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Dedications to Dean Frederick M. Hart

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The New Mexico Law Review, Volume 52, is dedicated to

Professor Emeritus & Former Dean Frederick M. Hart
(December 5, 1929–June 6, 2021)

“When the work is finished, the mornings are sad.”

In 1979, my father Fred Hart resigned as Dean of the UNM Law School, and returned to teaching. Honoring his accomplishments, the New Mexico Law Review staff dedicated the Summer issue to him. In that dedication, Maureen Sanders, the Editor-in-Chief, wrote that “Dean Hart saw to it that [the students] had people—faculty and students—interested in quality legal education.” Those who wrote about my father in that journal forty-three years ago recognized that his leadership and courage as a force for change in the way law schools operated was driven by his belief that potential for truly “quality” legal education was enhanced in an environment where people from diverse backgrounds came together to work hard to solve society’s most challenging problems.

Upon his death in June 2021, the tributes to my father have been many, and the outpouring of gratitude expressed by hundreds has demonstrated that while his most valuable and significant contributions in life were as a son, a husband, a father, a grandfather and great-grandfather, he clearly earned some veneration and respect at his other home—1117 Stanford NE.

It is curious to consider how it might have turned out differently. Fred Hart’s career as a law professor, a visionary legal educator, an imaginative and inspirational administrator and Dean, started by accident and coincidence. My father returned from the Korean War and planned to look for a job teaching high school math. But he ran into a college friend walking down the street in New York and they talked for a few minutes. The friend told my father that the test to get into law school was the following morning and encouraged my father to show up. Fred said “okay.”

To pay for Georgetown tuition, he got a job proctoring freshmen that provided housing, a meal plan, and tuition. He was not a good law student that first semester and had no confidence he could make it through. But, one grey day, he took a break from studying and headed down the street to a coffee shop. As he looked ahead down the sidewalk, Joan Marie Monaghan came around the corner. She was a graduate student at Georgetown in the history department. The clouds literally parted, and a beam of sunlight shone down on the woman he would marry shortly thereafter. My father often said that when she agreed to marry him, he knew that everything that ever happened in his life thereafter would be easy.

More than sixty-five years later, he retired as a Professor Emeritus from the faculty of the UNM Law School. His contributions to the study and development of the law were immense. He was a prolific scholar in commercial law, banking law, and credit. He pioneered the development and adoption of the Uniform Commercial Code throughout America and internationally. He wrote countless law review articles and treatises and, in a long teaching career, lectured to at least 5000 students on contracts, contract drafting, legal writing, remedies and many other law school subjects. He was ninety years old when he taught his last class the Spring of 2020. Even that last semester, my father would spend over four hours preparing for class. He spent at least that much time before every class, every day, even when teaching a subject that he had been mastering for over sixty years. He was a great teacher. And he loved to teach.

Despite his extraordinarily complete comprehension and expertise on the subjects he studied and taught, my father always believed he could learn as much from his students as they from him. He was impatient and intolerant of arrogance but was genuinely interested in what experience students brought to the problems in the assigned cases. He told a colleague once that he knew he did a good job in class—when he did it right—when he would leave the classroom thinking that he had learned something new about the material through the class discussion. He knew that a good professor listened as much as she or he spoke.

Fred Hart was a legal education innovator and advocate his entire career. He founded the Pre-Law Summer Institute for American Indians and Alaska Natives, dramatically increasing the number of Native American lawyers. He initiated similar programs to attract students from throughout New Mexico who would have never thought they could be lawyers. He valued and supported a robust clinical law curriculum before virtually any other law school and attracted national attention to what he started at UNM. As Dean he recruited and hired a more diverse community of faculty than taught law anywhere in the country. He was a director of the Association of American Law Schools and the Law School Admission Council, where he pushed the broader legal education community to reconsider the value of admissions guided only by grades and scores.

My father believed that a lawyer's calling was to lift weight off the shoulders of those unfairly burdened, and perhaps, throughout a career, lift the weight just a little from everyone's shoulders. That a lawyer every day has the chance to do good for someone who needs her or his help, and that "righting wrongs" starts with listening carefully and committing to help. He would tell law students at graduation that they should never be satisfied with the status quo, because whenever we think we have overcome injustice, it just learns how to hide and cloak itself in righteousness and false virtue.

My father lived long enough to see changes that resulted from the work he and the faculty started at the law school. He saw women lawyers, Native American lawyers, Hispanic lawyers, and African American lawyers all achieve the highest levels of success and prominence, and more importantly, positively impact the law and society, through litigation, legislation, politics and advocacy. And he saw a future where the work would go on.

On the wall of his first office at UNM Law School in 1966 was a poster his wife gave him. It read, "[W]hen the work is finished, the mornings are sad." Though it became tattered and faded, that poster always found a place in his office over the years. It stated a principle my father embraced and taught his students: because the struggles for fairness, opportunity, inclusion, and justice never end, and there is always more work toward making a better world, a lawyer's mornings should never be sad.

