

and the off-beat, nonconformist who was bringing new light to the law. He fought the entrenchment of mediocrity so strenuously that he in time tired of being Dean at Yale.

Yet at Miami he returned to the task; and in the last talk I had with him (in the Spring of 1962) he fairly bubbled with excitement over the large design of what he thought would in time be America's finest law school.

His interests were so diverse he never became pedantic. A few times when he left the law he did so out of a feeling of challenge. He always returned to find life's fulfillment in the discipline which has made his memory bright in the lives of hundreds of lawyers and judges. His standards were exacting ones. Rules and principles of law were honored but only if they served the social purpose that promoted the good life. He was more interested in what a rule did to people, what its impact was on the living, than what was its origin in antiquity. Some called his jurisprudence "sociological" and they often used the word derisively. Yet he knew that the law was not carved in stone by gods but shaped by judges who were human. He knew that their predilections and their particular values often fashioned it. Wes Sturges also knew that the judge who shouted the loudest that he was deciding cases by the law, not by his personal values, was like the lady who protested too much. He had no respect for them. He knew that law and justice were handmaidens even in the workings of federalism. He had until his last day only disrespect for those who pretended that the spectacles men wore had nothing to do with what they decided, either on or off the bench.†

A Fragment From Memories: Yale's Rodell

TO A YOUNGER COLLEAGUE, THE LIGHT OF A GENTLE GENIUS

FRED RODELL*

If ever a born-and-bred Vermonter seemed to belie his native heritage—that heritage of marble hardness and monosyllabic yep-nope monasticism—it was Wesley Alba Sturges, as gentle and gregarious a soul as ever nudged a class toward knowledge or called an acquaintance to casual talk across the tables down at Mory's. Yet he retained a small deposit of Vermont gravel in his voice, that muted fog-horn which could turn so fast to an almost choking chuckle, half-embarrassed as though he might

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have missed the joke. He retained a large residue of Vermont rectitude in his dealings with other men, who totally trusted him. And behind the gentle friendliness, the casual camaraderie, lay a core of Vermont reserve. For he was, despite his flocks of friends, essentially a lonely man, not easily given to intimacies or confidences—a man whose deepest elations and distresses were always held in check within. To see him walk alone down Wall Street for coffee in the morning, for bourbon in the afternoon—that stiffly erect figure with the brisk short steps and the impeccably buttoned jacket (who ever saw him with his jacket off?)—was to sense some of the turmoil that must have tossed behind the tight facade.

In a way, he was an anachronism—an old-fashioned New England school teacher who had somehow hit the big time. Yet no man, with the possible exception of Charles E. Clark, contributed more to the growth and greatness of the Yale Law School than he. Above all, he was—as teacher, as colleague, as Dean, as friend—a man of uncommon courtesy and kindness and quiet power. It is hard for us who knew him long to accept that he has died.

My own first encounter with Wes came in the winter of 1928-29—in the library of the old law school, on the third floor of box-built Hendrie Hall. A member of the Law Journal, I was working late on some silly checking chore when a door set between side-shelves opened and that gruff voice said: “Come in, young feller.” I barely could. The tiny cubicle that served as office for the new Edward J. Phelps Professor of Law—an enclosure not much bigger than the john in the current dean’s suite of the Sterling Law Building—was stacked from floor to ceiling around the room with tan-backed law reports. They were state reports out of Texas and Utah, from Volume I right up to 1928, and I wondered what on earth—. Well, Professor Sturges was concocting a new book on credit transactions that would combine a few old traditional courses in one; he did not trust headnotes or indexes, geared as they were to the old course concepts; so he was leafing methodically and alphabetically through every single reported case from every state in the Union to make sure he missed nothing of use to him; he hoped to finish with Texas and get into Utah tomorrow night. That was the way Wes worked. As I left, feeling somewhat less put upon about my slight Journal chore, he growled with a grin: “You young fellers are lucky. Wait till you’re an old man like me.” He was then thirty-five—with half of his life still ahead of him.

A little more than a year later, in the spring of 1930, the three newly-chosen top officers of the Law Journal—Tom Emerson, now my colleague, Howard Marshall, now a Texas oil tycoon, and I—were enrolled in Sturges’ course, already known as Credits. We had had and were still having great teachers in profusion (yes, that was the golden age)—Arthur Corbin, Leon Green, Lee Tulin, Charley Clark, Walton Hamilton, Thurman Arnold, Bill Douglas, others. But never had we met up with so

smooth a blend of the functional approach and the Socratic method as flowed thrice a week from Wes the Wizard. We thought we were bright but he could turn us upside down, shake us a little, laugh at us a little, and then set us softly back on our feet as the hour ended.

So the three of us decided to get him—just once. For a week we spent most of our spare time in the library, searching out remote cases which seemed to counter the material in his book that we were to hit next. We could hardly wait. And class was hardly under way when Howard Marshall, I think, waved first. "But Mr. Sturges, how about *Smith v. Jones* at 36 Nebraska 217 (or whatever, wherever)? Doesn't that go the other way?" Wes's expression of slightly pained amusement never flickered. "Marshall," he said—(Wes always used last names and so never for a whole term called on Bill Gaud, pronounced Gowd, because he thought it would sound funny to call on Gawd)—"Marshall, you seem to have overlooked a somewhat more recent Nebraska decision, *Doe v. Roe* at, I believe, 56 Nebraska 49." It was a magnificent performance, done with complete aplomb, and of course you do not tell a professor he is making up cases to sound omniscient—though we three knew he had to be. Tommy and I tossed in our hard-searched decisions in turn and got the same reply—a later case, complete with name and citation. Muttering to ourselves, we dutifully wrote down the three fake citations—and after class we went to the library. Each of the three cases was there, exactly where he had cited it. We never tried to get one up on Wes again.

