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## A Tribute to Professor Osborne M. Reynolds

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## OSBORNE M. REYNOLDS

Osborne M. Reynolds retired from the University of Oklahoma College of Law in May 2002, after thirty-four years of distinguished service. Professor Reynolds earned his B.A., *summa cum laude*, in 1961, and his J.D., with distinction, in 1964, both from the University of Arizona. During law school, he served as Editor-in-Chief of the *Arizona Law Review*. Following law school, Professor Reynolds earned his LL.M. at Stanford University, where he served as a teaching fellow, and his S.J.D. at Southern Methodist University, where he completed a thesis on the Federal Tort Claims Act.

Before arriving in Norman, Professor Reynolds served as a visiting assistant professor of law at the University of Arizona, 1967-68. He then joined the faculty at the University of Oklahoma College of Law in 1968, leaving to serve as a visiting professor at Southern Methodist University Law School in 1977, and at Vanderbilt Law School in 1981. He ascended quickly at OU, gaining his associate professorship in 1971, and his full professorship in 1974. From 1986 to 1988, Professor Reynolds held an Associates Distinguished Lectureship, and the College of Law named him the Maurice H. Merrill Distinguished Scholar in 1993.

Professor Reynolds has focused his scholarship and teaching on the areas of Torts and Local Government Law. Included among his offerings have been first year Torts and Property, Advanced Torts, Local Government Law, Land Use Control, Regulated Industries, and Urban Environment Management. He has published extensively in these areas, including a treatise on Local Government Law, and an Advanced Torts case book co-authored with Professor Peter Kutner.

Professor Reynolds has also served as a leader in the Bar and other community organizations. Professor Reynolds served as Chair of the Subcommittee on Local Government Organization and Management of the ABA Section on Local Government, Chair of the Subcommittee on Air Pollution of the ABA Administrative Law Section, Fellow of the Arizona Bar Foundation, member of the Board of Directors of the Oklahoma Civil Liberties Union, and member of the Norman Committee on City Charter Revisions.

A partial listing of Professor Reynolds's numerous publications follows:

### *Books:*

- LOCAL GOVERNMENT LAW (hornbook) (West 2001)
- ADVANCED TORTS: CASES AND MATERIALS (Carolina Academic Press 1997)

### *Articles:*

- The Discretionary Function Exception of the Federal Tort Claims Act, 57 GEO. L.J. 81 (1968)
- *The Reasonable Man of Negligence Law: A Health Report on the "Odious Creature,"* 23 OKLA. L. REV. 410 (1970)
- *Defamation from the Grave: Testamentary Libel,* 7 CAL. W. L. REV. 91 (1970)
- *Punitive Damages After Death: Can Tort Law Create Heaven and Hell?,* 26 OKLA. L. REV. 63 (1973)
- *Attractive Nuisance: More Nuisance Than Attraction,* 26 OKLA. L. REV. 342 (1975)

