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# Paul J. Hartman and the Vanderbilt Law Alumni

*Wilson Sims\**

Representing the Vanderbilt Law Alumni and in the practice of law in the last two years, I have traveled to different parts of the country and met with numerous Vanderbilt law graduates. Invariably one of the first questions is "How is the Dutchman?" followed by an anecdote about a classroom experience with Professor Hartman, always funny, but more importantly, always making a point of law that the former student has never forgotten.

Although I graduated from the Law School before Paul Hartman came to Vanderbilt, I have gotten to know him well over his years there. I have been with him socially and met with him at alumni functions around the country. Inevitably at these functions, a group forms around him, usually near the refreshment counter (and usually the group is stag), laughing. Holding forth in the middle of the group, the Dutchman has told a joke or has given a former student "an honest appraisal of his future as a lawyer."

One of the greatest assets of the Vanderbilt Law School is Professor Hartman's obvious love and appreciation for the School. When the Dutchman gets serious, this comes across in a powerful way. His unending effort on behalf of the Law School in working with the alumni over these many years has resulted in numerous tangible benefits for the Law School, but even more importantly, in many intangible ways, including the great sense of loyalty held by many of these alumni, all of them the Dutchman's former students. The School has no better salesman. He and his wife Dorothy command the unanimous respect of our constituency.

Paul Hartman's contribution to the Law School is not limited to the colorful experiences stimulated in his classroom. His life demonstrates in a clear way respect for the law, the thrill of the advocacy system, and the sense of humor required for the balanced perspective of the successful lawyer.

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\* Member of the Tennessee Bar. B.A., University of North Carolina, 1946; J.D., Vanderbilt University, 1948.



## “Try Your Hand at It, Mr. . . . .”

On the first day of Contracts, the Dutchman says to a first year student slow to recite, “Mr. Johnson, don’t make a noise like an oyster.” On the last day, he walks out of the classroom on this note: “Like Lady Godiva at the end of her epic ride, now I have come to my close.” Between these days, fear rules his classes. The Dutchman attacks cases, judges, and students with ferocity. To the unprepared student he says, “Mr. Williams, this ‘U’ by your name does not stand for ‘Uncle.’ When I figure up your grade, it will hurt—H-U-R-T.” He dismisses a case adding still another exception to a rule already riddled with exceptions, quipping, “That’s like cutting off a dog’s tail an inch at a time so it won’t hurt as much.” And he sums up a suit between creditors with “Here the plaintiff claimed *he* was the more diligent vulture.”

Perhaps the reason the Dutchman’s students remember him is that after quivering through Contracts, State and Local Taxation, or Creditor’s Rights, they can’t figure out why they like him. Yet they all do. Former students exchange stories from his classroom in an oral tradition extending back to 1949, when he started teaching at Vanderbilt Law School. Readers who have not had the benefit of the Dutchman’s teaching should at least have the opportunity to read a few choice tales. For those of us who sat for a year hoping our last name was not appended to that sepulchral phrase, “Try your hand at it, Mr. . . . .,” we think it’s time we had a chance to try our hands at it in earnest.\*

In the Summer of 1951 one Contracts student was repeatedly unprepared. Finally one day the Dutchman called on him again and he stated that he was not prepared. There was a terrifying silence in the room. After several seconds had elapsed, the Dutchman focused his gaze upon him and said, “Young man, you have as much chance of passing this course as a celluloid mouse being chased through hell by an asbestos cat.”

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On priorities among creditors: "There aren't enough melons to go around and the question is, who gets the first bite and who gets the rind."

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On insistent interrupters: "Look, I don't want to see your hand flapping around unless my fly is open . . . and in that case, I would appreciate it. . . ."

"If you've got a question, just wait 'til question time. Just wait 'til Uncle Charlie's story-time here is over."

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Making the question clear: "I asked, 'What is the defense?' You know, when de dog goes over de fence de head goes before de tail!"

