FACULTY PROFILE

Sheldon Tefft

Without intending to pin the dread label of conservatism on Sheldon Tefft, I see no escape from stating, right at the outset, the unpleasant fact (if I must write a "profile" of him) that he is—well, not a liberal. Hugh Cox—a fellow-Nebraskan and lawyer—has opined that his friend Sheldon is not quite so conservative as he appears to be. I have no superior knowledge. But I can imagine him voting against all sorts of measures and candidates during the last two decades. He has been definitely of the minority.

Tefft seems to me to be a vanishing American in other respects, apart from the political. Perhaps I should hopefully indicate here, too, only a temporary obscurity, not oblivion. There used to be an ideal of "nothing too much," balance, moderation; reserve was once considered admirable in social behavior; care in speaking and caution in acting were thought to be advisable. On a higher level, justice was not supposed to be dispensed exclusively by courts but also by individual persons in their opinions and dealings. There have been times in the past when those concepts had more adherents than they seem to have now. More sensational values have risen to a higher rank in contemporary life; the manifestations are everywhere, from Hollywood east and Washington west. To this development Sheldon Tefft has been quite impervious. His values are those first mentioned.

It follows that in the teaching of his subjects, property and equity, Tefft is a most careful, patient, very critical, and truly just exhibitor, adviser, expounder, and debater. He happens also to be a physically vigorous teacher, and it is not unusual for him to have thirty or more students actively taking part in the class discussion. His methods are modern—true conservatism having no correspondence with obsolete technique—but he does not make a stunt of confusion. The most influential element in his teaching is, however, his own mind and character. I should prescribe him as a cure for exhibitionism and dilettantism. He has been effective in both diseases and not only in the field of law.

I am not sure that the students in Tefft's classes really understand and appreciate what a phenomenon he is, personally—well, anyhow, what I think he is. In appearance and manner, as well as in other respects, Sheldon Tefft is as authentic an embodiment of the early American spirit as one could hope to see in the mid-twentieth century; he is early American stock personified—the kind you read about in the history books. If you want to know what the best Americans were like, down to the end of the last century, just observe Sheldon Tefft. All people have ancestors and backgrounds, but Tefft seems to me to suggest his far more than the average.

This is all fiction, no doubt. I shall pursue it further, however, since through fiction the truth can sometimes be seen. Tefft is more specifically an early American of the North. As a northern type, very antique, he has been in this country for a long time, since the seventeenth century. We find him first in the New England states and upstate New York. He had farms there. He owned his farms from the beginning, and always. He farmed the land, too, but of course he did much more. He founded churches and villages; he incorporated little railroads; he took part in politics; he read serious books and thought and debated and had views on social, philosophical, and religious questions; and he speculated in town lots and western lands. He fought in all the wars up to and including the Civil War, except the Mexican War, that southern imbroglio, which he could not conscientiously support. He founded the Republican party, or was certainly one of its earliest members. It was natural, therefore, when this type went out to build up "our West" across the wide Missouri— in Cass County, Nebraska, below Omaha— shortly before and after the Civil War, that he should take a prominent part in the early politics of the state. In Nebraska the counties were named after Democrats but settled by Republicans. So we find Sheldon Tefft—that is to say, a Sheldon or a Tefft—in the territorial legislature, in the state senate, at the head of the Republican state committee, and, just before Wilson swept away the ancien régime, in the governor's chair.

Against that background, and not unnaturally, as his father was a country lawyer, Sheldon Tefft decided to take up the law. He attended the University of Nebraska from 1918 to 1924, both as an undergraduate and as a law student. Here he won, of course, Phi Beta Kappa and the Order of the Coif. In 1924 he was chosen a Rhodes scholar. From Oxford he received three degrees—B.A. in 1926, B.C.L. in 1927, and M.A. in 1930; in addition, he won the Vinerian prize in 1927. If Tefft had carried on in the family tradition, he would be farming and practicing law and politics in Nebraska today, but Oxford turned him into a scholar and a teacher. It did not otherwise change him. A member of the committee that selected him for the scholarship remarked at the time that there was no danger of Sheldon Tefft's pretending to be an Englishman on his return home. That prediction was proved correct.

