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Clinton DeWitt

Fletcher R. Andrews

THIRTY-FOUR years ago, as a senior in the Law School of Western Reserve University, I had my first contact with Professor Clinton DeWitt, then a part-time professor of law, teaching Suretyship and Mortgages.

Through the ensuing years until after World War II, we saw each other only in brief conversations in my office or in the hallways and at the then occasional faculty meetings which Professor DeWitt was meticulous about attending even though he was not a full-time teacher.

THE AUTHOR (A.B., 1916, Dartmouth, LL.B., 1925, Western Reserve, J.S.D., 1941, Yale) is Professor of Law and Dean Emeritus of the School of Law of Western Reserve University.

Despite the mass exodus of faculty and students during World War II, the School remained open through the assumption by Professor DeWitt and two other men of an almost in-

credible teaching load. In Mr. DeWitt's case the burden was all the more astounding because he was still engaged in the practice of law, whereas the other two were full-time professors.

At the end of 1946, Professor DeWitt resigned from his law firm and became a member of the resident faculty at the Law School, and, as such, he has played a vital part in the progress of the institution.

Mr. DeWitt was born in Cleveland and graduated from Central High School in 1906. He belonged to the debating and track teams and was editor-in-chief of the Annual.

In the fall of 1906 he entered Adelbert College, Western Reserve University, where his athletic prowess included quarterback on the football team, pitcher on the baseball team, a sprinter on the track team, and captain of the tennis team. He also played a mandolin in the mandolin club — a type of allegedly musical organization prevalent in the schools and colleges of that era, but now, happily, consigned to limbo.

Mr. DeWitt belonged to the Delta Kappa Epsilon fraternity and was president of his chapter for two years.

It is an interesting sidelight on his football career, which because of injuries and illness ended in 1908, that he weighed only 130 pounds, yet played on a team averaging about 185 pounds per man.

In the fall of 1909, Mr. DeWitt entered the Law School of Western Reserve University, as a *senior in absentia*, receiving his Bachelor of Arts degree in 1910 and his Bachelor of Laws degree in 1912. He was

a member of the Phi Delta Phi law fraternity and a charter member of the local chapter of the Order of the Coif, honorary scholastic society.

In August 1911, while he was still in law school, his first article was published. It was entitled "Does the N.I.L. Impliedly Repeal the Gaming Statute?," and it appeared in 56 Ohio Law Bulletin (Weekly Law Bulletin) 261. I still cite it to my classes in Negotiable Instruments.

After graduating from law school and passing the Ohio bar examination with one of the two highest grades ever given, Mr. DeWitt practiced law with the Cleveland firm of Stearns, Chamberlain, and Royon for one year and then formed a partnership with Charles D. Simmons and Malcolm B. Vilas, under the firm name Simmons, DeWitt, and Vilas, with offices in the Leader Building.

Shortly thereafter, in 1914 to be exact, he formed another kind of partnership — marriage — with Miss Margaret Whittlesey Walton, of Cleveland.

He remained as a partner in his law firm until his retirement from practice at the end of 1946, but his partnership with Margaret, characterized by mutual helpfulness and devotion, is continuous and indissoluble.

As a practicing lawyer, Mr. DeWitt engaged largely in probate, corporation, and trial work, appearing in both federal and state courts. He argued many cases in the Court of Appeals and Supreme Court of Ohio, and had the satisfaction of "making" new law in a number of them.

Most of the trial work related to the defense of insurance companies in personal injury actions and the defense of surety companies on construction bonds.

Mr. DeWitt's teaching career started in the fall of 1912, only a few months after his graduation from law school, when, on a part-time basis, he taught Suretyship one semester and Mortgages the other, at the munificent rate of \$3.00 per hour. In the summer of 1913 he was appointed Instructor in Law, and in 1918, Professor of Law.

He has taught a wide variety of courses over the years, including Agency, Common Law Pleading, Contracts, Negotiable Instruments, Real Property, Personal Property, Bailments, Federal Jurisdiction, Suretyship, Mortgages, and Evidence and Trial Technique.

The last named has been his "big course" since he became a resident professor, and he has continued to teach Suretyship and Mortgages throughout his whole career.

Ever since that first article in law school, Professor DeWitt has relished legal research and writing, and, despite a busy and successful practice, he published a number of books between 1915 and 1941; namely, *DeWitt's Edition of Stearns on Suretyship* (1915); *DeWitt's Cases on Suretyship* (1920); *DeWitt's Ohio Mechanics' Liens* (1931) (Second

Edition 1950); and *DeWitt's Manual for Notaries Public* (1941) (now in its eighth edition).

But his crowning glory as an author of law books was achieved in 1958 with the publication of *DeWitt's Privileged Communications Between Physician and Patient*. He worked eleven years on this book, and, from the vantage point of an office across the hall, I can testify to his absorption in the project. Already a number of letters and book reviews have praised this as an outstanding work, and his national reputation has been enhanced by it.