F. Michael Hart

I was in the first class of the Pre-Law Summer Institute in 1967 that Dean Hart organized and was the first Native American graduate of the UNM Law School in 1970.

During that first summer and throughout my three years there, Dean Hart and his wife Joan took very good care of all of the Native American students, often inviting us over to their house for dinner with their family. I believe PLSI, which he started, was the beginning of the tribal sovereignty movement because of all of the Native American lawyers it produced.

John Ecohawk, NARF

*Inspiration—Quiet and Continuous**Fred Hart*

I first met Mr. Hart in 1968 or 1969. His oldest daughter Joan Marie joined my 7th grade class at Our Lady of Fatima shortly after the Harts moved here from Boston. I was invited to her birthday party in December of 1968 or 1969. I must have gotten there early, because when I knocked on the front door, Mrs. Hart answered but no one else was there except Joan Marie and her family. After our introductions, and the next few minutes of awkward silence, Mrs. Hart looked at the present I had in my hand and said, “Joan Marie, why don’t you open the present?” which was obviously a record album.

After she opened the record, Mrs. Hart took the Beach Boys album which I had bought Joan Marie for her birthday and put it on the record player in the Harts’ living room. Dancing was the primary activity at the 7th and 8th grade parties at that time, so Joan Marie’s brothers and sisters started dancing and then Mrs. Hart suggested that Joan Marie and I dance.

After we started dancing, she disappeared from the room and brought back Mr. Hart. So there we were, Joan Marie and I, Fred and Joan Hart and Ellen, Chris, Mike, and Maggie, doing something like dancing, to the Beach Boys songs. Mercifully, it was not more than ten or fifteen minutes before our other classmates started to arrive for the birthday party, but it was during that time that I saw Fred Hart dancing with his wife Joan in the small living room with the whole family. I now know that is probably one of the last things Fred Hart wanted to do that evening. But he danced through the song and then introduced himself, before leaving to go back to whatever activity he was doing in the other room.

Over the years in between, I knew that Fred Hart became Dean of the law school and when I went to law school nine or ten years later I observed this quiet, formidable force of a man casting his influence, similarly to what he did that evening on the small living room dance floor. By that time, Robert Desiderio was the Dean of the law school (1979–82), but Fred Hart was never far away from the main current of UNM Law School’s mission here in New Mexico.

Over the years I was in school, and all the years that followed, I watched Fred Hart relate to teachers, staff, students, community and political leaders, and the various Governors of the State of New Mexico in his quiet, substantial way. He was never one for long speeches, that I recall, but he definitely got his point across to all of us. He showed up with his strength and determination virtually every day at the law school. From my observation, his gift was really not in doing the special thing himself, but in convincing us that we could do “the special thing.” Fred Hart inspired us all to do more than we ever thought we could do for ourselves, the law school, our clients and the greater community of New Mexico. His magic was that he somehow did it without us actually realizing he was doing it.

David Martinez

Fred Hart—The Master at Developing a Law Faculty

I arrived in New Mexico in the fall of 1968, with a group of three other recent law graduates. We were recipients of a Legal Aid fellowship, assigned to the Albuquerque Legal Aid Society then under the directorship of Bill Fitzpatrick, a veritable Dean of Legal Services in the state. Soon after our arrival and concerned about the need to gain admission to the bar, Bill suggested that we needed to see Dean Hart at the Law School who, at the time, was also offering a well-established bar preparation review course.

We called the Dean, and he invited us to meet with him. The Dean was very generous with his time. He wanted to know about us, our families, and how we felt about our law school experience. He knew of the Reginald Heber Smith Fellowship program and was delighted that we were joining Bill Fitzpatrick's program. Fred concluded the visit saying:

You guys don't need to enroll in my course; here's a copy of our materials which you can use to brush up on New Mexico law, and when you've passed the bar you can return the materials so that I can use them similarly in the future. Best of luck to you and I'm delighted that you are committed to Legal Services work, which I highly support.¹

After leaving Legal Aid in 1977, and without any planned future, I was hired at the Law School to work on several research projects, which must have been arranged by Chuck Dumars in consultation with Fred. Soon thereafter in the 1978 academic year, Fred called me in and asked if I'd be willing to take on some teaching responsibilities, including the first year Civil Procedure class alongside Ruth Kovnat, and later as the instructor in a first-year section of the legal research and writing program. Fred knew I had no formal teaching experience, but he had confidence that I could do the job, based on the success of others who had come to the Law School with a Legal Aid background—including Mike Norwood and Helene Simpson teaching in the clinical program, and Dick Gonzales and Jose Martinez who had returned home from California Rural Legal Aid, and were relatively new members of the faculty.