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One day in the fall of 1973, the Dutchman examined in infinite detail the rule that past consideration is no consideration. The student originally called on had remained standing, but he had failed to follow the monologue. The Dutchman finally asked, "Now, Mr. Smith, if I offered you a dollar for having gone to the bookstore yesterday, would we have a *contract*?"

"Yes," the victim muttered.

The Dutchman clasped his hands to his head, staggered around in the midst of groans and sighs, and finally said, "Well, I don't like much to quote from the Bible. That's for old what's his name, Ervin, on the Watergate Committee, but I'll make an exception in this case: 'Oh! Jerusalem, Jerusalem, how oft I would have taken ye under my wing. But ye would not.'"

With the class totally amazed and the student rigidly standing before him, Dutch turned to face the student and asked, "Now, Mr. Smith, do you know what the next line is?"

"No, Sir," the student answered.

Hanging his head, Dutch said: "*And Jesus wept.*"

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On successful recitations: "Now you're cooking with gas on the front burner."

On less successful recitations: ". . . but there's a gas leak over there."

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On professional incompetence: "The attorney who drafted that provision most likely graduated by shaking hands with the postman."

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*Editor's Note: The Dutchman often speaks of his friend Professor E. M. Morgan, a Vanderbilt professor now deceased who achieved a good deal of acclaim in his own right. Mr. Morgan's observations on the Dutchman's personality, inscribed in an evidence text authored by Mr. Morgan, follow.*

To my colleague and good friend, Paul J. Hartman, who shares with me many well considered and meritorious opinions which the unthinking call prejudices and who joins me in adhering to them with a courageous steadfastness which the weak call obstinacy.

E. M. Morgan

Nashville, May 3, 1954.

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On less than astute analysis: "Your reasoning has the substance of the shadow of an emaciated sparrow."

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On obvious principles: "Why, that rule is so plain, a blind man could see it with his walking stick."

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In 1954, as a senior, I was the president of the Phi Delta Phi legal fraternity. The Dutchman was the Honorary Initiate for that particular year. I was the Master of Ceremonies at the Annual Banquet and had written elaborate notes to guide me through the program. I left the head table momentarily and when I returned, my date said, "Mr. Hartman came up here and got your notes." I was determined not to ask him for the notes, so I started the program. After about five minutes my mind went completely blank. I finally looked at Mr. Hartman and said, "Mr. Hartman, may I please have my notes?" He said, before a room full of students and their wives and dates, "By God, are you unprepared again?"

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On professional ethics: "Always obey your conscience, but first be sure you don't have the conscience of an ass."

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On the Brooklyn Bridge hypothetical: "Suppose I say I will pay you one dollar if you run across the Brooklyn Bridge. If you happen to be ten feet away from the other side of the bridge, and I happen to pass you at eighty miles per hour in my Lincoln Continental, and I lean out the window and yell, 'I REVOKE,' what has happened to the offer? IT'S AS DEAD AS A DODO BIRD!!"

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Although there were many, the only Dutchman anecdote that sticks in my memory was an exchange with Jack Wilson in Contracts one day. Hartman called on Jack and began asking an in-

volved question. Jack anticipated the rest of the question and, when the Dutchman paused, began to answer what he thought the question to be. Hartman cut him off short and announced to the class: "We seem to be following a new system of recitation. The student will give the answer, and then I'll ask the question. For example, Mr. Wilson will say 'Blue,' and I'll say 'What color is our case book?' Sit down, Mr. Wilson."

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On a mumbling recitation from the back of the room: "Talk louder sir, or get me an ear trumpet!"

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On unilateral mistake: "There are three kinds of negligence—negligence, damn negligence, and goddamn negligence."

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The Dutchman was also on the receiving end of some legendary stories. There was a student in Law School named Herbert Baum, who is now deceased. He was much older than the rest of us and showed absolutely no fear of the Dutchman. On one particular occasion, Herb held forth at great length on some point we were discussing. The Dutchman listened patiently, although staring out the window during Baum's entire discourse. Finally, the Dutchman said with great sarcasm, "Mr. Baum, if you will turn the page you will find an opinion in which Mr. Justice Holmes disagrees with you." Without hesitation Baum said, "Holmes is entitled to his opinion, too." Needless to say, the suicidal courage of Herbert Baum was the topic of discussion for many months among the students.