During the preparation of this last book, Professor DeWitt also wrote articles in the medico-legal field, some of which were published in medical as well as law journals, and the width of the distribution of these articles is evidenced by the fact that Mr. DeWitt received a letter about one of them from a physician in faraway, glamorous Paris, France.

In the early years of his practice, Mr. DeWitt also wrote several of the articles for the *Encyclopedia of Pleading and Practice*.

With all his scholarly attainments, it is not surprising that in March 1954, Professor DeWitt became Doctor DeWitt, receiving an honorary Doctor of Laws degree from Temple University.

In addition to his achievements as lawyer, teacher, scholar, and author, Dr. DeWitt has devoted a great deal of time and energy to important extracurricular activities. No attempt will be made in this article to enumerate all of them. Instead, I will limit the list to those of special significance, from which, I feel certain, Dr. DeWitt has derived the most satisfaction.

First of all, throughout the years he has continued to serve on the Board of Directors of the Upson-Walton Company of Cleveland, and those of us on the law faculty know how diligent he has been in that service, for on the days of Board meetings, Clint is invariably absent with leave from his law school office.

In the Cleveland Bar Association, Clint was a member of the Executive Committee for three years and has been the only chairman of the Notary Public Committee since the formation of that committee in 1941.

For twenty-five years he has served on the Board of Trustees of the Cleveland Heights Public Library, thirteen years as secretary-treasurer, nine years as president, and, since his resignation as president, two years as vice-president. Needless to say, he has also been chairman of practically every library committee you could think of, and some you couldn't think of, such as the Coal Committee. He has also been the legal representative of the Library Board before the Ohio Tax Commission and the Board of Tax Appeals, and has represented the Board at the annual meetings of the Budget Commission.

During World War II, Dr. DeWitt was a Public Member and Special Hearing Officer of the National War Labor Board for Region V, the Cleveland area. He heard and disposed of many of the most important and hotly contested cases, and was never reversed by the National Board in Washington.

On several occasions he has been appointed Special Master Commissioner by state and federal courts. His most recent appointment came from the Ohio Court of Appeals of Cuyahoga County and related to a \$5,000,000 lawsuit between The Cleveland Electric Illuminating Company and the City of Euclid, over the right to erect high voltage lines above the city streets.

This quasi-judicial assignment proved to be a mammoth undertaking, requiring months of exacting and concentrated effort. In addition to the many hearings, there were innumerable hours spent studying the evidence and the applicable decisions, and preparing the opinion.

A gregarious man, Clint has enjoyed the friendships arising from membership in various clubs. For many years he has belonged to the Hermit and University clubs and to the Philosophical Club of Cleveland, an erudite group which meets frequently to dine and listen to the presentation of scholarly papers by its members. For fifteen years he was secretary of the Mayfield Country Club.

Just to prove that Clint is not all work and no play, I will divulge to you that after lunch at the Hermit Club, he often indulges for an hour or so in a friendly game of bridge. Moreover, he is an enthusiastic duck hunter, and, during the season, takes a brief leave of absence from the law school in order to bag some of these luscious birds.

Of an even more grueling nature (in fact he lost 32 pounds), Clint, in 1928, went on a six-weeks hunting trip in the Canadian Rockies, after big horned sheep and mountain goats. He swears that he was the first member of the party to shoot a sheep, and that he also shot a goat, but as a teacher of Evidence, he must realize the weakness of his case, sans corroboration or stuffed animals. Anyhow, although he reports that deer, moose, and caribou were also victims of the hunt, he makes no claim of having personally shot them.

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Having set forth the biographical highlights of Clint's three-score years and ten, I come to the inevitable consideration of the qualities with which he is endowed and which have contributed to his success both professionally and personally.

This is the most difficult part of any commemorative article, for the writer must not go too far overboard with his superlatives, and, on the other hand, he must not be afraid to give praise where praise is due.

Moreover, it is not practicable to mention every good quality which the subject possesses, and therefore, of necessity, the writer must select those which he deems outstanding.

Acknowledging these difficulties, and with my assurance of complete sincerity, I will now attempt to appraise the "victim."

Clint is a fighter for what he believes is right. He has the courage of his convictions, and he keeps everlastingly at it until he gets results. Shortly after World War II, practically single-handed, he hammered at the University officers and trustees until finally, gasping and capitulating, they agreed to construct the building addition which was completed in 1948 and which has proved indispensable to the School.

Faculty and students have witnessed Clint's justifiable attacks on illegal parking and his far from gentle tactics in curbing the evil. With equal fervor he will fight for higher salaries for the faculty.

It is characteristic of Clint that almost every one of his battles is fought not for himself but for the benefit of others.

Moreover, Clint has the ability to communicate his courage to others and give them confidence in themselves. Witness the inspirational talks to seniors, pointing to the accomplishments of young men in history, and exhorting them to face the world bravely.

The second quality which I have decided to stress is industry. I have never known a more prodigious or thorough worker. He searches out and studies every authority on every point. He does not spare himself. Night after night, with a full day's work behind him, he has habitually piled books and notes into his ancient brief case, to work all evening in his small but comfortable "home office."