It is that start and the encouragement and support that continually flowed from Fred that led to my 30-year career as a member of this faculty, and it mirrors the experience of all who followed during Fred's deanships. We all came to understand that Fred had a special eye for potential faculty who shared his bedrock commitment to teaching. At the same time, he encouraged all members of the faculty to commit to research, writing, service to the University, service to the profession, and participation in national efforts to improve legal education. But when it came to

1. The four of us are still active (or perhaps semi-active) members of the New Mexico bar. Paul Bardacke left Legal Aid for private practice, followed by later service as Attorney General of the State and a Gubernatorial Candidate; Dick Bosson served in the Attorney General's Office, which led to service on the bench and is a recent retiree from the State Supreme Court; Chuck Dumars left Legal Aid to join the Law School Faculty, and subsequently became a highly touted private attorney specializing in Water Law.

those other important aspects of what he expected from us, *he mandated nothing*. Rather, he left each of us to choose those other activities and endeavors that were of most interest to us, insisting only that we strive for excellence in whatever we pursued.

As a result, that has remained the culture of the faculty at this institution—a shared commitment to traditional and experimental teaching; active involvement in national legal education developments; service to our university and the legal profession; and playing a role in state and local government and special service to diverse underserved populations in our society. And so from Fred’s early days as our leader, through to today, you see a committed teaching faculty also writing and publishing in academic journals; serving as commentators on the law in the print and visual media; writing briefs in cases of public importance almost always with heavy student involvement; leading committees in national legal education groups; being involved as experts and advocates in the legislative processes of state and local government; and teaching cross-disciplinary courses with faculty from other departments in the University—to name just a few of the broad-ranging activities engaged in by this faculty, all deriving from Fred Hart’s spirit and support which continues to permeate this law school.

Fred, of course, in his predictable self-effacing manner never took credit for the inspiration and commitment of the faculty. How many times did he say: “I never hired anyone; it was always the doing of the then existing members of the faculty.” To which we always responded: “Yeah Fred, we know!”

Michael Browde

Professor Fred Hart Put the Heart in UNM School of Law

Introduction

I am one of Professor Hart's colleagues at the University of New Mexico (UNM) School of Law. Professor Hart and I often taught classes together and I had the office next to him at work. We were in the same field, commercial and consumer law. We also wrote a twelve-volume treatise together and had a few other joint educational and scholarly projects.¹ These remarks focus mostly on what I have experienced and seen over the past twenty-three years, though I start below with a little history.

Professor Hart's Place at UNM School of Law and at the Equity and Inclusion Table

Professor Hart was in many ways the father of the law school. There were other deans before Professor Hart became dean in 1971,² including Vern Countryman, one of the country's leading commercial law scholars,³ but Professor Hart was the one who molded UNM School of Law into the one-of-a-kind place that it is, a state school that values diversity, equity, inclusion, but most of all, basic human kindness, decency, and fairness above all. When it came to equity and inclusion, Professor Hart was completely aware of society's inequities. He knew that inequality was a big problem and knew what it felt like to be excluded. He often shared stories of being discriminated against because he was Irish. He fully incorporated this awareness into a strong desire to right society's wrongs for persons of color in our community, as well as others who are disadvantaged. Although the language used to describe these issues was different back in the 60s and 70s, Professor Hart did everything in his power to make our law school community more inclusive. For him it was not a question of race or equality *per se*, just basic human dignity and respect for all.

When Professor Hart was told by students and community members that there were too many white men on our faculty, he did vigorous, targeted recruitment of Hispanic professors, most of whom hailed from California. These included Cruz Reynoso, who went on to become the Chief Justice of the California Supreme Court.⁴

1. FREDERICK M. HART, NATHALIE MARTIN & WILLIAM F. WILLIER, FORMS AND PROCEDURES UNDER THE UNIFORM COMMERCIAL CODE (LexisNexis 2022).

2. Professor Hart was first dean from 1971 to 1979, and then returned from 1985 to 1986.

3. Countryman became the Dean of the University of New Mexico School of Law in 1959. Prior to that he was a faculty member at Yale Law School, where he was denied tenure due to his left-leaning politics. Vern Countryman, WIKIPEDIA, https://en.wikipedia.org/wiki/Vern_Countryman. These politics did not stop Countryman from being appointed dean of our law school. In 1964, Countryman accepted an offer to become a professor at Harvard Law School, where he advocated the rights of debtors and was also a specialist in commercial law, secured transactions law and civil liberties. In 1973, he was named the "Royall Professor of Law" at Harvard Law School, the oldest professorship at Harvard Law School. In 1987, he became a professor emeritus. He was a founding trustee of the National Consumer Law Center, which annually presents the Vern Countryman Award to honor lawyers who have contributed to the rights and welfare of low-income consumers. *Id.*

