

FACULTY TRIBUTE

*Tom Shaffer '61 J.D. with
Brian Doran, the newest
addition to the family
of Eileen '86 J.D. and
Pat '83, '86 J.D. Doran.*



Tom Shaffer: A Model Role Model



As I reflect on writing about Professor Tom Shaffer '61 J.D., to honor him on the occasion of his promotion to emeritus status at NDLS, I think about the many ways I have known him in the nearly 40 years since we first met. I have known him as a fellow student — we were Law School classmates. I have known him as

a colleague — we have taught together on this faculty for the better part of the last 27 years. I have known him *as my dean* (from 1971 to 1975), and I have known him *as his dean*. We have been administrators together. And throughout these last four decades, he has been one of my best friends.

I could write about the impact Tom has had on my life through our various relationships. But the thread that runs through all of them is that he has been, more than anything, a wonderful role model — for me, for his colleagues, for our students. And the amazing thing is that he serves as a role model without even trying; he serves as a role model by being the person he knows he is supposed to be, and the rest of us want to emulate him because we know that we should want to be the same.

As a law student, Tom placed at the top of our class. And he got there by studying the law in a way that interested him. He is the only person I know who not only read all of the assigned texts, but who also read all of the footnotes, as well as most of the references within the footnotes. He has strong analytical skills — which not only benefited him in his studies, but which also benefited the rest of us as he asked questions of the professor in class or as we sat around studying and discussing various subjects after class.

We were students during the Dean O'Meara years — years in which many of our alumni will remember classes being shrunk unmercifully by, among other things, a tough grading system. Grades during those years were based on a scale of 0 to 100 — and a score of 0 was always a possibility. The highest grade in a given class was usually around 80 — a score of 81 or 82 was considered remarkable. Tom's grade-point average was well over 90. In fact, in Constitutional Law, the late Professor Roger Peters gave Tom a 100. I asked Professor Peters how someone merited a score of 100 in the context of that grading system. His reply typified the type of student Tom was: "Tom Shaffer doesn't know everything there is to know about constitutional law — which you might infer from a grade of 100. But I've been teaching the subject for over 20 years, and Tom knows more than I do about it, and I think that deserves a 100."

BY DAVID T. LINK '58, '61 J.D.
JOSEPH A. MATSON DEAN AND PROFESSOR OF LAW



I never thought of Tom as just a great student. Rather, I thought of him as a friend who taught the rest of us by talking with us about the law. And I wanted to be like him. I never thought of trying to be better than him, either — not that it would have been possible anyway, but because it would have been inappropriate.

After graduation in 1961, we went our separate ways for a while — I went to Washington, D.C., to work with the Treasury Department, and Tom went to Indianapolis as an associate at Barnes, Hickam, Pantzer & Boyd. After a couple of years, he returned to NDLS to begin his teaching career. No one — either among his classmates or among the faculty — was surprised, because we all knew he was destined to be a professor.

He also knew me well enough to know that I should be a professor — even though I didn't know it myself at the time. I spent five years at the Treasury Department, then joined a Chicago law firm to practice tax law. During those years, Tom kept trying to convince me to return to my *alma mater* to teach, and recommended me to Dean Lawless. I came to NDLS in 1970

on a two-year leave from the law firm, and still haven't left! I realized that Tom was right. As my friend, as my teaching colleague, and as my dean (which he became in 1971), he showed me how wonderful this profession is — I'm now in the 27th year of my two-year leave of absence.

I know no better scholar than Tom. He is our most prolific author — his list of publications is nearing the 300 mark. We on the faculty joke that Tom Shaffer is so good at writing that he can pen an article in the car on his way home from work. He reads more than anyone I know, and has a fantastically reflective mind.

He has addressed a number of fields of expertise during his 35-year teaching career. He began his career teaching trusts and estates, and estate planning, but now, in his work at our Legal Aid Clinic, concentrates on client counseling. He is also a nationally known scholar in the fields of law and religion, jurisprudence and ethics — particularly ethics in the law-office setting. He studies what interests him, and he makes his interests interesting for the rest of us.

I am writing to offer a recollection of my good friend, Professor Tom Shaffer. . . . I had the pleasure of being a visiting professor at Notre Dame Law School during the 1988-89 academic year. That same year, Professor Shaffer returned to the Law School from several years at another law school.

Tom and I taught the two sections of Property Law that year. What struck me the most about him that year was that, despite his reputation as an internationally renowned scholar, his first interest was in his students. He gave me the courage to try small-group sessions in a large, first-year required course because he was willing to try it. He was also willing to offer a variety of opportunities for student feedback and paid particular attention to different techniques for student learning. We spent several delightful Fridays with small groups of first-year students in which virtually every student participated in a meaningful way.