- *Put Yourself in an Emergency – How Will You Be Judged?*, 62 KY. L.J. 366 (1974)
- *Strict Liability Under the Federal Tort Claims Act: Does “Wrongful” Cover a Few Sins, No Sins, or Non-Sins?*, 23 AM. U. L. REV. 813 (1974)
- *Zoning the Reservation: Village of Euclid Meets Agua Caliente*, 2 AM. INDIAN L. REV. 1 (1974)
- *Co-Ownership of Property in Oklahoma*, 27 OKLA. L. REV. 585 (1974)
- *Practice and Performance by the Out-of-State Attorney*, 6 U. TOL. L. REV. 63 (1974)
- *Proximate Cause: What If the Scales Fell in Oklahoma?*, 28 OKLA. L. REV. 722 (1975)
- *Agua Caliente Revisited: Recent Developments as to Zoning of Indian Reservations*, 4 AM. INDIAN L. REV. 249 (1976)
- *Is “Public Necessity” Necessary?*, 29 OKLA. L. REV. 861 (1976)
- *Strict Liability for Commercial Services: Will Another Citadel Crumble?*, 30 OKLA. L. REV. 298 (1977)
- *Public Nuisance: A Crime in Tort Law*, 31 OKLA. L. REV. 318 (1978)
- *Limits on Negligence Liability: Palsgraf at 50*, 32 OKLA. L. REV. 318 (1978)
- *Strict Tort Liability: Has Abnormal Danger Become a Fact?*, 34 OKLA. L. REV. 76 (1981)
- *Legal and Social Aspects of Roman Marriage*, 9 S.U. L. REV. 205 (1981)
- *“Green River Ordinances”: Where Does the Burden Belong?*, 11 FORDHAM URB. L.J. 427 (1983)
- *Extinguishing Brushfires: Legal Limits on the Smoking of Tobacco*, 53 U. CIN. L. REV. 435 (1984)
- *Tortious Battery: Is “I Didn’t Mean Any Harm” Relevant?*, 37 OKLA. L. REV. 717 (1984)
- *Statute of Limitations Problems in Products Liability Cases*, 38 OKLA. L. REV. 667 (1985)
- *Self-Induced Hardship in Zoning Variances*, 20 URB. LAW. 1 (1988)
- *The Discretionary Function Exception of the Federal Tort Claims Act: Time for Reconsideration*, 42 OKLA. L. REV. 459 (1989)
- *Distinguishing Trespass and Nuisance: A Journey Through a Shifting Borderland*, 44 OKLA. L. REV. 227 (1991)
- *Zoning Private and Parochial Schools – Could Local Governments Restrict Socrates and Aquinas?*, 24 URB. LAW. 305 (1992)
- *Voting Requirements in Municipal Governing Bodies*, 27 URB. LAW. 87 (1995)
- *Transferred Intent: Should Its “Curious Survival” Continue?*, 50 OKLA. L. REV. 529 (1997)
- *The “Unique Circumstances” Rule in Zoning Variances*, 31 URB. LAW. 127 (1999)
- *Licensees in Landoccupiers’ Liability Law – Should They Be Exterminated or Resurrected?*, 55 OKLA. L. REV. 67 (2002)

# TRAVELS WITH MAC

Peter B. Kutner\*

Evaluating Mac Reynolds as a teacher, scholar, mentor, and colleague, such adjectives as "exceptional," "extraordinary," and "unique" come readily to mind. He has been a renowned classroom teacher, revered by two generations of law students; awesomely prolific scholar, with almost forty law review articles as well as a leading treatise and casebook; most collegial and generous colleague for all with whom he worked; and treasured friend and mentor to countless numbers of faculty members and students, present and past.

Mac Reynolds is peerless as a global traveller no less than as a law professor. Sights in most of the world's countries he has either already seen or put on his list — and there really is a list. Mac loves to travel well — top hotels, good restaurants, and first class transport are always included — but despite his preference for comfortable travel, and level ground, he has journeyed to such exotic locales as Iceland, Zambia, and Tibet. No waterfall is to be missed, nor zoos from Adelaide to Zurich. Seeing many friends who have moved to places far from Oklahoma is an equally important object of his travels.

It has to be acknowledged that Mac observes a strict separation of law work and travel. He believes that pleasure travel is not to be interrupted by a visit to some university. Normally a most accommodating travel companion, he thoroughly disapproved when I took him to see the intersection in *Holloway v. McFeeters*<sup>1</sup> en route to the wildlife sanctuary in Melbourne. His desire to go to Newfoundland has no connection with the inclusion of a Newfoundland case in our Advanced Torts casebook. If Ralph Nader opens his Museum of Tort Law in Winsted, Connecticut, Mac will go see it, but in the same spirit as he will see the Barnum Museum in Bridgeport and the Danbury Hat Museum.

In his teaching and writing, Mac's separation of law from other interests is not as severe. The case of the bear in the bathhouse<sup>2</sup> — the bear who escaped from the Mangum municipal zoo — was a favorite in his classes. *Monson v. Tussauds Ltd.*<sup>3</sup> is a note case in the casebook because it involves defamation by a display in a wax museum. However, it is another case in the book that best reflects an aspect of Mac's life — that of the director of the "Children's Hour" radio program who was known as "Uncle Mac."<sup>4</sup> On a deeper level, his article on *Cool Hand Luke*<sup>5</sup> explores the themes of nonconformity, rebellion, and escape. Unlike Luke, Mac's rebellion was subtle, and he succeeded in escaping.