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Although the Dutchman was on the receiving end of some tales, he usually had the last word. After explaining that an acceptance was effective when mailed, he got this question: "Couldn't the offeror sue a mailman who lost the acceptance?" And he gave his stock response, "Well, hell, you can sue the Pope for bastardy, but you probably can't recover." Jack Thompson, a student who seemed bent on proving that much of the law was hokum, then raised his hand and inquired, "Suppose the mailman was the Pope's son, wouldn't that make out a prima facie case?" The Dutchman didn't miss a step, replying with a twinkle, "Suppose you were the Pope's son, Mr. Thompson. Figure it out for yourself."

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On students not present when called on: "Well, as we said in the Navy during the darker days of World War II, 'scratch another flat top'" (drawing an ominous line through that student's name).

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On the next class' coming attractions: "Tomorrow come back, and we'll see, as they say in the soap operas, if Adam ate the apple."

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On the common law: "As we've often pointed out, common law is judge-made law. When a court wishes to declare a rule as common law, it is free to borrow from any authority, be it the UCC, the Koran, or the Sears-Roebuck catalogue."

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*Editor's Note: Karl Warden, a fellow faculty member who wasn't taught by the Dutchman, recounts a favorite tale:*

Like all good story tellers, the Dutchman swears that this is true. It's probably almost true; that is to say, it's West Virginia true. In any event, he says that there was a law suit in the Circuit Court where he practiced that involved a land dispute. Part of the disputed property was an old, rambling multi-story house that had been used for many years as the finest "sporting house" west of the Blue Ridge Mountains. Somehow it became necessary to describe a particular room in the house and the location of that room with respect to the property. The madam of the establishment was called to the stand to describe the property. She was not a person of great intellectual accomplishment, and the more she was asked about that room the more confused she became. Finally, after the umpteenth time she had tried to describe the room to the apparent dissatisfaction of the lawyer asking the question, she turned to the judge—a particularly dignified dispenser of justice—and said, "Hell, Judge, you tell him where that damn room is, you spend as much time at my place as I do." The Dutchman swears it took twenty minutes to restore order in the court room. He also swears that at the next election the judge received the highest number of votes he had ever been given. Apparently West Virginians prefer experienced jurists.

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On splits of authority: "Here the courts have split more ways than the Pharoah had frogs."

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On garnishment: "The debtor goes up to the pay window and the paymaster says, 'Sorry, Bub, nothing's coming.'"

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On reluctant reciters: "I know it's a good season for oysters, Mr. Anderson, but don't try to emulate one."

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One day the Dutchman was raking a student over the coals particularly unmercifully. When it became apparent that the student didn't know the holding in the case, Hartman took pity on him and said, "Okay, turn to page 356 and read the third line from the bottom." By this time, the student was so shaken that he miscounted and read the wrong line. Hartman broke up the class with "Damn it to hell, no wonder he can't answer the questions. He's using a different book than we are . . . maybe the unexpurgated version."

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The Dutchman found a moral for his students' study techniques in his own experience: "When I was at Columbia Law School in a tax course, we spent from school's start to mid-November studying the tax bill that would be enacted into law when Dewey became President."

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On asserting alternative theories: "You can never tell which piece will stick in the judge's eye."

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Early in the first semester of Contracts, the Dutchman picked me off his roll. Although my mind went blank, I responded like one of Pavlov's best. The Dutchman led me from point to point, and he did it so well that I figured I ranked with Williston and Corbin, the "Great Ones" in the Dutchman's book. A few classes later, the Dutchman was discussing an esoteric point about consideration, and a student across the room from me asked a question that I, in my newfound genius, thought Dutch avoided. I carefully posed what I considered to be a razor-edged hypothetical requiring a more pointed answer. The Dutchman, figuring it was time to let the air out of this presumptuous guy's tires, responded in inimitable fashion: "I assume you realize, Mr. Kurtz, that when I make a statement on one side of the room it is equally and uncontestably applicable on the other side." Needless to say, my thoughts of grandeur vanished amid my classmates' laughter.

