wrote that he saw Stringfellow (as I did when I first heard

11. McThenia, *supra* note 8, at 168.

12. *Id.* at 169.

13. *Id.* at 171.

14. *Id.* at 180.

15. *Matthew* 18:20.

16. McThenia, *supra* note 8, at 172.

17. *Id.* at 177.

Stringfellow, in law school in the 1960s) as "a valuable role model for students, providing an important antidote to the image of grey-flannel-suit practitioner."¹⁸ I have seen Uncas have that sort of influence again and again, and he is able to have it because "a lawyer's work of justice is a form of prayer and praise."¹⁹ Uncas does not leave the prayer-and-praise part out. And I doubt that he has ever worn a grey flannel suit.

Because Uncas sees students as gifts who are capable of his kind of prophetic lawyer's life – sees them that way even before he says anything to them – he can both teach the law and see the law as one of the corrupted powers and principalities scripture talks about. He shows in his life how a lawyer with her client, or a teacher with his student, can poke through "[p]rincipalities like the law" that "have a way of destroying people and turning them into problems – problems to be solved rather than lives to be treasured."²⁰

It is hard to think of Uncas retired. Probably the most realistic way to look at this new phase in his life is that it won't change much.

L.H. LaRue*

As we witness the retirement of Andrew Wolfe McThenia, Jr., we can count ourselves lucky to have walked with him on part of his journey. And not least among his gifts to us has been the pleasure of knowing someone with such a remarkable nickname as "Uncas." The canonical story behind his name is that during his misspent youth he cut his hair according to the fashion once known as a Mohawk. It must have been a remarkable sight, since his peers in Lewisburg, West Virginia, decided that he looked like the hero in the movie based on the novel by James Fenimore Cooper, and so they called him "Uncas." It is not revealed in the canonical version of the story whether the act of naming was an act of respect or of derision, but in the W&L community, we have received it as an act of affection.

But his gifts to us run deeper than a name. I am somewhat embarrassed to be chosen to write because my own personal debt is so great; I owe him my job. When Robert E. R. Huntley was dean-designate, his first assignment was to take over the hiring process for the next year, and he chose two rookies, one

18. *Id.* at 170-71.

19. *Id.* at 177.

20. *Id.* at 179.

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of whom was McThenia. The other person who was hired changed his mind in late March, and so Huntley faced the prospect of beginning his deanship with a gap in the ranks. Fortunately for me, Huntley asked McThenia if he knew of any likely candidates; in response, McThenia gave him my name; and as they had no better candidates, I was hired.

Given my debt, my testimony may be suspect, unless one is willing to suppose that debtors can see their creditors with a clear eye. Certainly, we as a school have been McThenia's debtors. It would be impossible to list the names of students for whom he has been an honorable mentor. The length of any such list is well known to the succession of deans who have served our school; when they speak to alumni, they always receive the question: "What is Uncas doing?" No one should be surprised that he has made such an impact on our students. His ear is open to listen, and his heart is open to respond. He comforts those who need support.

As an educator, McThenia was one of the earliest and most persistent supporters of our clinical programs. If my memory is correct, he has been the supervisor, at some point in his career, of each of the programs that we run. And he began the Black Lung Clinic. His excellence as an educator in clinics is surely another reason that students remember him so vividly. He taught several generations of students how to combine legal skills with human skills. Those who were fortunate enough to come under his tutelage learned that a lawyer can be both shrewd and kind. Perhaps McThenia did not completely fulfill the injunction to be as cunning as a serpent, while being as harmless as a dove, but he probably came as close to it as any lawyer is likely to come.

Outside the building, there are other groups who have been touched by his character. There are union organizers in the Appalachian coal fields who know him as one who stood beside them on the picket line. There are members of the Sojourners community in Washington, D.C., who know him as one who helped them serve the homeless. And there are radical theologians who know him as one of the most profound commentators on the life and work of William Stringfellow.

Because Stringfellow is not as well known today as he formerly was, and because McThenia has devoted the major part of his scholarly energy in recent years to Stringfellow's life and writings, I would like to add some comments about him. Stringfellow was a graduate of Harvard Law School whose first job, in 1956, was to open a legal clinic in East Harlem. He proved to be rather too radical for the authorities of the church that sponsored him, and by 1958, he had gone his own way. For the rest of his life (he died in 1985), he supported himself mostly by lecturing and writing, with some practice of the law thrown in on the side, and the radical seriousness that marked his East Harlem practice characterized the rest of his life. Lawyers always found him an

embarrassment because he thought the law had more to do with injustice than with justice. Churchmen found him to be an embarrassment because he thought that the church was as guilty as the law was.