4. Alan Brownstein, *Tribute To Rex Perschbacher (And Justice Cruz Reynoso)*, 52 U.C. DAVIS L. REV. ONLINE 49, 50 (2018). Justice Cruz Reynoso served on the California Supreme Court from 1982 to

When Professor Hart was told by a female student in 1972 that UNM School of Law needed a female faculty member, he picked up the phone, called Anne Bingaman, and hired her on the spot.⁵

When he learned how few Native American lawyers there were in this country, he and then Dean Thomas Christopher started the Pre-Law Summer Institute (PLSI) program for Native students in 1967. PLSI has aided in educating many thousands of Native American attorneys since its inception. Half of the Native American attorneys who have practiced law since the mid-1960s, when the institute was founded, attended PLSI.⁶ Fifty years later, approximately 90 percent of the more than 1,000 PLSI alumni who went to law school graduated, a testament to the strength of the program.⁷

When Professor Hart conceptualized our law school as a practice-based school as its new dean in 1971, he put faculty members who primarily taught in our

1987. He was a fellow Professor of Law at UC Davis and was the inaugural holder of the Law School's Boochever and Bird Chair for the Study and Teaching of Freedom and Equality. *Id.*

5. Randee Fenner, *The Bingamans: The Power Couple Two-Step*, STANFORD LAWYER, May 15, 2009, <https://law.stanford.edu/stanford-lawyer/articles/the-bingamans-the-power-couple-two-step/>.

6. Jordan Oglesby, *Pipeline To Tribal Sovereignty: Celebrating The Pre-Law Summer Institute's 50th Class*, 66-APR FED. LAW. 58 (March/April 2019); Gloria Valencia-Weber and Sherri Nicole Thomas, *The Pedagogy of American Indian Law*, 82 N.D. L. REV. 741, 741 (2006). As explained by Professors Valencia-Weber and Thomas:

In 1967, the University of New Mexico School of Law (UNM) embarked on a pioneering commitment with two goals: to provide opportunity for American Indian individuals to obtain training in law and to put Indian law into the law school curriculum. The commitment and resources devoted to achieving these two goals have had a major positive impact upon the lives of American Indian tribes and their members who benefited from the legal education. Equally important has been the establishment of Indian law in the mainstream curriculum of those law schools that include all the forms of law within the borders of the United States.

The project to open the lawyer's profession to American Indians was led by the Dean of the Law School, Thomas W. Christopher, and a faculty member, Frederick M. Hart (who later became Dean of the Law School). These two obtained the grant to underwrite the costs of a summer institute to prepare American Indian students to enter law school. This grant was part of the administration of President Lyndon Johnson's "War on Poverty" programs. The economic condition of American Indians in the United States was confirmed repeatedly by data that showed them to be at the lowest poverty levels among the general population. Abject conditions on the reservations and in urban areas were accompanied by the lack of legal representation to advocate and protect the rights of American Indians. There were critical rights in treaties that obtained land cessions for the majority population, benefits from state and federal programs, and individuals' civil rights that were violated without redress. In 1967, the Ford Foundation and other sources estimated that only about twenty-five American Indians were part of the legal profession in the United States.

Id. at 741-42.

7. Matthew Fletcher, *The Growing Market for Indian Lawyering*, TRIBAL C. J. AM. INDIAN HIGHER EDUC. (Nov. 8, 2015), <https://tribalcollegejournal.org/the-growing-market-for-indian-lawyering>.

clinical law program on the same tenure track enjoyed by all other faculty. This was highly radical at the time and he won national awards for it. Many schools still do not grant tenure to clinical law professors.

Finally, in 2000, when a student sent every faculty member a flyer saying that she was transgender or gender fluid and needed her own place to use the rest room, Professor Hart and then Dean Robert Desiderio (Desi) wasted no time. At the last law school for which I worked, there had to be an empirical study to change a restroom's status from male to female, and this was true all over the country as law schools began needing more female restrooms after welcoming more women. Here there was no such empirical study. Rather than asking main campus, we believe that Desi and/or Fred stopped at Home Depot and grabbed a plastic sign, which appeared the next day on the door of the same gender-neutral bathroom we enjoy today. This was way before most people had heard of gender fluidity, and before sexual orientation was regularly spoken about. I felt 100% certain when this happened that I had chosen the right school at which to teach, a feeling that has not changed in 23 years.

Since his time, UNM School of Law has become a continuing leader in equity and inclusion. In 2015, UNM School of Law law librarians became one of only a handful of other academic law librarian groups in the country to acquire equal voting rights at their law school.⁸ Finally, in 2020, UNM School of Law finally made legal writing professors eligible for the tenure track and in 2022, the first legal writing professor at UNM School of Law to *be on* a tenure track, Professor Steven Homer, obtained tenure. He recently became our next Associate Dean for Academics.

