A "Vignette" of Malcolm Sharp

Wilber G. Katz

When I promised to produce a "vignette" of Malcolm Sharp, I neglected his teaching that promisors are bound by verbal usage in the trade. I now learn that a vignette is "a running ornament of vine leaves or tendrils" or a "picture that shades off gradually into the unprinted paper" or "a depiction in words characterized by daintiness or delicacy." This is not quite how I think of Malcolm Sharp. Instead of attempting substantial performance, I shall try to suggest how extraordinary has been his usefulness to his colleagues.

Our association has spanned thirty-odd years—association principally in the University of Chicago Law School and on vacations in Colorado. Our daily Law School contacts were interrupted by his entry into the Navy, but we were together again in the Army Ordnance Office in Chicago. Malcolm Sharp is the only man who ever increased his usefulness in the middle of a war by crossing the divide between Navy and Army. He brought to bear on the Army Procurement Regulations all of the techniques which have dazzled generations of his contract students. It should perhaps be added that the richness of possible interpretation which he found in the regulations was not always understood by his uniformed colleagues.

Most rewarding of all my associations with Malcolm were the sometimes dizzying explorations of ideas which accompanied our exploration of mountain trails. I learned on one occasion the secret of his capacity to follow trails of both kinds. We had carefully mapped out an unfamiliar hike and had followed our plan perhaps less carefully as we discussed equitable liens—or was it Admiral Mahan or the mystery of responsible freedom? In the afternoon we were surprised to find ourselves in the same spot where we had been an hour or two earlier. I was somewhat dismayed, but Malcolm strode ahead explaining, "It's always good to keep a flexible sense of objective."

To all of his colleagues Malcolm Sharp has presented the disturbing and heartening example of a man determined to find an integral pattern

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for his knowledge and concerns and activities. He has endlessly sought in philosophy and history and economics and psychology. He has discarded nothing which experience has brought him, drawing perennially on accretions from his brush with corporate practice in New York, his steeping in Greek culture at Meiklejohn's Experimental College, his astonishing venture in Thomist prelegal education with Mortimer Adler, his battles on the NRA steel code—even from his study of the common law forms of action. Sometimes he sketched the connections with darting allusions which we found difficult to follow. But with Malcolm operating in our midst, we could never be quite complacent with fragmented patterns and limited concerns.

Equally useful to his colleagues—and sometimes equally disturbing—has been Malcolm Sharp's insistence on academic due process. His observations of administrative power extended from Progressive days in Wisconsin through General Johnson's NRA to the continuing period of loyalty screening. With this experience, he was not one to assume that deans or chancellors or law faculties are free from shortcutting tendencies. We were always reminded by his presence—and sometimes by his flashing indignation—that academic communities are not exempt from the canons of fair procedure and relevance.

Sharp's interests always included the work which all of us were doing. He showed a quite irrational belief in our creative capacities. And sometimes we were caught up in the contagion of this faith. He was literally tireless in going over our efforts. Bill Crosskey always sharpened on Malcolm the weapons which he forged to slay James Madison, the Supreme Court, and all historians of the Constitution. Others of us quailed when Bill brought his artillery into pointblank range, but not Malcolm. And it was Malcolm alone who mastered the detail of Crosskey's argument.

Sharp's faith in the capacities of others included his students, and this confidence helped many of them to overcome blocks in learning and expression. He always argued that opportunities for seminars and individual research should be open to all students. Here, too, his example was useful to those of us who are tempted to pitch our teaching to the top half of the class.

How can I make this vignette "shade off gradually into the unprinted page"? Perhaps by reporting that I received last week from one of Malcolm's new colleagues a letter pursuing some of Malcolm's suggestions as to sources for a law revision project.