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On suing the government: "I don't lay this down as a rule of law, but as an observation: Uncle Sam usually wins."

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On near misses: "You're in the right church but the wrong pew. . . ."

"You're kind of like Ivory Soap—about 99 and 44/100ths percent right."

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Dutch Hartman was a tough man in the classroom, but always had the students in mind. I'm sure that everybody connected with Vanderbilt over the last 25 years is familiar with the incident when a student, fed up with the Hartmanesque version of the Socratic method, slammed down his book and began to storm out of the room. The bulldog in front of the room growled back at him, "Come back. We're going to make a lawyer out of you yet, whether you like it or not."

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On declaratory judgments: "Now in an ordinary common law suit, before the action of declaratory judgment ever existed, a party would take a few steps. Then, after walking around in the dark a bit, he would turn on the floodlight to see if he'd fallen into a hole. The advantage of a declaratory judgment is that you can turn on the floodlight first and avoid the hole."

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On judicial compassion: "Creditors may have widows and children too."

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In an early session of the Negotiable Instruments course, following a lengthy and detailed lecture by Mr. Hartman on the requirements for negotiability, one student asked if an instrument would nevertheless be negotiable if it lacked one of the requirements but had written on it that it was a negotiable instrument.

After a long pause, there came the following reply from the rostrum with much emphasis: "Mr. White, if I were to come up to the door to this room trailing a halter in my hand, and at the end of that halter, there is a DUMB animal, which is white, has horns sticking up, udders hanging down, and says 'Moo,' but painted on its side in big black letters are the words 'This is a Horse,'—THEN, MR. WHITE, WHAT IS IT?"

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On beating students to the wisecrack: "What is reformation? And don't tell me that's when Anne Boleyn got her head knocked off. And it's not the thing Martin Luther had, either. . . ."

"This agreement could not be enforced because its essential term was *illegal*. And when I say *illegal*, I don't mean a sick bird."

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Emphasizing a point: "No. N-O. Bang. Exclamation Point."

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On distinguishing cases: "That's a pig of a different squeal."

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When the Dutchman walked into class, you kept your eyes glued to the books and papers spread before you, watching his movements out of the corner of your eye. His actions were always the same—he would take out that two-color list of students, and seeming to peer out at his captured audience, he would move his pencil down the rows of names looking for a likely victim. Like everyone else you had memorized your position on that list, and as his search proceeded beyond it, your pulse slowed and you silently sighed in relief, only to be gripped again by terror as he moved back up the list. Then came those words, I'll never forget them, those chilling words . . . "Try your hand at this one, Mr. So-and-So." As someone else's name was called, you relaxed, sat back, and enjoyed that same electric thrill that must have captivated the spectators at a medieval execution.

Everyone knew that you never, never volunteered unless you had taken leave of your senses, and yet an act of volunteering brought me my fondest memory of the Dutchman and the greatest lesson I learned in his class. At the conclusion of a difficult case he asked an obscure question. I thought I knew the answer and timidly raised my hand. He called on me. I stood, cleared my throat and began: "Well, I may be wrong, but . . ."

"MISTER SPEIGHT!" he bellowed, the sheer force of his voice knocking me into my seat, "NEVER SUGGEST THAT YOU MIGHT BE WRONG. A LAWYER IS NEVER WRONG, HE IS ALWAYS RIGHT, ALWAYS CONVINCED, ALWAYS DEDICATED TO HIS POSITION!!" Then, miraculously, his voice mellowed. "Now," he cooed, "stand up and try again, and see if you can be positive this time."

For the sake of the story, I stood up, I was positive, and I was right. But that's not the important part. What is important to me is the lesson that I carried with me from that experience. I have never since hedged, equivocated, or apologized to a court. I have decided what was right, prepared thoroughly, and dedicated myself to my position. I have been wrong, but never weak.