His Mentorship Style: Only Sought-after Advice

Huge numbers of people at this school had the privilege of knowing Professor Hart, also known fondly by his colleagues as just “Fred.” Always humble to a fault, Fred was a low-key but powerful leader who mentored all who sought his assistance. He had the same respect for the maintenance crew as his faculty colleagues. He provided the literal gold standard of mentorship and I often wonder what made that mentorship so unique and singular. I have concluded that the primary defining feature of his mentorship is that his advice was always sought. You just needed to ask. He was spectacular at “staying in his own lane” as my therapist calls it, not meddling and never giving advice *not* sought. I know this because at times I would ask his opinion, even as recently as a month before his death, about controversial things I was dealing with, or interpersonal dilemmas. Even if he already knew all about these issues, he would only share his thoughts and advice when asked. This must have been hard. I know I find it hard to stay out of things when I have a strong opinion or care deeply about something that is not really my business.

8. Ernesto A. Longa, *The History of the University of New Mexico School of Law Librarians' Fight for Faculty Status and Equal Voting Rights*, 110 LAW LIBR. J. 93, 113 (2018).

A Few Personal Anecdotes

When I interviewed here in 1997, UNM Law Professor Barbara Blumenfeld and I had a mutual friend, Professor Jan Levine,⁹ who connected me with Barbara, and she shared a few important tips for my interview. First, she said it was okay to wear pants (this was in 1997) and I was glad I asked.¹⁰ Professor Blumenfeld also said I needed two “power” votes to get hired, that of Professor Margaret Montoya and that of Dean emeritus Fred Hart. I am not sure if either voted for me but Margaret and I had previously worked at the same firm in Boston (though not at the same time) and bonded over a particular “too familiar” partner who had hit on both of us. And Fred? He later said he could not recall anything about my interview.

Once I arrived, my office was right next to Fred’s but we did not immediately bond. One day he told me that I “took” his contracts class. The first couple years I was here, only Desi and I taught contracts in large sections. Fred later told me that he had retired so the law school could hire me. It was my perception that he was not overly pleased by this.

One day things shifted. I went into his office to request advice because some of my contract students had begun attending Desi’s contracts class because they thought I was a terrible teacher. No doubt I was awful. I was a slow learner when it came to teaching and am still not a natural. I really just planned to ask Fred what to do about these defecting students, which really broke my heart. For some reason when I opened my mouth, nothing came out. Instead my tear ducts opened up and I began to cry. It was humiliating and unplanned but this vulnerability caused Fred to open up about some of his own disappointments in teaching and in life.

After that we began to talk most days. Fred really became my rock. I loved hearing about his huge family and their trips to Popejoy Hall for the Nutcracker and those cherished trips to Lake Powell that took weeks to plan. Fred also loved to give advice but he preferred to listen first for as long as a person could talk about something. He was a man of few words but his advice was always extremely well thought-out and slowly delivered. He would rock back and forth and rub his legs while listening intently. Then he would pause for a long time before sharing his thoughts and at first this was unnerving. I eventually saw this time as a chance to be quiet and still and meditate. I could see he was thinking quite deeply about the issue, whatever it was.

Over the years we taught many classes together. Our styles were completely opposite. He could be gruff and would occasionally say to a student, “I agree, that was a stupid question.” I would wildly overcompensate, causing him to say that “Nathalie would rather confuse forty people than tell one person that he or she is wrong.”

In the first class we taught together, Secured Transactions, over ten years ago, we got a very low score from one student who said we “bickered for fourteen weeks straight.” I was horrified and Fred thought it was just hilarious. He said “they come here for answers and they have it all wrong. Confusion is good. It is okay if

9. Director of Legal Research and Writing and Professor of Law, Duquesne School of Law.

10. I spent the day sitting in one of those old, low fake leather chairs in the old faculty lounge where people would otherwise have been able to see up my skirt.

they leave more confused than when they came in. Law is full of uncertainties. If it wasn't they would not need to spend three years here."¹¹

There are lots of other funny personal stories. His gruffness was, in my opinion, mostly an act. He used to pretend to dislike dogs.¹² I have somehow gotten away with bringing my succession of elderly rescue dogs to work for over two decades and there is usually one in tow. I had a t-shirt from the company "Life is Good," with a picture of a jeep on it and a dog's head out the window that said, "DOG GONE." He'd say "that's the way I like dogs: gone." But I'd catch him petting my dogs and even sneaking treats to my dogs, even when I told him not to feed them because it was bad for them. And then there is the very cute story about the first hummingbird that came to the feeder I put up on Fred's office window. I was in awe and said look, it's a male, to which he replied "wow, you have good eyes."¹³

Conclusion

On a more serious note, Fred's knowledge and experience both at work and at home carried me and many others of us for so long. At work he had vast institutional knowledge and at home, his own marriage was a beacon for me, a true role model.¹⁴ He and Joan were so close, and she was his rock, his beacon, his number one always. His kids and grandkids were also his pride and joy and he always knew what each was doing and how each was doing.

