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Elliott E. Cheatham

It is far from easy to write, without waxing sentimental, about a friend and former colleague for whom one feels real affection. Yet how can you suggest to others the inner spirit of a man, in the objective terms which one might use in reviewing a book he has written?

I had already been teaching at Columbia for some years when Elliott Cheatham joined the Law Faculty—but that was more than 35 years ago. My subject was public international law, which in those days was by no means a bread-and-butter course or much regarded by some of my common law colleagues. (To avoid misunderstanding, perhaps at this point I should have hyphenated “common-law.”) But Elliott never disdained any colleague or any approach to law. He is an intellectually tolerant man, probably one of the few to meet the test of being intolerant only of intolerance. He was quite ready to embrace in his approach to conflict of laws the European label and concept of private international law, just as he found kinship with United States constitutional law. He always sought and welcomed cooperation and never imagined there could be such a thing as trespass on his part of the curriculum. He is a man totally lacking in jealousy.

It may not be amiss to illustrate some of his qualities by anecdotal comparison with other law teachers. The late Professor Thomas Reed Powell said that Cheatham was the most Christ-like character he ever knew except for Ames of Harvard; if Ames called on a student who answered, “Unprepared,” Ames would apologize for having embarrassed him—Cheatham did not go that far! But Cheatham, on the other hand, would not squeeze a student in the intellectual gymnastics of a Thaddeus Terry, who taught me Contracts and delighted in winding a student around in a dialectical labyrinth until he had contradicted himself two or three times. That was a stimulating experience, but could shatter a sensitive student as I learned later when I tried it out on a gentle Oriental student who thereafter when called on would smile gently and inscrutably but would utter not one word.

Elliott Cheatham always had a sense of kinship with the younger generation. I have noticed in recent years as we have both attended international conferences that he sought out and invited to lunch or dinner the younger men—not the big wigs. I can imagine that if in

these troubled academic times he should be in the midst of some controversy between students and faculty, (which God forbid!) he would be perhaps the most understanding of the student point of view. A man of great courage and a fighter for principle, he would never surrender, but if conscience and conviction permitted, he would have great pleasure in giving. As one of our other colleagues has suggested to me, Elliott Cheatham's greatness as a teacher is due to the fact that he is always eager to give.

I have witnessed many examples of Elliott's modesty, which should not be mistaken for any wobbly lack of self-confidence. When he pleads that he has limitations which suggest the desirability of seeking someone else for an honor or place of distinction or a juridical contribution, he is actually convinced that others are more capable than he—but I am bound to say that in this appraisal he is usually wrong.

It is further revealing to recall Elliott Cheatham's interest in legal ethics, which he expounded in a course on the legal profession. I used to talk with him about that subject, because it had been an active interest of my father's who was a practicing attorney in New York. There is a traditional story (probably apocryphal) that in one of the once popular cram courses for the New York Bar Examinations, the tutor on reaching the subject of legal ethics would exclaim: "All I can say on that subject, gentlemen, is 'Fly high! Fly high!'" It would be juridical blasphemy to teach a course on the legal profession unless one really believed deeply in codes of ethical conduct for members of the bar; to continue the metaphor, Cheatham could be called a priest of the profession—a priest entirely devoid of cant and hypocrisy.

I have seen Elliott Cheatham arguing with intense earnestness and solemnity and I have seen him convulsed with laughter, and it always seems as if the one or the other mood was the most fitting to the occasion. He would himself contribute with perhaps excessive generosity to any tribute to another, but such is his modesty that I fear he may shrink a little from the well-deserved encomiums in this issue of the *Vanderbilt Law Review*. Although it is neither within my assignment nor my competence to comment on his great professional qualities and accomplishments, it is I, rather than he, who is honored by being permitted to say this fragmentary tribute to a gentleman of such quality.

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