I came away from that experience knowing that I had worked with an absolute master scholar and teacher. I will always remember him in that vein, but also as an individual who is capable of true concern and friendship for his students and colleagues.

I applaud you for [profiling] Tom Shaffer. He is one of the giants in legal education. I wish him well in his retirement years.

— Peter W. Salsich Jr.
McDonnell Professor of Justice
St. Louis University School of Law

It was with sadness for the present and future students of the Notre Dame Law School that I read that Professor Tom Shaffer [had retired] at the end of the 1996-97 academic year.

It is difficult for me to put into words all that Tom Shaffer taught me. He is so articulate and for many years has sent me copies of various articles he has written. I have enjoyed reading them.

Tom Shaffer put real people and real-life situations behind the problems he presented in class. Those situations involved issues that a lawyer in a small-town practice faces. Many law-school courses use the casebook method and the only view of the people involved are as named plaintiffs and defendants. In his class, students interviewed individuals who had real-life concerns outside of the litigation area. Oftentimes I felt I was one of the few individuals in my class who was not headed to a big-firm practice. His insight into people and the general practice of law have been valuable to me as a practicing lawyer in my hometown. He has a wonderful combination of great intellect and sincere compassion for other individuals, regardless of their station in life.

Tom Shaffer's teaching and writings revealed his goal to have students become members of a service profession with a strong moral and ethical foundation.

I am not the only person he influenced — I know there were many others. I wish him well in his retirement from teaching — now maybe he can come to South Dakota to visit.

*Yours truly,
Jane M. Farrell '80 J.D.
Hot Springs, South Dakota*

Tom is a wonderful colleague. For so many years here he has been at the center of a beautifully collegial environment that he helped create by being the kind of faculty member he knows he should be — in short, by being a leader rather than by talking about being a leader or by talking as a leader. He doesn't impose his views on others; he listens, he shares — his ideas, his time, his experiences, his life. When colleagues have difficulty with their own scholarship, he invites them to work on a project with him — not because he needs the help nor even necessarily because the faculty member needs the help, but because he genuinely enjoys working with others. His own bibliography contains a number of works co-authored with members of our faculty, as well as with our students.

As a professor, he is among our most creative. He creates courses and other programs of instruction — such as those used in our Legal Aid Clinic — by bringing together faculty from other disciplines to teach students what they need to know. Law books do not constrain him. One notable course he created to teach law and genetics brought together scholars from around the University to team-teach the course. Tom shared the stage with Professor Stanley Hauerwas of the Department of Theology and Professor Harvey Bender of the Department of Biological Sciences. In the clinical programs, he has brought in psychology professors and counselors to teach our students — our future lawyers — how to counsel. As a full-time clinical faculty member, he teaches our students by thinking about what they need to know and then by finding the best people to teach it to them. And he, of course, is a wonderful teacher — showing our students how to be the best counselors and advocates they can be, by being the best counselor and advocate he knows how to be.

After Tom resigned the deanship in 1975, he left NDLS for a while. One of my goals as dean was to bring him back. In

1988, I finally succeeded. Since then, and in particular since 1991, he has been one of the driving forces behind the revitalization of our clinical-education programs.

Since the early 1960s, when NDLS began providing legal services to the poor in the South Bend community, there has been a constant tension between two seemingly incompatible aims of the work of legal aid: experiential learning for students and community service. Tom, however, believes that the legal-aid experience can satisfy both of these aims and more. Consequently, he has helped create a legal-aid

program that provides students with practical experience that serves the community and that is integrated into the overall law-school learning process. Among other things, his reflective seminars, lectures and debriefings have turned legal aid into a true educational experience. And he did this not by setting out to revolutionize legal aid, but by being a good clinician — by deciding, with his colleagues in the clinic, what should be done and then getting it done.

I envy the time he spends with our students and with the clients. He has the time and the opportunity to put into effect his beliefs about ethics in the law office. The work entails a heavy personal commitment from him, both in serving clients and in teaching students. But it has been a wonderful opportunity for him, and a blessing for us that this brilliant scholar decided to devote his time to this worthwhile venture.

Tom announced his retirement from full-time teaching status at the end of the 1996-97 academic year. I, and his colleagues on the faculty, already miss having him as a constant part of us. But he has decided to remain as a volunteer supervising attorney at the clinic. And so I know, in his own inimitable way, he will continue to be a teacher, a role model, for our students. For that, I am grateful. And he will always be my friend. In that, I am truly blessed.