This diligence has had a marked effect on younger faculty men and students, who, influenced by his example, have been inspired to greater conscientiousness in their own tasks.

A quality closely allied to industriousness is enthusiasm for one's work. Indeed, it is questionable whether a person without enthusiasm can ever reach a high pitch of industriousness. Be that as it may, Clint has a boundless zest and enthusiasm for the kind of work he is doing. He loves law teaching and he loves law study and writing. Happy is the person who has found his niche in life. Happy is Clint, who found his many years ago, and whose love for his work has never dimmed.

But no matter how industrious, thorough, and enthusiastic a law teacher or writer may be, he must have other qualities in order to excel.

One of these is the ability to organize his material. This is perhaps the most difficult problem of all for the teacher-writer. From personal experience I know the agony of trying to bring form and order out of chaotic masses of cases, statutes, and other data. And yet, unless a per-

son can do this, all his effort is in vain. Clint is a master in this respect. One has only to look at his class notes or his recent book, or to attend his classes, to see what beautiful organization looks like. The subject unfolds so naturally and logically that the student or reader may not realize the effort and skill behind the finished product. Organization is partly hard work but mostly in the genes. Clint inherited the right genes.

Another essential quality for the teacher is the ability to communicate clearly and simply, whether the communication be oral or written. Obviously, this includes the ability to push through the underbrush and get to the point. It also includes an intangible spark, which assures the student that the person really knows what he is talking or writing about and which holds student interest and attention. No student who has sat under Clint needs any word from me about his ability to communicate. Years after graduation, countless students have reported that they have never forgotten those basic principles which Clint expounded so clearly and forcefully. And no person who has read a book or article written by Clint can fail to be impressed by the clarity and simplicity of his style.

The quality of accuracy should be included in any summary of Clint's skills, although perhaps it is implied from what I have already said. At any rate, I want to be certain that it is listed, for it is a *sine qua non* for the lawyer. Perhaps the best tribute to Clint along this line was the remark by Doris O'Donnell in the *Cleveland News* of March 10, 1959, when she referred to "Dr. DeWitt" as "a meticulous craftsman." You can rely on the accuracy of what Clint asserts on a point of law.

Another important feature of Clint's teaching arises from the fact that he has always been a voracious reader of literature in general, especially of biographies of great men. Thus, he brings to his students not only his thorough knowledge of law, but, in addition, that breadth of vision and viewpoint which comes from a broad cultural background.

Equally important, and stemming from his long experience as a trial lawyer, are his lectures on trial technique, given in conjunction with the evidence course. These are of inestimable value to the fledgling lawyer, and, so far as I know, unique in an evidence course.

I have always thought that students are pretty smart when it comes to judging their professors, and so I confidently rest my case for Professor DeWitt on the opinion of the multitude of students, past and present, who have taken his courses. Without fear of contradiction, I affirm loudly and clearly that the consensus of opinion is, to use the vernacular, "He's the greatest!"

This tribute might be a good note on which to end these remarks except for the fact that no evaluation of Clint would be complete with-

out recognition of two or three of his outstanding human qualities, apart from his professional skills. I am fully aware that I am on dangerous ground here and that I must guard against the injection of an overdose of saccharin. Yet, again, I assure my readers that I am being completely factual in this appraisal and am merely referring to attributes recognizable by all those who know Clint.

One of Clint's outstanding characteristics is appreciativeness — too rare a quality in today's world. All of us have known people who never even take the trouble to thank us for little courtesies or kindnesses extended to them. It seems never to occur to such people that we have gone to some inconvenience, expense, and perhaps even embarrassment in their behalf. This we are glad to do, but we have a right to expect some manifestation of gratitude. Clint shines here. No matter how minute the courtesy or kindness, he never fails to express his thanks profusely. And he means it! He has a deep and sincere feeling of gratitude for any service rendered to him, however small.

Probably the most outstanding of all Clint's human qualities may be designated by the word "kind." The dictionary includes in its definition of "kind," "interest in another's welfare," "sympathy," "humaneness," "a disposition to be helpful."

All these words and phrases fit Clint. I could not begin to enumerate all the acts of kindness and generosity which he has performed during the many years of our friendship. Here at the School, faculty, students, and staff alike have all been the recipients of his thoughtfulness on many occasions. He is interested in the happiness of others and in helping others to achieve happiness.

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As suggested previously, it is impracticable to try to present every virtue of Clint's, and I hope that enough has been said to give an adequate picture of him.

It is sad to think that a man of his physical and mental vitality has reached 70 and must surrender to the mandate of compulsory retirement. It is especially sad because law schools need men of his ability and character to train law students properly; and it is sad, too, because of his abiding devotion to the School, which he has served as a teacher for 46 years.

The loss to the School is incalculable. The only bright spot is that he intends to spend most of his time at the School, working on another book, and so we will not be completely deprived of his cheery presence.

We salute a great teacher, a great scholar, and a great human being!