

**MEMORIAL RESOLUTION OF THE FACULTY  
OF THE UNIVERSITY OF WISCONSIN-MADISON**

**ON THE DEATH OF PROFESSOR EMERITUS SAMUEL MERMIN**

Professor Emeritus Samuel Mermin died on Saturday, August 18, 2007 at the age of 95. Sam was born in 1912 to Charles and Nechame Mermin, Jewish immigrants to New Haven from Zhitomir, Ukraine. Sam was the seventh of their ten children that made up a family so closely knit that they have met annually as the “Mermin Decagon” since 1945. Like three of his four brothers, Sam was awarded a scholarship to Yale where he earned a BA (1933) and LLB (1936). Sam met Lora Nell Nifong of East Tennessee at a poker game on a hot summer night in Washington, D.C. in 1937. Their whirlwind romance led to a marriage of 66 years, which ended with Lora’s death in 2004.

Sam began his legal career in Washington, D.C., as a research attorney in the departments of labor and agriculture, where he co-authored publications in the area of consumer protection and drafted a model consumer cooperative law. He later represented Bituminous Coal Consumers’ Counsel (first, when it was part of the Solicitor’s Office, Department of Interior, and later when it became an independent agency) in extensive administrative hearings, briefs, and oral arguments under the 1937 Bituminous Coal Act during 1940–42. With the onset of World War II, he spent a five-year stint in the Office of Price Administration’s Enforcement Department and its successor agency, the Office of Temporary Controls. He served in various capacities, including chief of the Briefing Branch, special appellate attorney, and solicitor of the Litigation Division. In this period (1943–47) he prepared 19 briefs of his own and presented 19 oral arguments in appellate courts, both federal (including the U.S. Supreme Court) and state; and he supervised the preparation of 37 other briefs.

He thought his most interesting and perhaps most innovative work in these OPA years was in campaigning for local enforcement cooperation through state and municipal enactments that adopted OPA regulations as local requirements enforceable in local courts. He developed a basic brief distributed to all field offices to acquaint OPA lawyers with arguments defending the validity of these local enactments. He briefed and argued as *amicus curiae* in two test cases in the highest court of New York (where the state law and New York city ordinance were being challenged as unconstitutional), and in the Michigan Supreme Court (where the Detroit ordinance was being similarly challenged). “Justice triumphed” in these cases, he said, as well as in a Puerto Rican case; not so, however, in the only other challenge, this one in the Ohio Supreme Court. Not many such state laws or ordinances had been passed, but he thought that those in New York were particularly vital in fighting the black market, especially in meat. He analyzed all the issues in this litigation in two Yale Law Journal articles in 1947. Another of his interesting experiences in his service with OPA was the opportunity to present his oral argument in behalf of the government in a U.S. Supreme Court case, *Fleming v. Rhodes*, 331 U.S. 100 (1947).

Sam’s teaching career began at the University of Oklahoma. After three years in Oklahoma, he was invited by the eminent Wisconsin legal historian, Willard Hurst, to spend a fellowship year at Wisconsin (financed by the Rockefeller Foundation) researching Wisconsin’s legal-economic history. At the end of the fellowship he accepted an appointment to the Law School faculty where he taught Administrative Law, Jurisprudence, Appellate Advocacy, The Legal Process, and occasionally Criminal Law.

The fellowship research eventually resulted in two published books: *Jurisprudence and Statecraft: The Wisconsin Development Authority and Its Implications* (1963) and *The Fox-Wisconsin Rivers Improvement: An Historical Study in Legal Institutions and Political Economy* (1968). These two studies were originally joined in a manuscript with his third study, “The Milwaukee-Rock River Canal”— a trilogy manuscript which in 1960 was awarded the D.C. Everest Prize in Wisconsin history by the State Historical

Society. He authored other books (*Law and the Legal System*, Little Brown, 1973, 2d ed. 1982, and *The Legal Process*, Chandler Pub. Co., 1961, the latter co-authored with Auerbach, Garrison and Hurst) and numerous legal articles and book reviews. He edited, for course use, *Readings in Jurisprudence* (1977) and *Readings in Analytical Jurisprudence* (1972).

Sam felt that some of the most notable events of his academic career began with his Fulbright lectureship to Japanese universities on public law and jurisprudence in 1968–69. The Fulbright led to a 1975–76 U.S. Information Agency lectureship in Japan, South Korea, Taiwan, the Philippines and Thailand and to visiting professorships at Chuo University and other universities in Japan. Sam and Lora took special delight in their “Japanese connection” with its enduring friendships with numerous Japanese professors, graduate students, and their families. Sam’s ties to Japan and other parts of East Asia also were very helpful in the establishment of the Law School’s East Asian Legal Studies Center in the late 1980s and early 1990s.

Sam also played an important role in the UW’s campus unrest in the 1960s when he chaired what came to be called the Mermin Committee. Following a student protest demonstration that resulted in injury to both students and police, he was appointed in 1967 by the University Committee to be chairman of a 14-member committee (7 faculty members selected by the University Committee and 7 students selected by the Wisconsin Student Association) to study and recommend solutions to the serious student unrest on campus. Sam said the six months he spent as chair of this fractious committee was the most grueling period of his life. Sam analyzed the background, history, and issues of the Mermin Committee in “Student Protest and the American University: A Case Study,” *Kobe University Law Review, International Edition* No. 8, 1-36 (Kobe, Japan 1972).

Surviving Sam are three children, Peter Mermin of Sarasota, Florida; Daniel Mermin of Asheville, North Carolina; and Katrina Whitfield of Bellingham, Washington; two sisters, Jean Horblit of Stonington, Connecticut and Lillian Feinsilver of Easton, Pennsylvania; five grandchildren, David, Michael, Melissa, Alisa and Evan; two great-grandchildren, Molly and Kate; and 80+ other members of the Mermin Decagon.

MEMORIAL COMMITTEE

Herman Goldstein

Charles Irish, chair

June Weisberger

With help from Professor Satoru Osanai of Chuo University