As these brief words should make clear, William Stringfellow was a remarkable man, and so those who know how remarkable McThenia has been are not surprised that he has given so much of his intellectual energy to exploring Stringfellow's life. He has tried to track down those who knew Stringfellow, and he has interviewed them. He has collected documents that illuminate Stringfellow's thought and life. Indeed, his office may be the largest private archive of Stringfellow materials that exists, and on the basis of his research, he has written, and he will write more. Because he has written and will write, there is no need for me to explain or justify his quest; instead, let me celebrate it.

We should celebrate McThenia's quest to understand Stringfellow because we should always celebrate those who display both intellectual integrity and courage. McThenia has given us an example of intellectual integrity by his careful and patient assembling of the evidence and by his scrupulous interpretation of what he has found. And he has given us an example of intellectual courage by refusing to accept the common pieties about church and state. He is too knowledgeable a lawyer to romanticize the law, and he is too religious a believer to romanticize the church. A lesser mind would curse both; he curses neither. All told, his performance has given us a precious gift, and we rightly celebrate it.

Emily Albrink Fowler Hartigan*

Unruly Sanctuary

A decade ago, Uncas McThenia provided me refuge in the mountains of the state in which I grew up and, then, my father was dying. I had met Uncas in one of the law-and-religion dialogues that he illuminated, and he had gotten to calling at times that I did not expect, but almost invariably needed. My path in the legal academy was arduous, even dangerous, and Uncas was always simultaneously telling me that was the ungodly nature of law schools and continuing to call me to prophecy. He never abandoned me to the consequences of my outspokenness, but in calling persistently for the eloquence of speaking in the Spirit, he certainly instigated much uppity behavior. Yet this summer was not his doing.

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In retrospect, I recognize what he offered: sanctuary. In perhaps the deepest risk I took in leaving the patriarchy as my primary home, I had the help of that most unlikely spitting, cussing, beer-cap-teeth-opening West Virginia mountain man, a man of letters and gentleness and outrageous witness to his rowdy, complex, infinitely loving God. "Irony" is too much of an underdescription to serve, but it begins. I had been journeying into the life passages that led me to withstand and to resist the oppression of the law; I was being denied tenure for not writing "conventionally," yet I was realizing again why I had for years embraced those very conventions. Along with the love of the classics and the dominant version of Western civilization, I was surfacing the hate of my intellectual lawyer father's violations of my dignity. Some of those family stories were ravaging, and I traversed the space of never wanting to see my father again, only to touch down almost immediately in the news that he had terminal cancer. How would I manage to withstand the irrational attacks of those back at my university and try to face my wounding father in his dying? Suddenly, Uncas called and offered me refuge in the Shenandoah Valley. He had not known about my father; he just knew "Something." He found a student house, a space at W&L for me to work, and a couple of weeks during which we hoped to be able to talk. Western Virginia was just a few hours away from my eastern Virginia home, and my father.

Years before, my friend and high school English teacher Maria Garnett Hood had told me about her post-college trip to Europe with the colorful, charismatic son of her mother's best friend. At some point, I realized it was unlikely that *two Uncases* lived on the western border of Virginia where Maria summered for most of her life. Maria was profoundly interwoven with my father, and my leaving home, and the resistance to the patriarchal order that Virginia's Tidewater shared with her mountains. This gum-chewing guy with the broad accent telling civil disobedience stories and nearly beatifying coal miners was all too familiar. The unpredictable lines of story and grace connecting us surfaced in that impromptu invitation, one more timely than Uncas could have known. So I left the Midwest and drove to what I had little rational reason to believe was a safe place, in Lexington. Even now, the idea of Uncas as a safe space makes me smile. How could someone so charged, so intellectually intense, so direct and passionate, so truly Christian, be safe? There are many ways of being unsafe, and Uncas's articles let the reader into a sense of that; his *Telling a Story About Storytelling* includes a searing rendition of his remarkable wife Anne's journey that suggests how arduous the awakened life has been in the McThenia household.²¹ Yet of that summer, it is Anne's words I remember, and her careful presence, every bit as pungent as his Spirit-centered recklessness.