Fred had so many of the characteristics of an honorable, honest, kind, person. He would never judge, but if you broke a loyalty promise to him he was not quick to forget. Loyalty was one of his most cherished characteristics. He was gracious in tolerating honest mistakes, however. We all make mistakes but he would always say "don't worry." He said if we learned from these mistakes, he forgave those willingly, and only asked us to think about it and see what we could do better next time.

11. See also Robert Laurence, *Don't Think of a Hippopotamus: An Essay on First-Year Contracts, Earthquake Prediction, Gun Control in Baghdad, the Indian Civil Rights Act, the Clean Water Act, and Justice Thomas's Separate Opinion in United States v. Lara*, 40 TULSA L. REV. 137, 138–39 (2004), stating that:

The Big Learning Surprise of law school is that the law does not come in rules, but rather in analysis. "Tolerate Ambiguity," I was told during first-year orientation by Dean Frederick M. Hart. That is the skill required, not necessarily of all lawyers, but of all contented ones. The fact pattern on the quiz my students are working on lately is full of facts, some of which suggest that Judy was seeking Shirley's forbearance from suing Max, and some of which suggest that she was not. The students who have not yet made the switch from undergraduate thinking to law-school thinking are still looking for the answer, not the analysis. The contented ones have fallen, easily, if not naturally, into the argument-and-counter-argument model: "Judy will argue that she was not seeking Shirley's forbearance and, citing *Baehr v. Penn-O-Tex Oil Corp.*, will make the following points: . . . Shirley, on the other hand, will cite *McDonald Brothers Company v. Koltes*, and make these arguments. . . ."

12. At his own house, there was the beautiful dog "Zipper" named after Bill Clinton's indiscretions, and always dogs owned by the kids. It was by no means dog-free zone.

13. Males and females of the resident black-chinned hummingbird look totally different, which he obviously did not know.

14. I come from a broken home fraught with mental illness and uncertainty.

He was my work “role model” and “father” and I know how fortunate I was and still am. That does not alleviate the pain of his passing. For me, Fred’s passing has left a huge hole in my spirit that can never be filled. I try to channel him but often fail. If you see me fail, I have failed to channel Fred. If you see me sad, know that among the many losses I have suffered in the past seven years, this one is fresh and painful. Our community has lost our rudder in Fred, but he is still here in spirit. We just can no longer ask his advice. Farewell to our rock, our mentor, Professor Frederick M. Hart, but this is not goodbye. Fred, we still need you here at UNM School of Law. We still have so much to learn from you and can still channel you. May Fred’s legacy of excellence, equity and inclusion and of collegiality and collaboration be with us as a law school forever.

Professor Nathalie Martin*

* Frederick M. Hart Chair, University of New Mexico School of Law.

Fred Hart

Reader's Digest used to have a feature called "My Most Unforgettable Character." I think it's safe to say that Fred Hart is mine. There may have been more unforgettable characters in my life, but I can't think of whom they might be (meaning, I have forgotten them).

Fred often told the story of how a one-year visiting professorship during the 1966–67 academic year morphed into a lifetime commitment to the UNM School of Law. Then-Dean Tom Christopher talked to him and urged him to create a program to increase the number of Indian students attending law schools, including, of course, UNM. He declined, saying that he had planned to spend his year doing research on the Uniform Commercial Code, his specialty, and, besides, he knew nothing about Indian students and would not be able to design a program to meet their needs.

As he told the story many times over the years, at the end of the day he mentioned the conversation to his remarkable wife, Joan. She, let's say, "vigorously" disagreed, telling him he could work on the Commercial Code any time, but this was an opportunity to make a significant impact on legal education and the legal profession. The next day, he went back to Dean Christopher and asked if the offer was still open. It was.

During the next year, I met Fred a couple of times at various meetings, which he was attending to describe the resulting program, then known as the Special Scholarship Program in Law for American Indians (SSPILFAI). It was an eight-week summer program that simulated the first semester of law school, aiming to prepare the students for the trauma which the first semester brings to all first-year students. Although aimed at students who sought admission for the impending school year, for the first few years it was also open to tribal judges and advocates in tribal court, on the theory that this might be the only exposure to the mainstream legal system they would ever have. It also, somewhat tentatively, suggested that students could attend to get an idea whether law school was something that would interest them, even if they had no immediate plans to do so. Every time I saw him, he tried to recruit me to attend law school.