Tom receives a hug of congratulations from his youngest son, Ed, with Brian Doren peeking out.

A Thank You to Professor Tom Shaffer

BY PAUL R. MATTINGLY '75 J.D.

I cannot claim to be Tom Shaffer's closest friend or best buddy, but our Class of 1975 was one of only a few to whom he was, throughout our tenure at the Law School, the "dean." My lasting impression is of his good-humored common sense and concern on just about every issue, all packaged as a bow-tied Hoosier lawyer any Indiana courthouse would be proud to host. Look a little further and there is definitely something else — living proof that there is indeed integrity in our profession.

My own anecdotal stories are never too far from memory. There was the incident when, as a first-year student on scholarship interested in the London program, the thought occurred to me that maybe the Law School wouldn't smile on paying for a "frivolous" year abroad. Without giving it a thought, I breezed in to share my concern with the dean. "Well," he said, looking across the top of his glasses and barely stifling a chuckle, "What would that have to do with anything?" We discussed it no further, and I vowed to act more intelligently in the future.

When our group returned a year later, I went to see him about London again, this time to assert our collective feeling that the London students felt somewhat abandoned by the administration in South Bend. "Well," he said, still looking across the top of those glasses, "What do *you* want to do about it?" After articulating a multi-point program that we were convinced would promote harmony within the Law School family, he smiled simply, nodded approval, and told us to take care of it with an announcement that the dean supported it. We did, and he did.

Nearing graduation, many in our rather small class decided it would be appropriate to dispense with the pomposity and expense of caps and gowns, graduation ceremonies, and the like. Mail us the diplomas, we urged. We have things to do and places to go. By and by, the issue ended up before the dean, and a consultation ensued. In addressing the matter, he told us he would take a lesson from the approach of other leaders of historical note. He would defer a decision with the fervent hope that the entire issue would go away and resolve itself. Distressed that no decision could be extracted from the dean, the positions hardened — until too many parents, friends and acquaintances objected to being excluded from a visit to Notre Dame in May for a graduation exercise. Gradually, the dean was vindicated. History repeated itself and the matter dried up and blew away like so much tumbleweed.

Over the years, I have spoken to Tom from time to time. On one occasion during his tenure at Washington & Lee University, I asked his advice in a round-about manner over lunch during a recruiting visit for my firm. A client had developed a tax-shelter program that became widely successful, especially after

an economics writer for *Newsweek* magazine had characterized it as a legitimate program. Millions upon millions of dollars were involved. There was phenomenal interest in it, especially at the Internal Revenue Service and (it seemed) every state securities commission in the country. I had crisscrossed the country putting out regulatory fires and explaining the program's merits and legality to those threatening attempts to shut it down. Tired and particularly worn out from constant admonitions about how, whatever the merits of my client's program, I should be ashamed of keeping so much money out of the U.S. treasury, I told the story to Tom, wondering what he would think of me. At the end of my tale, he smiled as he always did.

It would be unfair to use quotes, because I cannot recall Tom's exact words. But the import of his response will always stay with me. Their questions and complaints, he analyzed, were the economic equivalent of the old layman's question about how counsel can represent a murderer when he "knows" the defendant is guilty. My duty was to be the best advocate I could be — to present my client's case in the strongest possible terms consistent with everything I knew to be correct, ethical and appropriate. All the better that I was personally convinced in the matter. Leave it to the other side to muster their arguments, and don't worry too much about what they think. Their judgmental concerns might even be a mask for a lack of intellectual integrity in the arguments they advanced. Do the job you signed up to do, and don't apologize for it.

Simple, straightforward and direct. Perhaps it was more meaningful to me because it was what I wanted or needed to hear; but I know too that it was correct. Considering the source, I was energized and confident about resuming the struggle. Of course, I lost in the end — my client's program was soon legislated out of existence by the Tax Reform Act of 1986 — condemned by name in committee reports and hearings by various luminaries who asserted that if it weren't "abusive" before, it would be after.

Tom Shaffer probably doesn't remember our conversation in that restaurant many years ago, or our numerous discussions when he was dean. He probably doesn't remember hundreds or thousands of conversations with hundreds or thousands of students, lawyers, clients and others. But rest assured that many who speak with Professor Shaffer remember him and what he has to say. Many have been and will continue to be guided by his wisdom, common sense and decency.

It is appropriate to wish him well as he retires from full-time teaching and to thank him for his many substantive contributions to, and continuing examples for, our professional lives.