21. Andrew W. McThenia, Jr., *Telling a Story About Storytelling*, 40 J. LEGAL EDUC. 67 (1990).

I did not make it farther east, to Norfolk, that trip. Anne and Uncas went off to Richmond; I stayed, dwelling in simple safety, and then returned to the Midwest, with a sense of rest, of Sabbath. Part of that sense came from the rich community that Uncas opened to me, with intellectual insight from Joan Shaughnessy, faith from Sam Calhoun, and incredible tales of academic shenanigans (and noble interventions) from Doug Rendleman. Thus, central to my memories of Uncas is the network of relationships in which he moved, a web layered with intellect, activism, solidarity, and open spirituality. He was a crucial nexus in his lively family, in the national dialogues on religion and law, and in the outstanding conversations of Washington and Lee School of Law. Uncas came trailing stories of picket lines and gap-toothed Athenas of the coaltowns. So I should not be surprised that he was at the center of my story of love-to-hate-to-deeper-love for my father, including at Hamline's Law and Religion symposium that same October. When I arrived at the lobby of the hotel, direct from Arlington Cemetery and my father's burial, Uncas was there for my tears, in yet another of the intersecting communities of law and faith which we shared. This intertwining of the personal, spiritual, professional, and intellectual reflects the wholeness of Uncas, and his intensity. Little is superficial, little a matter of posturing; if Uncas engages you, he finds the very growing edges of your soul, where they meld into your heart and mind, and he may, if you allow it, become part of your deepest story.

Uncas tells stories on himself as a hearty soul, a hearty sinner, an earthy talker, an advocate of laws, a maker of mistakes, a lover of God. He names some of those aspects, and he manifests them – his salty talk is remarkably close to his walk, though like us all not always at the same time. Like me, he occasionally needs time to catch up to himself. But the combination of legal deftness, analytical richness, intellectual passion, story-telling relish, and profoundly grounded spirit produces one of the most vivid characters in the legal academy – and, if you are lucky, one of the most vivid and loveable characters of your life. You never know when he will appear – as your dear friend's college companion, as the voice of a most unlikely mentor, as the outrageous prophet, as the trenchant, almost gruff intellectual critic, as the unruly Christian that he is, as mesmerizing yarn-spinner, or as provider of sanctuary. He is a bit like the teller of parabolic stories whom he follows, and the Trickster to whom he is remarkably faithful. Underneath it all, as with the Nazarene who called the lawyers hypocrites, is the law of love.

Steven H. Hobbs*

Andrew "Uncas" McThenia: One of a Kind

When Fay and I first met Uncas in 1981, we knew we were not in Philadelphia anymore. First, it was clear that you could not pigeonhole him in a specific category. Was he a pseudo hippie living in the country in an historic house with its own pond? Was he indeed an escapee from West Virginia, as he often liked to introduce himself? What were his politics? They seemed so difficult to nail down. For as country as he tried to be, it was clear that he could hobnob with the rich, the powerful, and the famous. And that plug of tobacco (Was it for effect?) hardly hid that able and endlessly curious mind.

Then you had to figure out how he came by that name, especially because he does not appear to be a Native American. However, once you get to know him, you discover that he is indeed one of the last of his kind. He is a rare combination of down home, country-spun affability, part circuit preacher and rabble-rouser, and a sophisticated legal theoretician. Added to that mix is a passion and compassion for teaching students more than just the law but also about life, the world, and loving one's neighbor. He teaches not only with his words, but also with his actions that reflect his deep faith and his commitment to social justice.

What becomes evident about Uncas in the many small and large discussions we have had about life and the world is that he is a superb human being, not because of title or pedigree, but because he has such a huge heart. He deeply cares about humankind and also about each human with whom he comes in contact. One witnesses this in the prayer meetings he hosted for the Episcopal law students, in his moral reflections on the life of William Stringfellow, and in his love for Washington and Lee and, at its best, what the institution has to offer the world. Uncas once told a story about how he would deal with a student who did poorly in one of his courses. He said that the best that he could do for such a student was to share a bottle of Jack Daniel's with the student and commiserate about the unfairness of law school grades. But he also would reaffirm the worth of that student and reassure the student that, notwithstanding the grade, he or she would become a fine attorney. Of course, this was in the days before strict host liability.

Uncas is also very human in that he can and does make the occasional error or misstatement that we are all subject to by our very natures. I remember one very divisive faculty meeting in which there was a stark disagreement about a certain proposed change in law school policy. Testy memoranda were

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circulated and individual character was questioned. It was a tense time. Uncas circulated the final memo which, if my memory serves me correctly, called off the "war of words." It was not that he was changing his position, but that he recognized that the disagreement was costing us our community. He pointed out to us that what was important was not the policy, but the ability of each of us to agree or disagree and still be colleagues who respected each other's point of view. For me it represented his deep humility and his core value to always be open to giving and receiving forgiveness and to offer reconciliation.