I eventually went to law school, and Fred asked me to teach in the program during the summers of '69 and '70. When my law school career was drawing to a close, Fred asked me what I was going to do, and I told him that I did not want to practice law, but was very drawn to the policy aspects of Indian law. He said it was time the program was run by an Indian, and would I be interested in coming out to take over from him? No, I have already been a bureaucrat, I said, but if he could find some money, I would be interested in joining him to think "deep thoughts." He was running the program just fine, and there was no real need to have an Indian director, given that jobs were beginning to open up elsewhere for Indian people in programs that needed an Indian director. We had agreed that I would come out there to work, and between that agreement and my arrival, he informed me that he had been elected Dean, and I would have to run the program whether I liked it or not. I became the Director of the SSPILFAI in the summer of 1971.

As word of the program circulated throughout the national Indian community, several tribes, encouraged by this rare interest, approached the law

school to see if they could contract for drafting codes, conducting studies, and the like. In response, the law school, at Fred's initiative, created the American Indian Law Center as an umbrella over the pre-law program and any other pertinent activities. (After a few years running the SSPILFAI, I became director of the law center for the next 35 years or so.)

Fred made several brilliant key decisions as he established the program and laid the foundation for it to become the most successful program in the history of Indian education.

He had been advised by experts that, if the program was to have any chance of success, the students would need a lot of support beyond what was available to the average law student. As he put it, "I was told that every student should have an anthropologist propping up one arm, and a psychiatrist on the other." Daunting advice for someone who didn't know anything about Indians.

Then, he said, "To hell with it. I don't know anything about Indians, but I know a lot about legal education. I am going to go ahead with what I know, and try to be as sensitive as I can to the needs of each student, as I should be anyway." This was contrary to the prevailing wisdom that minority students are permanently handicapped. Students were told that they wouldn't be there if the program didn't think they could make it.

From the beginning, the program was not a remedial program. Instead, it was whether Fred ever said it this way or not, an alternative, performance-based means of assessment. Law school admissions, like virtually all admissions, is not simply sorting the qualified from the unqualified. Instead, it is deciding which applicants among the apparently qualified, would be given the opportunity. Law school admissions were highly competitive during that period, and they relied heavily on GPAs and LSAT scores. Many of our students, at least in the beginning, had GPAs and LSATs that were on average somewhat lower. An eight-week program could do little about that. But even in those days, there was some skepticism about the dominance of these measures. SSPILFAI provided an alternative.

His second of several brilliant decisions was to have Assistant Dean Hunter Geer handle admissions for the program. Hunter was in charge of, among other things, admissions for the law school. As such he was well-connected with his colleagues throughout the country. He and his assistant, Mary Crume, approached the task with remarkable energy and enthusiasm. And they were also brilliant.

The practice might have been to have this program, initially funded by the Upward Bound Program at OEO, staffed by persons hired especially for the program, and in the OEO climate, there would have been an expectation that they would be experienced Indian people who would have presumed expertise in dealing with Indian students. But they would be unlikely to know much about law school admissions. And it could be predicted that the program's success would be measured by placements, and if there was a disappointing number of students performing successfully in law school, it would be presumed that the students were not up to the task of competing.

Hunter, as an Assistant Dean, had a sense of fitting students to the right school. He also knew, as a member of the club, that if he oversold the qualities of a student and the student didn't do well, it would affect Hunter's and the program's credibility. And, he could assure his colleagues that the academic standards of the

program would be credibly comparable to those of law schools, or the program would be pointless. And it must also be noted that he was trying to place students (in June, July, and August!!) in schools to which they had often not yet applied. Without Hunter (and Mary), the program would not have had the permanence and success that it has achieved in over fifty years. Their importance cannot be overestimated. Over the years, the rate of students who complete the program, enter law school, and graduate is over 90 percent, a higher rate of completion than law schools generally.

The program became a national model, copied by other schools and organizations even as it was being put together at UNM. It helped bolster affirmative action by providing a rationale for assessing applicants according to broader criteria than the prevailing GPA/LSAT standards.

Fred Hart's leadership in this area changed the face not only of the Indian law community and Indian law, but, in my view of legal education and the legal system as a whole.

As Dean, Fred brought about many changes to the UNM School of Law as well, including the recruitment of women and minority faculty. He strongly supported the clinical program, making it a national model as well. It is my impression that he broke from the traditions of many schools and strongly encouraged faculty to have an open-door policy which would encourage students to drop by and visit them in their offices, rather than the rigid, aloof attitudes of many law school faculties. He genuinely projected a sense of community. One of my most vivid memories was Fred at a graduation, telling the families that it was their day to rejoice, and admonishing them not to remove restless children from the audience.

I always used to say that Fred was the model for the tv character Lou Grant—rough on the outside, soft on the inside. Every time he told the origin story of the SSPILFAI (later to become the Pre-Law Summer Institute, or PLSI), when he got to the point where he told Tom Christopher that he didn't know anything about Indians and didn't care (basically), he would choke up.

Fred and Joan were my most unforgettable characters. We were lucky to have them. And we owe a debt to Tom Christopher for his insight. And for Hunter Geer and the many staff members of the School of Law who cheerfully took on extra duties in support of a program that is now fifty-five years old.

