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Charles M. Whelan: A Life in the Service of Others

Cover Page Footnote

Norris Professor of Law, Fordham University School of Law.

CHARLES M. WHELAN: A LIFE IN THE SERVICE OF OTHERS

*John D. Feerick**

It is with nostalgia that I offer this tribute to Father Charles Whelan, S.J., on the occasion of his retirement from the full time faculty of the Law School. He has served the school for more than four decades with a degree of humanity, humility, and generosity perhaps never equaled by anyone in the school's 100 year history. He has combined these personal qualities with a mastery of teaching, scholarship, and service, personifying the very best of our profession.

Father Whelan joined the Fordham faculty after having graduated at the top of his class from Georgetown University Law Center and then serving his alma mater as a teaching fellow and adjunct professor. The legendary Dean William Hughes Mulligan wrote to him in May 1962 stating that it "was in the interests of legal education" that he come to Fordham and "see the rather gaudy furnishings" at the school. Father Whelan came in September 1962 and never left, spending more than half of his life giving of himself to students and colleagues and to the school and law more generally.

During Father Whelan's career of forty-five years, he taught courses from all parts of the curriculum, in the day and evening divisions. These included constitutional law, jurisprudence, creditors' rights, seminars on the First Amendment, church-state and the Supreme Court, civil rights, tax-exempt organizations, legal writing and research, and legal writing and plain English. His courses were always oversubscribed because of his enormous reputation in the subjects he taught. His teaching of legal writing was done at great personal sacrifice because it took so much time, and he had a great many other responsibilities. And yet, as other full time faculty transitioned from teaching legal writing, Father Whelan declined to do so, believing it important for students to have the experience of full time faculty in that area of the curriculum as well. His willingness to do this has earned him, if nothing else, a nomination for sainthood. Nor was this service unnoticed by students, one of whom recently wrote to me:

Although I spent most of my education up until law school writing scores of papers, Father Whelan taught me that legal writing required, among

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other things, a different style and tone. His dedication to teaching me how to approach legal writing is greatly appreciated.¹

Another student said,

[Father] Whelan was the best tutor [I] ever had because he was able not just to teach [the] subject, but to tailor his lessons so that they focused on [my] problems.²

A colleague wrote,

Throughout almost 30 years in which Father Whelan was first my legal consultant, my teacher and then my colleague in the Legal Writing program at Fordham Law School, I saw his commitment to his students, to learning and to the law. While constantly reminding students that they were competing, not with each other, but with excellence, he gave each one the time and attention needed to do [his or her] best work. While holding students to the highest standards, he had patience with their difficulties and above all respect for them.³

Another colleague of Father Whelan wrote,

When I began teaching legal writing at Fordham . . . Father Whelan was the person we would go to for help in figuring out how to do the course. He was the legal writing guru who would take as much time as young teachers needed to figure out how to make the course work. My most vivid memories of him are the amount of time he would spend with students going over their writing . . .⁴

Assistant Dean Robert J. Reilly, who was in his class, told me,

Father Whelan had a wonderful ability to make the workings, analysis and historical context of [U.S.] Supreme Court decisions come alive in the classroom.

Each week he would analyze and relate to us the most recent decisions of the Court as they were reported in *The New York Times*. It was like having a Supreme Court Justice as your tutor.⁵

1. E-mail from Lauren Frank, Graduate, Fordham Univ. Sch. of Law, Class of 2006, to John Feerick, Norris Professor of Law, Fordham Univ. Sch. of Law (Feb. 20, 2007, 14:22:12 EST) (on file with the Fordham Law Review).

2. Telephone interview with Anne Strickland-Squadron, Graduate, Fordham Univ. Sch. of Law, Class of 1974, in N.Y., N.Y. (Feb. 8, 2007) (on file with the Fordham Law Review).

3. E-mail from Sister Bernadette Kenny, to John Feerick, Norris Professor of Law, Fordham Univ. Sch. of Law (Feb. 28, 2007, 17:16:41 EST) (on file with the Fordham Law Review).

4. E-mail from Jacqueline Nolan-Haley, Professor of Law and Dir. of ADR & Conflict Resolution Program, Fordham Univ. Sch. of Law, to John Feerick, Norris Professor of Law, Fordham Univ. Sch. of Law (Feb. 8, 2007, 14:13:57 EST) (on file with the Fordham Law Review).

5. E-mail from Robert J. Reilly, Assistant Dean for the Feerick Ctr. for Social Justice and Dispute Resolution, to John Feerick, Norris Professor of Law, Fordham Univ. Sch. of Law (Mar. 21, 2007, 18:13:04 EST) (on file with the Fordham Law Review).

His concern for faculty and students was matched by his concern for staff. As two staff members, both of whom were already at the Law School when Father Whelan arrived at Fordham in 1962, noted,

As far back as we can remember (we go back to 1962 when he arrived) Father Whelan has always been this low-key[] (maybe shy), kind and thoughtful person. We never knew him to raise his voice or say an unkind word to anyone. There was always a smile for all of us (staff and students alike).

Also a funny thought comes to mind as we picture him with his trusty pushcart as he shopped for his fellow Jesuits at America House.⁶

Father Whelan's scholarship is prolific, with books, book chapters, essays, and journal articles too numerous to list but all noteworthy because of his clarity of thought. He has written four books on church-state relations and civil procedure, while his innumerable articles, essays, and book chapters range from the First Amendment, church-state relations, tax law, the ERA, race and religion, evolution and the law, to issues of censorship and the constitutional concept of morality. *America* magazine, to which he has been connected for almost fifty years as author, assistant, and editor, reflects his writing on many different subjects such as religious belief and morality, race, education and tax exemptions, equal protection, divorce for Catholics, school aid decisions, and textbooks and the Constitution.