We all have Uncas stories, but my most endearing is most personal. In 1993, I was diagnosed with colon cancer. I had scheduled a date for surgery with a doctor in Charlottesville. Several days before the scheduled surgery I experienced great abdominal pain. A phone consultation with the doctor indicated that I should come to the hospital as quickly as possible. It was four o'clock in the morning and Charlottesville was an hour away. Instead of waiting an interminable time for an ambulance, Fay called Uncas who came right over and drove me to the hospital. He waited with her the entire day while I had emergency surgery. As luck would have it, after I had come home from the hospital and was beginning to recover, I had some post-surgery complications and Uncas again rushed us to the hospital at four o'clock in the morning.

Certainly, that was kind and neighborly of Uncas. His act of kindness was amplified many times by my other colleagues at Washington and Lee during my battle with cancer. What was remarkable to me was that in her darkest hours of despair, Fay called on Uncas. She sensed that he would not only be supportive in transporting me to the hospital, but also because at such a vulnerable time, she needed someone to lean on and to confide in and to offer positive, nonjudgmental affirmation of any important decisions that had to be made.

The true measure of a person often depends on how they rise to the occasion in an emergency situation. The only way you know that you can trust someone in such a monumental situation is by how they conduct themselves in the mundane ebb and flow of daily living. Uncas lives each day in a manner that glorifies his God, loves his neighbor, and offers small glimpses of peace and hope for those of us who wrestle with the powers and principalities. Fay and I are richly blessed by the friendship of Uncas and Anne. We wish them well in his "retirement."

Samuel W. Calhoun*

Over twenty years of friendship cannot be encapsulated in a brief essay. I will not even try. What I can do is relate one episode that captures the core of what knowing Uncas has meant to me.

In May 1989, Uncas asked me and another colleague to accompany him to the coalfields of southwest Virginia, which were then embroiled in a strike against the Pittston Coal Company. The strike had begun in April, after months of unsuccessful negotiations following the expiration of a union contract. Uncas informed us that his reason for going was to participate in peaceful civil disobedience against Pittston. He expected to be arrested. He invited us to join him in being arrested, if we were willing, but in any event he would appreciate our presence.

As I had no notion of submitting to arrest myself, I went solely with the idea of encouraging Uncas in his act of conscience. Instead, it was I who was the primary beneficiary – from observing a committed Christian living out his faith in challenging circumstances.

The most obvious point was Uncas's willingness to risk the consequences of arrest (and he was arrested) to obey God's call that he join with the miners in their struggle against Pittston, which, among other things, had cut off health insurance for 1500 retired or disabled miners and their widows. But beyond his sacrificial commitment to justice, Uncas's depth of faith was demonstrated by what he said at a prayer gathering the morning of his anticipated arrest. He confessed his struggle with pride, with the temptation to dwell on his own significance as a leader of that particular group of church activists. One minister told Uncas not to worry, that no one expected him to be perfect, that he should forget about it and focus instead on forthcoming events. Fortunately, Uncas believed differently. He understood that as important as Christians' faith-motivated actions are, what matters more is the state of our hearts before God. Uncas, striving to follow God by standing with the oppressed, also strove for inner purity by asking God's help to follow Jesus's example of selfless servanthood.

One can well imagine that such a colleague has been a profound influence. It is not that we have always agreed on the demands of our common faith in particular situations. Far from it. But Uncas has always been someone who challenges me to heed God's call on my own life, as to both my conduct and the attitudes of my heart. One can hope for nothing greater in a friend.

* Professor of Law, Washington and Lee University School of Law.

Douglas Ammar*

An Oasis in the Desert

In 1985, a college buddy and I shared a downtown apartment in Birmingham, Alabama. A recent Washington and Lee Law graduate lived across the hall with his young wife. Once he learned of my interest not only in going to law school but in combining my faith as a Christian with a desire to use a law degree to serve the poor, he suggested that I look at Washington and Lee.

Upon taking his advice, I found that W&L interested me for two reasons. First, the presence of a number of recognized Christian faculty members, folks exploring the tension between law and religion, appealed to me. Second, I felt a warm and pervasive sense of community when I visited. My vision and understanding of community were then embryonic. But I believed that I valued a sense of community and that I thrived in such an environment. Today, I think that community – understanding and acknowledging our mutual connectedness – is at the core of our nation's social ills. The combination of these two things led to my enrollment in the fall of 1986.