Philip Deloria

My first year here, I was assigned the office next to Fred's. It was Joe Goldberg's office, but he was on leave. Fred was a mentor. I spoke with him often that year, especially about grading. Fred finished his grading fairly quickly, but I took a month grading and re-grading to make sure I was fair and accurate. Then we compared grades. After all my work, my grades looked a lot like his except I had a passel of Ds. He told me that maybe I should look at them again. He was a walking encyclopedia of contract law. Every time I had some new insight, I would drop by his office and share it with him. He would recall some case or debate that happened before I was born on that very issue. Often, he would pull out an old casebook or treatise and show me. What I remember most about Fred is that he believed in inclusiveness. I recall attending a St. Patrick's Day party at his home on Cornell in my first year or two here. Everyone was there. There were prominent judges and lawyers present along with members of the faculty as well as law school staff. The gathering was diverse by race, gender, socio-economic status, and any number of other demographics. I think that over the years, I was most influenced by the value he put on inclusiveness.

Dean Alfred Mathewson

I suppose I could boast about his legal genius, or how he wowed his students with his no-look catch of a piece of chalk behind his back, or the ease with which he could be distracted by a hot air balloon landing right outside the classroom window, or his unmatched ability to rub his head against the wall while a student struggled to summarize a case. Yup, Dean Hart had lots of talents, but it was his vision that won many hearts—excuse the pun. If it were not for Dean Hart’s love of our multi-cultural, multi-lingual border state, and his vision of a legal community that reflects the diversity of our enchanted State, I and many other minorities in New Mexico would not have been admitted to the University of New Mexico School of Law. I was a beneficiary of Dean Hart’s vision and the Law School Faculty’s energy and enthusiasm to see his vision become a reality.

I was admitted to law school after being placed on a waiting list, and only on the condition that I successfully complete a six-week summer law program called “El Instituto.” At the time there was a national program developed by the Council on Legal Education Opportunity (CLEO) which funded the summer law program and paid living expenses for students whom CLEO invited to attend. Students were introduced to the study of law and the Socratic method of teaching.

But the number of students CLEO funded were limited. The Law School Faculty, consistent with Dean Hart’s vision, agreed that there were not enough openings to accommodate the numbers of students UNM wanted to send to the summer law program, so they created El Instituto. El Instituto allowed the law school to require more incoming law students to audit the summer law program.

During my first semester of law school, I was required to attend a course titled “programmed studies,” where the students dug deeper into legal research and analysis. This course was also consistent with Dean Hart’s vision, because not only did he want the law school student body to reflect the diversity of our state, but he also wanted students to succeed.

I love our law school and in particular Dean Hart, for taking a chance on me and for giving me the chance to succeed. Dean Hart will never be forgotten!

Ed Chavez
Class of 1981

FRED GAVE HIMSELF

On the occasion of Fred's retirement as dean, the law review dedicated the summer 1979 issue to him.¹ The authors, of which I was one, described the many contributions Fred made to the law school and legal education in general, as a teacher, leader, and visionary. We recognized that Fred had reformed the law school and legal education, doing in his unassuming manner, never shining the light on himself.

During the forty-plus years since his retirement, Fred remained the teacher, *par excellence*, the renowned scholar, a voice for change and social justice, and the heart and soul of the law school. His office door was always open, inviting faculty, students, and staff to visit unannounced. We sought his advice and opinion when law school issues surfaced or about teaching or scholarship projects. He was there when we just needed "an ear" to vent. He listened and gave us his thoughts and opinion without judgment.

As I reminisce, I realize that Fred's greatest gift is that he gave a large part of himself to us.² We became better persons as a result. I know that is the case with me.

Fred will always be with us—in our hearts, minds, and actions; and he will remain an integral part of the law school. His presence can be seen and felt daily. The diversity of the faculty and students, the innovative curriculum and teaching methods, the open and friendly culture, the cooperative spirit, and the sense of community. These are all Fred's legacies. It is Fred who made the law school the unique institution that it is.

Fred was my teacher, my mentor, my colleague, my partner, and most of all, my friend. I think of him often, especially when faced with some dilemma; I find myself asking: "What would Fred do?"

This Dedication (and the Memorial held on April 7, 2022) are recognition of Fred's gift of himself to us. They are celebrations of his life and a public statement of heartfelt gratitude to him.

Robert Desiderio

1. 9 N.M. L. REV. 213 (1979).

2. When Fred was dean, his closing message to the graduating students included a reference to Pierre Teilhard de Chardin's, the philosopher and paleontologist, meaning of love. To quote Chardin: "The most satisfying thing in life is to have been able to give a large part of oneself to others," available at brainyquote.com/lists/authors/top-10-pierre-tailhard-de-chardin-quotes. Chardin was describing Fred.