What Wes gave to the Law School, even this early, was considerably more than the virtuoso performances of a great and warm-wise teacher. Throughout the thirties, the School's most emerging and exciting decade, he was—along with Clark, Douglas, Arnold, and Hamilton—one of a congenial quintet who formed a sort of *de facto* steering committee and pretty much ran the School their way. Perhaps less flamboyantly brilliant than the other four, he often provided the oil of patience that kept the group—and the School—working smoothly together. And soon after the dislocation of the war years, a unanimous faculty forced on him a job he neither sought nor wanted—the job of reconstructing the School as Dean. Nor was the faculty unanimity an after-the-fact gesture of courtesy; as high tribute to the trust all his colleagues reposed in him, on the first ballot his name headed every list. A couple of years later it was the student body that initiated a banquet in Wes's honor, to show their affection and to mark his twenty-fifth year at Yale. The mimeographed banquet program contained a short sketch of his career to that date. Since that sketch was signed "F.R." and since Wes was delighted by what I then wrote about him, perhaps it would not be too inappropriate to quote it here whole:

Way back in the fall of 1914, the University of Vermont, a smallish institution devoted to learning, turned up with a re-

markably good and remarkably successful football team. Subsequent investigation, spurred by the outraged howls of overwhelmed opponents, made clear that the Vermont student manager had taken his job quite seriously, not to say professionally. He had simply bought up all the football talent he could lay his hands on and then balanced his books out of the big gate attracted by a winning team. Barely allowed to stay in school and graduate the next spring, the successful manager, son of a Vermont reverend named Sturges, went on to bigger and better—if no more dramatic—applications of the functional approach.

At Columbia Law School he weathered the thunderings of Underhill Moore to the tune of an unspectacular C. Soon he was giving out C's, and worse, himself in the hinterlands of South Dakota. Then, just 25 years ago, Yale lured him with a fellowship for graduate law work, farmed him out to Minnesota for a year, then beckoned him back to New Haven to teach. Wesley Sturges has been at Yale, off and on, ever since.

The off's have been plenty for this peripatetic pedagogue. His work on arbitration, sandwiched between teaching and tossing together trail-breaking casebooks, lays him fair claim to the title of Father of Arbitration in America. When the New Deal was new, he went to Hawaii for the AAA—and it is said that Yale's then-President Angell, fortuitously following him to the land of the leis, spent most of his time there sweetening up sugar barons who had been soured against Yale contributions by Sturges's crusading spirit. It is but a short step from sugar to alcohol, and Sturges was soon off from New Haven again, playing czar to the liquor industry—an experience from whose after-maths, both financial (those income taxes) and digestive (that blended whiskey), he has yet to recover.

During the war, Sturges served all over the place—from Hartford, with the State Defense Council, to Algiers, for Economic Welfare. Then Surplus Property grabbed him for his legal talents until the progressive ideas that backed those talents, and failed to conform to the Board's fuddiduddiness, made him surplus himself. He had barely come back home to Yale when the faculty unanimously chose him as Dean. Perhaps their idea was to give this dynamo enough dirty-work to do to try to keep him around New Haven for a while.

The work was indeed dirty but Wes was always immaculately Mr. Clean. Rebuilding a war-wrecked faculty with many of the top talents that still adorn it—though a few have since slipped through subsequent fingers—he made of his tenure a sort of silver age. In hand-to-hand combat with the Yale Corporation, he raised Law School salaries to the highest point in history. With the help of Clare Campbell Sturges, the second wife who made his life at last less lonely, he ran the Dean's office as a tight ship, unbarnacled by batches of subordinate officers. And when

he took off for the milder climate and the off-shore fishing and the old-soldier welcome that Miami gave him, he took the love of the whole Yale Law School with him.

One final tale about Wes I cannot resist telling. It needs the preface that although, over thirty-odd years, I had lifted friendly glasses of grog with him more than a thousand times, I had never seen him drunk. Well—during the Sturges deanship, there was this gorgeous blonde wife of a law student who fell in love hard with one of her husband's classmates. In the modern mode, there was no hush-hush hanky-panky about it; the husband knew; the wife knew that he knew. But the trouble with this otherwise easily solved triangular problem was the fact that it was pentagonal; there were two small children. Husband and wife agreed to leave the solution to the fairest, wisest man they knew; they invited Dean Sturges to dinner.

After dinner, over brandy, the problem was broached. "We've got all evening," said Wes. "Let's have another drink." Half an hour later, husband and wife tried to pin Wes down. "No rush," said Wes. "Got any bourbon in the house?" Three hours of like libations, the problem still postponed, and Wes slumped in his chair. There was nothing for husband and wife to do but half-carry their guest to their car, drive him home (he was then living alone), and tenderly put him to bed. But in that mutual act of decency and domesticity, husband and wife re-found each other and, so far as I know, are still living happily together. Did Wes—sage old rascal that he was—perhaps plan it precisely that way?

For Wesley Sturges was no scholar in the conventional sense of recondite research and long lists of learned articles in academic journals. His bibliography—that bible of the conforming cult—was woefully thin and was largely made up of compilations, like the course-book that came from those stacked state reports in his office in Hendrie Hall. He was rather a man with the empathy and insight to understand other men. That he also knew the subjects he dealt with to the last comma, the latest citation, helped make him among the greatest of teachers. Yet what he gave most of—to classes, to colleagues, to all who came in contact with him—was a sense of interdependent compassion and human dignity, here and now. And so he will not be among the immortals whose immortality rests on their writings, set in cold print for generations to come. But thanks to thousands and thousands who knew and loved him in person, Wes Sturges will not be forgotten until—well into the 21st century—the youngest of his students finally joins him—in that small town, probably somewhere in upstate Vermont, named Valhalla.