Though W&L is not known for producing a host of public interest lawyers, I felt the combination of faith and community would nurture me in my anticipated journey. No one person represents these two values, and the coming together of these values with the practice of law, more than Andrew "Uncas" McThenia.

From my earliest days at W&L, Uncas has been an integral factor in my formation as a lawyer and a Christian. Uncas addressed the law school orientation, a day or two before classes started. I remember Uncas urging us not to make an idol of the law. How many professors tell beginning law students to be careful not to make the law their idol? Idolatry? Law school? Aren't many folks in law school seeking an idol to worship? Isn't that the prime objective of most law students? This caught my attention. This talk of law and the willful surrender – or more likely the subtle succumbing – of our souls that takes place over the three years for law school is neither the usual talk of law schools nor their emissaries.

Using Uncas's admonition, "Don't let the law become your idol," now I challenge students and young lawyers. I use it to remind them that law school and its approach – to learn how to think like a lawyer – are tools. Awakened by Uncas's words, students and lawyers alike are given the freedom to master the tools (and not be mastered by them), to expand the boundaries of the law and the perceived limitations of its practice, and to be liberated from the law.

* Executive Director, Georgia Justice Project.

I am honored and overwhelmed in being asked to contribute to this tribute edition of the *Washington and Lee Law Review*. It is a huge responsibility, though I have been asking, "Why me?" Perhaps it is because Uncas and I share a few traits. We are both Episcopalians. (Probably not the reason.) We are both West Virginians. (Ahh, I could be on to something.) Uncas (as I have jokingly reminded him) is from Greenbrier County, the Republican area of the state, the snooty section. Some might think it odd there is a haughty section of the state. But if it exists, it is from where Uncas hails. A section full of past governors and writers. A place of five star resorts. A place with top-notch skiing.

I was not raised in the landed gentry portions of my otherwise impoverished home state, but rather in Fayette and Kanawha Counties. Serious coal and serious poverty. It is the land of writer Breece DJ Pancake (very depressing), where John L. Lewis's picture hangs in most homes. There are mountains so fierce that few denizens ever dare leaving. What remains is a hard scrapple existence for many – absent the occasional politician or lawyer in the state's capital, Charleston.

The reality connecting Uncas and me is, of course, neither geographic nor denominational. It is our vocations, our similar callings. Having sought ways to connect my Christian faith with the practice of law, to use my law degree to access justice for the poor, the oppressed, and the forgotten, I share much with Uncas.

The calling, for me, has taken the form of working for the Georgia Justice Project (GJP) for the past eleven years. GJP's mission, "to ensure justice for the indigent criminally accused and by taking a holistic approach, help our clients to lead crime free lives as productive citizens," makes us different from not only public defenders but also from every other program in the country in that we offer a long-term relationship coupled with a broad base of social services. If our clients go to prison at the conclusion of the case, we visit them. Once they are released or if they do not go to prison, we continue that relationship by offering support through a variety of services including individual and group counseling, GED and literacy work, and job training. We run our own company (New Horizon Landscaping) to employ clients. And in this work, Uncas has been a motivator and a sponsor.

During the 1980s, the nation's rapid increase in the number of people who were homeless did not leave Lexington, Virginia, untouched. As a result, Uncas and a few community members decided to address the issue by starting a homeless shelter. Another student and I had experience volunteering at shelters. Uncas asked us to help as the group organized the shelter. I spent a number of nearly sleepless nights with Uncas in that cramped space. This is the quality of Uncas's character, the groundedness of his convictions.

Another prevailing memory of Uncas is how often he tried to get me to read William Stringfellow's work. Stringfellow, a Harvard educated lawyer

for the poor, awakened the hearts of many with his searing analysis and dedication. Uncas knew that Stringfellow would speak to me – which is true. There has been a national revival of interest in the work and life of Stringfellow, almost single handedly due to Uncas's efforts.

Most of Uncas's sabbaticals were spent in the places of poverty and on the battlefields for the powerless. His presence on the streets of Washington, D.C., with the Sojourners community and in the coal fields of southwestern Virginia reflect Uncas's understanding of and dedication to the intersection of law and religion. His work with the Alderson Prison program and his work with coal miners suffering from black lung – against the mighty coal companies – all demonstrate the power of his convictions. Not with hollow words or publications alone, Uncas has lived his beliefs through his actions.