With his retirement from teaching, only the other requirements of the calendar — holiday celebrations and the Academy Awards ceremony — need to be accommodated in Mac's plans. Honoring his outstanding work and service as a

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1. (1956) 94 CLR 470.

2. *City of Mangum v. Brownlee*, 1938 OK 6, 75 P.2d 174.

3. [1894] 1 Q.B. 671 (Eng. C.A.).

4. *McCulloch v. Lewis A. May (Produce Distributors), Ltd.*, [1947] 2 All E.R. 845 (Ch. 1947).

5. Osborne M. Reynolds, Jr., *Review of Cool Hand Luke*, 22 OKLA. CITY U. L. REV. 97 (1997).

**faculty member and how much he has meant to us as a colleague and friend, we who remain in harness hope and anticipate that those plans will include both great travels and much fulfillment as an emeritus member of the law school faculty.**

## "WELL, YES," AND OTHER REMEMBRANCES OF MAC

*Michael D. Morrison\**

Professor Reynolds has not only taught three decades of law students, he has also befriended and mentored countless men and women, many, many of whom, by the time of graduation, considered Mac to be a close personal friend and who continue to this day to keep in touch.

As a professor, Mac was friendly, authoritative over his areas of the curriculum, and always available to help his own students as well as those of other faculty members. Students sought him out most certainly for his knowledge but also for his easy manner or even the bowl of candy he kept filled on his desk. Mac was always available. Most evenings when my class was in school, he would return to his office in Monet Hall from his living quarters in the Union Building so he could prepare for class or meet with students. He continued this practice after the law school moved to the new building in 1976 and he had moved to an apartment in Kraettli.

First semester finals are a defining moment for all students undergoing their rite of passage through law school to the practice of law. Preparing for Mac's final created no small amount of anxiety. While his classroom manner was decidedly non-threatening, his finals were reputed to be arduous. In an exam techniques review near the end of our first semester, Harvey Siler, who had made the high grade on Mac's final in the class ahead of ours, advised us how to take one of Mac's exams: "If you think of it, write it down, write it all, and write it fast." It was good advice. For most of us, time was called at least two and a half blue books later, yet still before any of us had written our way through all of the issues to be addressed.

Even though Mac probably had the weightiest stack of blue books to contend with, he always finished his papers and posted the grades before flying home to Tucson to spend Christmas with his mother. This made Mac's grades the first ones that many students would receive at OU. None of us really knew how we would do in law school or how we had done on that first set of finals just completed. Win, lose, or draw, however, everyone appreciated the timeliness of this first evaluation of our efforts. It made for a much more relaxed Christmas to know that no matter what else happened, at least we wouldn't have to repeat *every* first semester course (Mac gave no F's to our class).

Mac's students will always remember the gentle response he would give to even the most absurd assertion from a student. "W e e l l l," he would say, "I can see how that might be." They, too, remember Mac's uncanny ability to point, without having to turn his head to look, to the correct citation of the many references he always put on the black board before class. Mac's classes, like his exams, were crammed to the brim with law. I once heard a classmate compare the amount of law Mac packed into a class session to getting ten ounces of soup in an eight-ounce bowl. Even when we were taking Mac's classes, we suspected that his treatise-like

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\* William J. Boswell Professor of Law, Baylor Law School. J.D., 1974, University of Oklahoma College of Law; B.A., 1971, University of Oklahoma.

knowledge was phenomenal. Mac didn't answer questions with opinions; he answered them with law — complete with case styles, frequently accompanied with citations. Years later, after teaching torts for over a decade myself, I sat through another of Mac's torts classes on a visit to OU and marveled once again at the depth and breadth of his knowledge (while furiously scribbling notes about the content of his lecture and approaches he used that I could try with my own classes).

While he has retired from teaching, and succeeding generations of law students will have to make their way through OU without Mac's presence, they will not be without his guidance. His treatise in Local Government Law, published by a national book company, is the standard in the field, and his dozens of law review articles will continue to illuminate the path for those seeking the way.

Even today, twenty-eight years after we sat in his class, Mac is the one many of us seek out to follow up on classmates with whom we have lost touch. He has not only stayed in contact with his past students, but he is also regularly called, written, and often invited to visit by scores of them. He invariably responds with the same care and timeliness he displayed so many years ago in posting that first set of grades. Mac, thank you for investing so much of yourself in us. Oklahoma Law School is fortunate to have had you, and so are we.

