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EDWARD W. HINTON: A COLLEAGUE'S RECOLLECTIONS

THE professional life of Edward W. Hinton was divided almost evenly between his career as a practitioner at the Missouri bar, and his work as a member of the Faculty of the Law School of the University of Chicago. During the first part of his career he also for a considerable time gave lectures at the University of Missouri Law School. During the last half of his career he did only a slight amount of advisory work, confining his activities to teaching, writing and work on various public committees. This dichotomy in his activities characterized not inaccurately the two-fold nature of his intellectual qualities. During the period of his active practice he was the well-trained advocate whose extensive and precise knowledge of the theory and technicalities of procedural law made him one of the foremost specialists at the bar. In the Law School he was the scholarly instructor and writer whose years of experience in the rough and tumble of practice gave to his grasp and discussion of legal principles a tonic realism.

If I were to attempt to characterize his mentality in a single phrase I should be tempted to call it "hard headed scholarliness." This general characteristic appeared clearly in his specialty, the field of procedural law. His experience at the bar had made him see the law as a tool. It would not be just to say that he regarded a law suit as a game, but he did certainly have the attitude that the rules of pleading were there, and it was the duty of the lawyer to know them and use them properly. If he did not do so, that was not his opponent's fault and his opponent not only might, but should in justice to his client take advantage to the uttermost of the errors that had been committed by the unskilled adversary. His distrust of what he sometimes jokingly referred to as "letter writing" pleading was vigorous and sincere. His attitude was that the requirement of precision in procedure was not only an existent part of the legal status quo, but that it was desirable; that care and exactness in pleading were but the reflection of care and exactness in the understanding of the substantive law back of the procedure. How far this point of view, so admirably suited to his own precise mind, was based upon a joy in the use of the weapons and how far it was the result of a fundamental social policy it is impossible to say.

This same characteristic manifested itself also in his attitude toward many of the factual research undertakings that were more common in law schools (and in other departments of universities) ten years ago than they are today. For scholarly, painstaking investigation of legal problems he had the greatest sympathy and indeed the latter years of his life were largely devoted to work of that kind. Some factual research plans he was interested in; as to many he was frankly cynical. He felt that common experience furnished sufficiently definite information on a large number of the factual problems on which investigation was suggested. That a great expenditure of time and money might collect data tending to prove that a given course of action took place in ten percent of all cases rather than in twenty percent seemed to him of no significance and not worth undertaking.

It should not be inferred from these reflections that Hinton was not forward looking. Men move at various rates of speed. His attitude may perhaps be expressed by a statement that he once made in casual conversation: "Motion is not necessarily progress, it may be just jumping up and down." His inclination was to go slowly but he was far from having the attitude that whatever is is right. His work with the Illinois Civil Procedure Commission was a striking example of his ability and willingness to co-operate where a desirable end was to be achieved.

His clearness of thought was evidenced in his form of expression, both written and spoken. His professional writings are numerous.¹ Scholarli-

¹ The more important of Professor Hinton's works are as follows:

I. *Books*

- Cases on Code Pleading (1st ed. 1906); (2d ed. 1922); (3d ed. 1932).
- Cases on Trial Practice (1st ed. 1915); (2d ed. 1930).
- Cases on Evidence (1st ed. 1919); (2d ed. 1931).
- Cases on Common Law Pleading (1923) (Cook & Hinton).
- Cases on Equity Pleading (1927).
- Lectures on the Illinois Civil Practice Act (Stenographic Report 1933).

II. *Leading Articles*

- Some Problems in Hearsay and Relevancy in Missouri, 15 *Law Ser. Mo. B.* 3-14 (June 1917).
- Equitable Defenses under Modern Codes, 18 *Mich. L. Rev.* 717-35 (June 1920).
- Substituted Service on Non-Residents, 59 *Am. L. Rev.* 592-601, 20 *Ill. L. Rev.* 1-8 (May 1925).
- An American Experiment with the English Rules of Court, 20 *Ill. L. Rev.* 533-45 (February 1926).
- Court Rules for the Regulation of Procedure in the Federal Courts, 13 *A.B.A. J.* 8 (pt. II, March 1927).
- Arbitration by Jury, 6 *Wash. L. Rev.* 155-65 (November 1931).
- States of Mind and the Hearsay Rule, 1 *Univ. Chi. L. Rev.* 394-423 (January 1934).

ness, testing and tested by the practical consideration of everyday utility, clarity of expression and precision of arrangement are the characteristics of them all and they have the solid merits that are a natural resultant of these qualities. His classroom exposition was of the same high order. Combined with his legal experience and ability, it put him among the outstanding members of the teaching profession. The influence that he exerted over the hundreds of students who attended his lectures is one of his most enduring monuments.

As his professional qualities earned respect, so his personal qualities earned affection. His time and his learning were at the service of any one who chose to ask, and no one left a conference with Hinton without new light on the subject that had been discussed. He was a good companion, the sort that "wears well." He could talk entertainingly; he could listen understandingly. His wide range of experience, his pungent deftness of expression, his kindly shrewdness that refused to be taken in, yet was not censorious, his open-mindedness, his willingness to let the other man have his chance to talk, united to make him a friend greatly to be missed.

HARRY A. BIGELOW

Pleading under the Illinois Civil Practice Act, 1 *Univ. Chi. L. Rev.* 580-92 (March 1934).

Changes in the Exceptions to the Hearsay Rule, 29 *Ill. L. Rev.* 422-47 (December 1934).

III. *Biography*

Floyd Russell Mechem, 23 *Ill. L. Rev.* 591-4 (February 1929).

For a period of more than twenty years Professor Hinton was also a steady contributor to different law reviews of the country of informal notes and comments on various legal topics.