My greatest sadness regarding Uncas's retirement is for the school. Though folks like Sam Calhoun, Brian Murchison, and Susan Palmer (to name only a few) will continue to challenge the materialistic paradigm, there will be a void to fill – one less voice offering an ethical confrontation to the ambitions of law students. Who will remind students – in the beginning and throughout their journey – that they need to remember the poor and the forgotten? Who will remind students that they are about to become part of the power structure? Who will testify (with words and actions) that a Christian use of power involves sacrifice (surrendering one's power in the interest of their brothers and sisters without voices, without a platform, without privilege)? Who will remind the W&L community of the opportunity so inherent in even being at the school, wealth in the making as law students become lawyers?

Recently, I spoke with another W&L graduate and fellow Atlanta lawyer. We were not in school together. He too, an Uncas admirer, lamented the loss of Uncas for the University. He worried about who would be the bearer of conscience, who would be the counter balance to a materialist and narcissistic world view so ingrained in our society.

I also am sad for the profession. Because money and power are either the initial goals of so many enrolling in law school or quickly become the goals of so many practicing lawyers, we need Uncas. We need him to be a witness in the midst of a profession that sacrifices so many souls for power, money, and prestige.

It is vital to have a witness and a voice for the powerless in a culture of people training in the use of power – a voice of those whom power has forgotten, rolled over, and often abused. For power to have its check, a spiritual and moral balance, power needs to be reminded of a spiritual reality. And that reminder is a chorus, quietly floating through the law school stacks, that worldly power is an illusion. Real power lies where we would least suspect. It lies where the broken are, where God incarnate spent time, where Jesus spent His hours dying a humiliating death. True power lies in death and surrender.

Real power is sacrificial – given to those who need it, offered where there is no other hope. This has been the witness of Professor Andrew McThenia. (And the people said, "Amen!")

There is yet another aspect to Uncas's witness in the law school community. So many of us who go to law school to "do good" want to affect the big picture. We want to "change the system." It is enticing to want to change the world top down. Why get messy with specific problems, why get enmeshed with your community and with your neighbors, when you could just fix the problems by changing policy, by granting a new tax cut, by funding another government program? There is a seduction in a sentiment that power, if the right folks just get the power, then everything would be better. Of course, part of this is true, but the danger lies in believing that the struggle is for influence instead of connectedness. The danger lies in our changing, in our believing that the road to power (fraught with compromises of every type) is the road to change. All the while we miss the opportunity to be a presence, to be a vehicle of reconciliation, to love our neighbor.

This is one of the many values demonstrated by Uncas: through his work in the inner city of Washington with Sojourners, walking with my brothers in isolated coalfields of southern West Virginian and southwestern Virginia, representing other West Virginians as they struggle with a disease endemic to the coalfields, black lung. Uncas is both a fellow traveler and teacher on this road. He has been a witness to this value, to this ethic. Not necessarily opposed to the big picture, but helping us to better focus on the needs of our neighbors.

Law school is a place of power. It is a place to study the machinery that runs the world. Tools are developed in law school, tools used primarily for – or bought by – the highest bidder. After immersion into the bowels of the power structure, these skills are too often used – intentionally or not – against the powerless.

Uncas's voice and presence have been prophetic – a call in the wilderness to remember not only the humanity of those adversely affected at the hands of lawyers and business interests, but also a call to encourage us, to urge us, and to instruct us not to forget our humanity, not to neglect our souls. Having Uncas in the midst of this worldly place was an oasis. We need to offer up a prayer of thanksgiving for having Uncas, someone devoted to a broader, deeper, more theological vision of lawyering. This is water for the thirsty. It is drink for the parched.

Uncas has been W&L's reminder not to let the world overwhelm us, not to let the world define us nor recast us in its image. Uncas has reminded us that the best use of power is to support the powerless. This role of "reminder" is a difficult one. It is an uphill battle, a battle against the myriad enticements of the corporate world. He stands as a witness against the materialist world-view. He

stands as a witness against the market forces that threaten to reduce everything and everyone to a commodity . . . even justice . . . even our callings, even our profession, even our souls.

I am so grateful for Uncas's presence. I am grateful for his witness to a deeper and larger reality, rooted in the prophets of the Old Testament, and for his reminder that God calls us all to seek justice. W&L has been blessed to have him. We need witnesses to revive our souls, to propel us outside of our self-centered and narcissistic attitudes, and to lift us to another level. This has been Uncas's witness.

JOHN RANDOLPH
TUCKER LECTURE