Beyond Father Whelan's teaching and scholarship, he has excelled at service within the school, chairing and serving as a member of the most important of faculty committees and always being available to help out with a special assignment. He served in the University Faculty Senate, on the advisory board to the Fordham University Press, and as a member of search committees for deans of schools. He contributed enormously to the student journals at the Law School by reviewing articles and drafts of student writings, often when other faculty were away on leave or vacation or when there was an urgent need for extra assistance. As a Jesuit priest, he felt a special obligation to provide religious and personal counseling to members of the Fordham Law School community, and he gave hundreds of hours each year to such areas. A law school alumna recently wrote to me:

I truly valued the conversations that I regularly had with him in his office or on the benches outside the law school. During these discussions, he often imparted a funny anecdote and always had an interest in my professional plans and aspirations. Father Whelan is a man of great kindness, patience and knowledge. As fortunate as I feel to have had him

6. E-mail from Susan Santangelo, Dir. of Faculty Admin., Fordham Univ. Sch. of Law, and Estelle Fabian, Assistant Dean for Master of Laws Program, Fordham Univ. Sch. of Law, to John Feerick, Norris Professor of Law, Fordham Univ. Sch. of Law (Feb. 23, 2007, 15:16:26 EST) (on file with the Fordham Law Review).

as a professor, I feel even more fortunate to be able to consider him an advisor and a friend.⁷

Another alumna said in a note to me:

He treasured the law, not as an academic exercise, but rather as a means of serving values. When I first spoke with him about making a career change and attending law school, he opined that the world did not need me as another professional. Rather, as a member of a Roman Catholic religious order, I should consider learning the law and putting it at the service of the values that [we] profess. That advice has become a personal mission statement for me.⁸

Beyond the Law School, Father Whelan's range of services has been Olympian in scope. For all of his years as a Fordham professor he has been consulted by religious and other groups for his insights into matters of church-state and the U.S. Constitution, especially subjects involving education, tax, and the relationships of religious orders and their ministers. He has served as a consultant to the United States Catholic Conference, the National Council of Churches of Christ, and the Order of Cistercians of the Strict Observance. Father Whelan also has been drawn on by public officials and journalists for background assistance with respect to the most difficult and sensitive of matters.

The respect in which he is held is evidenced by the number of federal cases with which he has provided important legal assistance. He has argued successfully in the U.S. Supreme Court and his name appears on the briefs of many other cases of considerable significance, particularly in matters of church-state and education, such cases as *Board of Education v. Allen*,⁹ *Walz v. Tax Commission of New York*,¹⁰ *Lemon v. Kurtzman*,¹¹ and *Roemer v. Board of Public Works*.¹²

How does one sum up a career such as Father Whelan's? First, let me quote the words of someone who was first a student and then a colleague of Father Whelan:

Father Whelan is truly Fordham's own version of Chaucer's Oxford Scholar:

Not one word spoke he more than was his need;
And that was said in fullest reverence
And short and quick and full of high good sense.
Pregnant of moral virtue was his speech;
And gladly would he learn and gladly teach.¹³

7. E-mail from Lauren Frank to John Feerick, *supra* note 1.

8. E-mail from Sister Bernadette Kenny to John Feerick, *supra* note 3.

9. 392 U.S. 236 (1968).

10. 397 U.S. 664 (1970).

11. 411 U.S. 192 (1973).

12. 426 U.S. 736 (1976).

13. E-mail from Sister Bernadette Kenny to John Feerick, *supra* note 3 (quoting Geoffrey Chaucer, *The Canterbury Tales* 9 (J. U. Nocolson trans., Dover Publ'ns, Inc. 2004).

Mention also needs to be made of his masterly sense of fashion that, if not world-renowned, is known to all around the Law School: a plaid shirt and a bolo tie,¹⁴ occasionally accessorized with the ubiquitous multi-pocketed “professor’s vest.” He also had a penchant for growing tomatoes on the roof of America House.¹⁵

In 1991, as part of Fordham University’s 150th anniversary, Fordham Law School decided to call itself a School in the Service of Others, an appropriate title for a school founded by Jesuits. Father Whelan has expressed that ideal in all of his years at Fordham Law School and remarkably so. We bid him farewell, but he will always remain part of us.

14. This kind of tie was also worn by other such luminaries as Isaac Asimov, George Balanchine, and Gene Roddenberry, the creator of *Star Trek*. The bolo tie was made the official state tie of Arizona in 1973 and on March 13, 2007, the official tie of the state of New Mexico. See Shaveta Bansal, *Bolo Ties Declared Official Neckwear in New Mexico*, Allheadlinenews.com, Mar. 13, 2007, <http://www.allheadlinenews.com/articles/7006732771>.

15. In his activities report for the academic year 1977-78, Father Whelan wrote, “Grew 150 pounds of tomatoes on the roof of the Jesuit residence at America [House]. . . . Not as good as last year, when I grew 240 pounds.” Fordham Univ., Faculty Activity Report (1977-78) (prepared by Charles M. Whelan) (on file with the Fordham Law Review).

Notes & Observations