## FRIENDS OF MAC

*Alma Nickell Singleton\* & Judith L. Maute\*\**

Professor Osborne M. Reynolds, Jr., Maurice H. Merrill Distinguished Scholar, retired from teaching in 2002, thirty-four years after his arrival at the University of Oklahoma College of Law in 1968. He earned his A.B. at the University of Arizona and was elected to the Phi Beta Kappa Society and the honor societies Phi Kappa Phi and Phi Alpha Theta. He was elected to the Order of the Coif after graduating from the University of Arizona College of Law where he served as Editor-in-Chief of the *Arizona Law Review*. In 1965, Professor Reynolds received an LL.M. from Stanford University. He continued his legal education at Southern Methodist University, earning the most advanced law degree, the Doctor of Juridical Science (S.J.D.) in 1968.

Mac Reynolds is an exceptional friend and colleague. For many lawyers and legal academics, Mac has been the hub of a large wheel of rich professional connections. Within the law school, a dish of M&Ms on the corner of his desk invites all into his office — for an interesting conversation about torts, travel, or movies, or the sugar-high one needed to get through the day. He wrote the book on torts, travels around the globe, and recalls the details of every movie nominated for an Academy Award. For many years, Mac has presided over the weekly "bar review," a Thursday night gathering of faculty at local restaurants. He loves good food and conversation and is a sought after lunch companion. His calendar fills up quickly. To many children of faculty colleagues, he is known as "Uncle Mac," who takes time to listen, and remembers special occasions. For his friends, Mac is fiercely loyal and always celebrates your birthday. Whether it's a postcard from an exotic location or a box of candy for the hostess, Mac's thoughtfulness is enjoyed by many in the law school community. Countless others have been touched by his kindness and generosity.

As a teacher, Mac is firmly ensconced as a part of the institution. For many of our students, a class with Professor Reynolds was part of a family tradition, with generations of Oklahoma lawyers who cut their teeth in the law in his classes on Torts and Local Government Law. In his years on the faculty, he taught upwards of 6000 students at the University of Oklahoma. In class, he regaled students with intricate tales of torts, woven into a coherent doctrinal scheme. Students said his mind was like a steel trap, able to recall precisely the details of a case and place it in the overall doctrinal framework. Professor Reynolds was dedicated to his students, while in law school and thereafter. His weekly "coffee-hours" in the student lounge gathered many regulars who listened enraptured. He supported their professional development through Phi Alpha Delta and the American Civil Liberties Union. He shared his inveterate love of travel by supporting the Mary Reynolds University of Oklahoma Oxford Scholarship from 1995-2001, enabling several worthy students to participate in the summer Oxford program. For years he has

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\*\* Professor of Law, University of Oklahoma College of Law. LL.M., 1982, Yale University; J.D., 1978, University of Pittsburgh; A.B., 1971, University of Indiana, Bloomington.



dined with former students, encouraging their personal and professional challenges long after graduation.

Professor Reynolds is a prolific and influential scholar. His treatise on Local Government Law<sup>1</sup> is a classic, regularly referred to by courts and secondary authorities.<sup>2</sup> The casebook on advanced torts, co-authored with Professor Kutner, has been a mainstay in the upper-division torts curriculum. Over the years, his scholarship has been cited and relied upon extensively by courts and commentators.

Mac Reynolds has served the University of Oklahoma College of Law long and well. We thank him, and will miss his regular presence.

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1. OSBORNE M. REYNOLDS, *HANDBOOK OF LOCAL GOVERNMENT LAW* (2d ed. 2001).

2. See, e.g., *Big Country Foods, Inc., v. Bd. of Educ. of Anchorage Sch. Dist.*, 952 F.2d 1173, 1179 (9th Cir. 1992); *Melton v. Gunter*, 773 F.2d 1548, 1551 n.15 (11th Cir. 1985); *Evans v. Romer*, 882 P.2d 1335, 1364 (Colo. 1994); David J. Barron, *A Localist Critique of the New Federalism*, 51 *DUKE L.J.* 377, 391 n.30 (2001); Helen Hershkoff, *State Courts and the "Passive Virtues": Rethinking the Judicial Function*, 114 *HARV. L. REV.* 1833, 1894 n.331 (2001).