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PROFESSOR DURFEE: A STUDENT'S RECOLLECTIONS

*George A. Spater**

A DOZEN or so manila envelopes, frayed and brittle, contain the essence of a three-year law education completed twenty-five years ago. The envelopes are marked with the names of courses that now sound strange. Among them can be found Equity I, Equity II, Creditors' Rights, Mortgages.

The upper left hand corner of the envelopes bears the legend "Slater's Incorporated, two campus stores, Ann Arbor, Michigan." In the State Street store it was occasionally the custom to give window space to the pictures of the faculty of the various schools of the University. There, in that State Street window, I was introduced to Professor Durfee. It was 1929 or thereabouts and I was an undergraduate. My companion, a law school freshman, ran his finger along the glass, identifying Dean Bates, Professor Goddard, Swede Holbrook, "and there," he said with emphasis, "is the Chancellor!"

The Chancellor looked into State Street through thick glasses. He was very bald. A distinguished forehead and firm chin completed the image. The impression was of a large man and of implacable integrity, high intelligence and grim justice. Although the Chancery promised relief to those without adequate remedy at law, it plainly offered nothing to triflers.

This austere picture softened gradually. It turned out that the Chancellor was a slender man of medium height, not the physical giant suggested by the picture in Slater's window. Students also discovered that Professor Durfee was addicted to brown tweeds, unconventional headgear and colored shirts (he once called them "crazy" shirts), more often than not worn with a green necktie. During the hot summer months he would occasionally appear on the campus outside the class hours wearing a sport shirt without any necktie, much to the anguish of sartorially impeccable Dean Bates. The old hats became the subject of many a hypothetical question in Professor Durfee's courses.

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During the opening days of Equity I there was a good deal of elucidation from the podium and two schools of note-taking: those who didn't understand and therefore wrote down everything and those who didn't understand and therefore wrote down nothing. After a warm-up semester of courses that were "laid out cold" (more or less), Edgar Durfee seemed as elusive as Red Grange. It finally dawned on us that perhaps he was not making matters more complicated, but making them simpler. He was talking about the works while we were looking at the facade. We saw an involved, complex structure while he saw the molecular composition of the elements.

In Edgar Durfee's classroom law was taught as a slice of life. "A teacher, when he takes his eyes from his books, will often feel that he stands still while the world sweeps past him. Yet, in happier mood, he may conjure the belief that he, with the novelist and the dramatist, is shaping the world, piping the tune to which the rabble dance. At any rate, teaching law to able boys is a joy, and research in the law is endlessly fascinating, and one should be content if he can make a living by activity which is neither dull nor dishonorable." Thus he described his own role thirty years ago.

Unpretentious himself, Professor Durfee saw through the pretensions of others. He wrote of one of his students: "A bit stiff in the sense that he lacks the saving grace of humor. For instance, his conversation is punctuated with 'shall we say. . . .'"

Edgar Durfee was totally devoid of cynicism yet took nothing for granted. Dean Langdell's statement that a common law court never redresses a wrong to a plaintiff by laying a command on a defendant was shown to be "only 90% true." Professor Durfee pointed to a text on mortgages which had used the Mississippi River as a dividing line for a broad generalization concerning legal title states and lien states, but which had overlooked the fact that Louisiana and Minnesota are on both sides of the river.

And what questions! Professor Durfee's earned run average was lowest in the league. A simple query would mow down one batter after another and the horror of this spectacle was magnified by his unique method of calling on students. The more humane technique used by the rest of the faculty was to skip around the class (the sporting chance method) or to call for volunteers. Edgar Durfee might start at an arbitrary point but, once the

start was made, would continue on a straight line, vertically or horizontally, until he struck out the entire long row. He was always cheerful on such occasions.

Always cheerful, always witty. Nearly every paragraph was punctuated by merry, graphic phrases: the judge who "played horse with the common law"; the assurance that it was possible to "cultivate a taste for statutes"; the mortgagor who "milks the property and starves the cow"; the feigned disgust with the "modern monkeying around with the mortgage." And, from one of his letters, "Perhaps we made a mistake a century ago when we set up free education. If the lower classes couldn't read, they wouldn't be so exposed to corruption by their betters." Everyone remembers the flavor of these pungent morsels, but the words themselves are hard to recall, and those notes incarcerated within the manila envelopes were offensively utilitarian.

Indeed, much of the wit could never have been reduced to paper. During the question period the student answers were not always met with a verbal reply. Often the response was drawn from a gigantic repertory of facial expressions: the happy surprise and the mournful surprise, the shock, the blank wall, the joyful approbation, the hearty guffaw.

There was no sting in the wit. It was as good natured as a Mozart scherzo.

Many stories were told regarding this wit, some credible, others incredible. Yet he never denied any of these tales. A bumptious student, let us say a Mr. Jones, reputedly went to Professor Durfee's office during the summer to secure his final grade in a recently completed course. He stood in the doorway while Professor Durfee unconcernedly pecked away at his typewriter. "Professor Durfee," began the student, "Mr. Jones would like to have his mark in Creditors' Rights."

"Professor Durfee has gone to California," came the answer.

The student was floored, but only for the minute. "Well, Mr. Jones has gone to California too and would like to know what he got on his blue book."

The typist never looked up. "Professor Durfee left the blue books back in Ann Arbor."

Another little window was opened to those students who attended University concerts. Edgar Durfee sat near the front of the auditorium, easily identified by his bald head. This was a beacon for music lovers who had only to see the head bobbing

forward and back, or side to side in time with the music, to know that all was well.

Out of fragmentary evidence of this sort the Durfee legend was created and grew among students. He had an enormous reputation for scholarship and wit. But there was far more than that. He represented what was the best among men, an inexhaustible, unplumbed reserve of greatness, and as such, a lifelong inspiration to many a student of the Michigan Law School.

Foremost among his qualities of greatness was the freshness with which he approached every fact, every problem, every object of beauty. He never used a cliché. He never bored his friends with the repetition of old stories. He was a good listener, not merely giving others their turn to talk, but hearing what they had to say.

This quality of good listening was a part of a broader quality of sensitivity. Edgar Durfee was a musical instrument as well as a first-rate performer. His strings caught and vibrated sympathetically with every nuance of emotion or thought that was in the atmosphere about him. To the last day of his life he continued "learning from eager youth." This, Whitehead declared, "is one of the most valuable things on earth."

But this hardly begins to tell the story. One must also consider the range of the man. He was at home with all people, all fields of learning, all aspects of beauty. He understood music in his marrow and enjoyed everything from the plain song to Shostakovich. He once wrote, "Maybe I have felt overwhelmed by the bulk of Haydn's work. How can one ever feel acquainted with a guy who has written 125 symphonies and 77 quartets?" But he also knew and understood what was going on in Wall Street. He could tell you the weight of a bushel of sand or the name of an obscure wild flower.

Beauty in its broadest sense encompasses all that is good. It includes the best of human traits, such as understanding, courage, humility, tolerance, humor, intelligence, kindness, nobility. But it also includes much more—qualities, thoughts and emotions of an infinite range.

Edgar Durfee's life was a thing of beauty, giving joy to all who shared in it. Not the least among them were the hundreds of students who sat before him, learning law and of things more precious than law from this great teacher.

LEGAL WRITINGS OF EDGAR N. DURFEE

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