In 1929, after a short period as an assistant professor of law at the University of Nebraska, Tefft came to The Law School. In 1940 he became a professor. From 1943 to 1945 he was acting dean. There were brief escapes from Chicago to teach for a term at Stanford in 1935 and (Continued on page 20)
skills while pursuing some simple, scarcely debatable objectives. It is difficult to oppose, if one wished to, the objectives of effectuating intent and maximizing individual autonomy. The limitations on these objectives are usually thought to be confined to the doctrines of illegality, which in the casebooks are left to the last section so that they are never reached at all or are reserved for the last day's "lecture." The result is training in close and refined analysis with very little attention to those larger issues of policy that require a different but equally necessary lawyer's technique—the weighing of conflicting interests, the choice between basic values, maturity of judgment.

The question that obviously cannot be answered without using this book is whether the authors have gone too far in reversing directions. By comparison with the widely used Contracts casebooks, excepting only Fuller's, this casebook is short. It has 793 pages of which 100 pages at the end are devoted to the "control" sector—agreements in restraint of trade, labor and collective bargaining, etc. It also includes, of course, the material on restitution for mistake, duress, and related grounds, though the volume of this is not great—perhaps 25 cases. One should also add that somewhat smaller type and a fuller page give about 20 per cent more reading matter per page than most of the standard books. Still, it is not a long casebook, and the inclusions mean many exclusions. For example, the treatment of equitable remedies seems exceedingly skimpy—five cases in a section of eleven pages plus the scattering of six or seven specific performance cases that almost all the Contracts casebooks use and that are inserted for reasons other than the light they throw on equitable remedies. It is disappointing too that two authors, both of whom are so competent in dealing with foreign law, should not have slipped in at least a few ideas by way of comparison with European results. But it is useless to ask for too much. These particular shortfalls, if shortfalls they are, do not raise so great a question as the thinness of treatment of many standard problems of analysis, especially the more technical problems. Many times in reading over the cases and notes, one feels that the authors are content to be suggestive and wish at all costs to avoid being exhaustive. This becomes a question of teaching theory, and it may be that Chicago students are brighter, but one often wishes that implications were explored, suggestions made more explicit, and more material provided for working out the hard questions. Even if one concedes that offer-acceptance, consideration, and conditions have, in the past, been fantastically overdone, the question survives in my own mind whether Kessler and Sharp, under compulsions of space, have not left them quite a bit undone. One could only tell by trying.

The care and scholarship shown throughout are of the highest order—all that one would expect of the authors. The notes and authors' text are full of clues and suggestions helpful to the teacher (question: how many of the footnote citations do the authors really expect students to read?). The arrangement is ingenious and thought-provoking all the way. The selection of cases is excellent. This is, in short, a first-class book which will open new directions for all teachers of the subject and have permanent effects for the good of all concerned.

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Sheldon Tefft (Continued from page 2)

at Oklahoma in 1948, I understand that he has resisted other recent invitations. He has recently edited a new casebook on property with Mr. Aigler of Michigan.

This amateur profile has not had easy work with Sheldon Tefft. His eccentricities, if any, are minor, and in supposedly more serious and important matters the record is singularly blank, for Tefft doesn't "do" things, doesn't agitate, doesn't champion, doesn't sign petitions, and doesn't join. He talks, or rather he debates, so that you can't get much out of him—very few concessions or admissions. My most authentic informant said, years ago, "Well, you know, Sheldon is cagey."

There are only a few light touches to close on. I have learned in my researches that my subject is at heart a mechanic (he repairs bicycles), that he has a strong feeling for antique objects and jewels, and that he is extravagant. These are "profile" data of fair quality. I believe some of them. But I shall have to deflate the sensationalism of that last item. No one can ever persuade me that Sheldon Tefft is extravagant. It is a fact, verifiable by his every acquaintance, that he is always searching for bargains. I have never heard, from him, of his finding any. The Tefft ideal price level is so low (an undetermined figure always less than any price actually paid) that I am sure he feels reckless whenever he makes a purchase. That must be the reason for the attribution of extravagance; I can think of no other.

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