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FOREWORD

A TRIBUTE TO WILLIAM W. VAN ALSTYNE

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William W. Van Alstyne is without question one of the most distinguished professors ever to have taught at Duke Law School. He came to Duke in 1965 from Ohio State University, where he had been a colleague of another future Duke professor, Paul Carrington. At Duke, Professor Van Alstyne was an extraordinarily productive constitutional law scholar. He published widely in the areas of free speech, church and state, academic freedom, state action, affirmative action, due process, presidential impeachment, the commerce clause, the constitutional amendment process, the Second Amendment, and federalism. As a colleague, Professor Chris Schroeder, wrote in a *Duke Law Magazine* feature on Professor Van Alstyne:

There are remarkably few scholars working today—and none of Bill's stature—who can truly be called students of the entire Constitution as a legal document. . . . Many constitutional law scholars enjoy writing in the area of constitutional theory, which deals with the Constitution at a very high level of abstraction, and many have made a specialty of one aspect of constitutional law, such as freedom of religion or free speech. . . . Bill, on the other hand, has brought an incredibly sharp and discerning mind to many, many

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different constitutional questions, always showing an enormous respect for the Constitution as written law.¹

There is, indeed, scarcely a major constitutional issue to which Professor Van Alstyne has not made a significant contribution.

I first learned Professor Van Alstyne's name when, as a law student at Boalt Hall at the University of California at Berkeley in the mid-1970s, I was assigned to read his article, *The Demise of the Right-Privilege Distinction in American Constitutional Law*, published in 1968 in the *Harvard Law Review*.² This article—still required reading in many constitutional law classes—is one of the most-cited law review articles ever written. Indeed, his list of publications is a catalog of classics. In 2000, a study published in the *Journal of Legal Studies* named Professor Van Alstyne as one of the forty most frequently cited legal scholars of all time.³

Professor Van Alstyne is a scrupulous scholar and a vigorous voice for integrity in scholarship. Reading his work, one cannot help but be impressed that he approaches each legal question without prejudice or hidden agenda. He wants to get it right, every time. His impatience with result-oriented scholarship was legend at Duke, as were his sky-high standards, for himself most of all. It was this characteristic that led many judges, lawyers, and academics, in a number of polls through the late 1980's and early 1990's, to believe that Professor Van Alstyne was among the most qualified persons in the United States for appointment to the Supreme Court.

No one is more passionate about the U.S. Constitution. Professor Van Alstyne carries it with him virtually everywhere he goes. In the countless lectures and presentations he has given, a small, Duke-blue pocket Constitution is a frequent, usually his only, handout. He has been often called on, over the years, to put his understanding of the Constitution into action, testifying before congressional committees, filing briefs and arguing cases on matters of constitutional importance, giving advice to those seeking help in staying within constitutional boundaries, and serving as a member of the national Board of Directors of the American Civil Liberties Union. He is also

1. Christopher H. Schroeder, *Public Law Conference to Recognize Achievements of Professor William Van Alstyne*, DUKE L. MAG., Spring 2004, at 37.

2. William W. Van Alstyne, *The Demise of the Right Privilege Distinction in Constitutional Law*, 81 Harv. L. Rev. 1439 (1968).

3. Fred R. Shapiro, *The Most-Cited Legal Scholars*, 29 J. LEGAL STUD. 409, 424 (2000).

passionate about principles of academic freedom, having served as president of the American Association of University Professors and as informal adviser to numerous faculty and university administrators at Duke about matters of academic freedom.

Over his thirty-nine years at Duke, Professor Van Alstyne was also a remarkable teacher. Decades of students remember his elegant lectures, his challenging Socratic dialogue, and, of course, his motorcycle and leather pants. As I travel the country visiting with alumni, there are few, if any, members of the law faculty about whom Duke graduates more often inquire—still. To innumerable past students, he defined the excitement and intellectual challenge of the Duke Law School classroom.

Professor Van Alstyne still sets the record at Duke for the youngest person ever named to a distinguished professorship. Although he moved on to the William and Mary School of Law in 2004, he continues to hold the William R. and Thomas S. Perkins Chair in an emeritus capacity. This was more for Duke's benefit than for his: we think of him as a Duke jewel, and look for opportunities to continue to claim an association with him, as we do in this *Duke Law Journal* issue in his honor.