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1992

Chapin Clark

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Citation Information

Charles F. Wilkinson, *Chapin Clark*, 71 OR. L. REV. 241 (1992), available at <https://scholar.law.colorado.edu/articles/879>.

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Citation: 71 Or. L. Rev. 241 1992

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Tue Aug 8 13:58:52 2017

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Chapin Clark

I get to Lawrence, Kansas, on occasion, and when I do, I always go by the home in which Chapin Clark grew up. It's a big, rambling, Victorian house on a corner lot with broad elms and an expansive yard. I go there for the reasons we all go to our special, often secret, places—a church, a quiet corner of our college campus, a favored grove of old-growth trees. Some important thing happened there; each of them calls up the long sweep of time, and causes us to reflect. In the case of Chapin's house, the roots run deep. The family had lived in Kansas since just after the Civil War, when Charles Clark emigrated from Illinois to become the only physician in Central Kansas. You can feel the stability and close family ties in this place, and they surely bore fruit; as good and full a person as I have ever known gathered his values in this house.

I met Chapin in 1975, when I interviewed at the University of Oregon in the spring and joined the law faculty in the fall. This was my first teaching position and, like many before me, I found law teaching to be easily my most intimidating professional experience. There are no schools for law school teachers. There is never enough time to prepare for the classes that seemed so few to me as a practicing lawyer (“just six hours a week”), but that blanket the life of a first year teacher. It seemed that you had to know thousands of cases and articles, and to have the whole conceptual structure also, to fend off frighteningly bright students, more than a few of whom seemed determined to crack open every young teacher. Terror. Nothing short of it.

Gene Scoles, Don Brodie, Dave Frohnmayer, Peter Swan, Jim Mooney, and others gave me support during this time. But for me, and I think for most other young faculty members as well, Chapin served as my main mentor. “Just come on down—don't worry about an appointment.” Deans don't usually say things like that,

* Moses Lasky Professor of Law, University of Colorado; B.A. 1963, Denison University; LL.B. 1966, Stanford University. My thanks to Dottie Clark for her help and friendship here and many other places over the years.

but Chapin did, and he meant it, not just for me but for all faculty members, especially the younger ones.

Chapin and I both did a good part of our work in natural resources law. Chapin was, and is, a national leader in water law. He has written several articles and in 1974 completed the valuable treatise, *Survey of Oregon's Water Laws*.¹ During the 1970s he chaired Oregon's Water Policy Review Board. He remains a major figure in Oregon water policy. In 1991, he was appointed as mediator for the complex dispute in the Umatilla River Basin, a microcosm of the thorniest issues in western water law. It appears that a settlement has been reached, and the many parties have all praised Chapin's evenhandedness, patience, and command of the law and facts.

As dean, Chapin was always ready to work through a knotty problem in our common field, or just talk. He introduced me to the Hardrock Mining Law of 1872, the fascinating history of homesteading in Oregon, and clearcutting in the national forests. As I was about to begin my second semester, I expressed doubt about whether I could put together the whole course that we then called "Natural Resources Law," which encompassed public land law and water law. Chapin responded by saying that he missed water law and would be glad to teach the subject for a month of my course.

Chapin's generosity gave me a much needed respite, the chance to learn some water law, and the opportunity to see a master teacher in action. He knew as much water law as anyone in the country and he was relentlessly funny. One interstate case arose in the nation's heartland, and Chapin drew a rough map on the blackboard, putting the states, north to south, in this fashion:

North Dakota
South Dakota
Kansas
Nebraska
Oklahoma
Texas

Eventually, a student commented, "I always thought Kansas was *below* Nebraska." Chapin, who had been patiently lying in wait for that question and who was ever loyal to his home state, casually replied, "That's not the way I learned it when I grew up." A few weeks later, as the complexity of water law began to sink in, one

¹ CHAPIN D. CLARK, *SURVEY OF OREGON'S WATER LAWS* (1974). This work has since been supplemented. See CHAPIN D. CLARK, *SURVEY OF OREGON'S WATER LAWS* (2d ed. 1983).

exasperated student sputtered, “What do you *do* when you’re practicing in this field? These cases in the book are all simple, two-party disputes. But most of these rivers have hundreds or thousands of water users on them.” Chapin dryly responded, “It’s tough out there.”

His support for young faculty went beyond the classroom. I came to Oregon when the Indian fishing wars were white-hot. Within two months, non-Indian interests had filed a complaint against me with the Oregon State Bar. I knew it was frivolous (it was soon dismissed), but it jolted me, both because good ethics had been pounded into me since my first day of practice and because I had no idea how the school would react. I went down to Chapin’s office with hat in hand. “Yeah,” he said, without ever looking up from his deskwork, “I’ve heard about that. Doesn’t sound like there’s anything to it. At least I know you’re doing something up there.”

Chapin was the most unbureaucratic administrator I’ve ever known. In his view, rules were fine, but sometimes—lots of times—you had to work out an individual accommodation. Take-home examinations, unorthodox course scheduling, whatever it was, Chapin was always willing to hear out, and often approve, proposals that were administrative nightmares. Mrs. Ackerman, then and now the law school’s Registrar and do-everything chief-of-staff, was far too loyal ever to second-guess Chapin, but I’m quite sure that more than once I caught her rolling her eyes after Chapin began a sentence with, “Here’s how we’re going to work this out.”

The worst of it was the Cohen treatise. Felix Cohen, the great scholar of jurisprudence, ethics, and international law, had written one of the law’s classic books, *Handbook of Federal Indian Law*. The treatise, published in 1942, had helped shape Indian law, but by the 1970s it needed to be updated and revised. A group of us took on the project and we decided to set up a board of editors comprised of law students and recent graduates—what amounted to a law review staff—and house it at the law school in Eugene. The problems seemed insurmountable: Where would we get the space? What about the burdens on the library, secretaries, and copying machines? Still, Chapin approved it. Feeling protective, I started to walk him back through it again, so that there would be no doubt about the scope of the problems that the law school was about to take on. He cut me off: “No, I get the picture. It’s going to be a disaster. Just make sure it’s a hell of a book.”

For me, the law school during Chapin's deanship will always be the measuring stick for what a law school ought to be. The classroom teaching was outstanding. The younger faculty were coming out with good scholarly work and the giants—Gene Scoles, Hans Linde, John Strong, Dave Frohnmayer—were at the peak of their careers. The school was expanding, and we had our pick of the crop and made spectacular hires—four key members of the current faculty and several fine scholars, including Ed Baker, Peggy Radin, and Carol Sanger, who have since moved on. Chapin's open, honest approach was infectious. The students had few complaints. Faculty meetings were easy going and decisions were made out in the open after collegial debate. None of this is intended to diminish the accomplishments at my current school, at the schools I have visited, or, for that matter, during other eras at Oregon. But it is only right to do honor to the truly rare moments, in this case a time when the most luminous ideals of one profession, legal education, came to fulfillment.

I carry my love for, and my debt to, Chapin with me every day. But it's an easy debt, for Chapin doesn't call in chits. Long ago, in that big house in Lawrence, there grew up inside of a boy a way of looking at the world the likes of which I've never seen in anyone else. Be open. Be direct. Be generous. Insist on quality. Never lose sight of the big picture.

Easy things to say, hard things to do. But all of us so fortunate to have had our lives touched by Chapin Clark can say that we saw those personal qualities come together once, and that we will always draw inspiration from it and try to pass it along as best as we can.