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WESLEY A. STURGES
William O. Douglas†

When I first met Wesley A. Sturges he was beginning to construct his book Commercial Arbitrations and Awards which was published in 1930. Indeed our first real visit was in the stacks of the Law Library in Hendrie Hall about midnight when he was putting the finishing touches on one chapter. Prior to then, I had been elected to the Yale Law faculty. This night in the Law Library and later in an all-night cafe over a cup of coffee, we fashioned the first bonds of friendship.

Wes Sturges, a Vermonter, had some of the qualities of granite. His friendship was durable; his convictions were not easily eroded. Mt. Mansfield in Vermont, viewed from a distance, shows a profile of a prostrate man—Forehead, Nose, Lips, Chin, and Adam's Apple. The Chin is the highest point, which leads Vermonters to say, "Thank God Vermont carries its Chin higher than its Nose." Wes Sturges held his chin high—proudly individualistic and courageous.

He was one of the best law teachers of this century—provocative, teasing, argumentative, challenging. He forced students to reach far horizons. He made fun by indirection of the conventional, he defied conformist doctrine, he demanded improvement of the status quo. Those who are the best teachers usually are not prolific scholars. Wes Sturges combined both talents. Yet he tired of each; and some of his happiest years, I think, were in administration. Yale Law School has had many outstanding Deans. Yet I believe that he was in a way the Deans' Dean during his two terms from 1945 to 1954. He was champion of the younger man and the off-beat, nonconformist who was bringing new light to the law. He fought the entrenchment of mediocrity and fought it 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

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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 the law. 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.

WESLEY A. STURGES
Thurman W. Arnold

In order to appraise the permanent value of Wesley Sturges' contribution to the law it is necessary to describe the intellectual conflict out of which it arose. For more than a quarter of a century Harvard had been the preeminent American law school. It had sent its missionaries to the faculties of most of the law schools in the United States. Dominant in their thinking was the idea that the only important part of the law was what they called substantive law. Legal procedure was a mere trade school subject, unworthy of the attention of profound and thoughtful scholars. And this substantive law was divided and classified into fields: Contracts, Agency, Torts, Conflicts, and so on. These fields had been discovered and logically divided by the great legal scholars of the past. They were linked together at the top by a mysterious introspective science called Jurisprudence. It was recognized, even by conservatives, that slavish adherence to precedent, exemplified in the old maxim that hard cases make bad law, was inhibiting the growth of the law to meet modern conditions. Pound had written his essays on sociological jurisprudence—the law did not have to impose cruel judgments on litigants for the sake of consistency with some established formula. The American Bar had organized the American Law Institute for the purpose of restating an orderly set of legal principles out of the growing mass of conflicting decisions. But that did not mean restating the law in terms of the actual subjects in controversy. Instead, it was devoted to the reconciliation of abstract principles which governed the various fields of the law. These fields owed their origin to the common law writs. They had been developed into a logical system by the Harvard curriculum.

Opposing this philosophy were a group of intellectual rebels called "realists." These men had discovered the psychological fact that thinking is a form of behavior—a shocking idea for those times. They proceeded to demonstrate that the so-called principles of law did not have the relationship to the actual controversies before the courts which the traditional jurisprudence said they had. But when the realists had proved their case to their students, which was not difficult after the first shock wore off, they had no place to go.
When I came to Yale in 1930 this controversy between the realists and the logicians of the law was going on with a great atmosphere of excitement and heat. But this conflict was not an examination of what was happening in our courts; it was rather a search for the core truth as to what Law—with a capital L—really consisted of. In such a philosophical battle the practical science of procedure, which is the source and root of Law, was found unworthy of attention.

Wesley Sturges was never caught in this sterile philosophical debate. I have no doubt he agreed with the philosophical realists, but he never became obsessed with teaching their negative position. Instead, he went to the heart of the problem, which was a reclassification of judicial decisions that would conform to the kind of controversy before the courts instead of fitting them into the nineteenth century categories.

I probably saw more of him than anyone else on the faculty. He was working on a course called Credit Transactions. The focus of that course and of his casebook was not Bills and Notes, Agency, or any of the conventional fields of the law. It was rather an examination of how courts treated the phenomenon of the extension of credit in a society where credit had become far more important as a means of distributing goods than it ever had been before. Wesley had learned from Dean Clark, as I did, that the center and growth of the law depended upon legal procedure. Dean Clark had begun that long and successful struggle which led to the Federal Rules of Civil Procedure and its subsequent adoption in most states. It was a revolutionary idea, though it seems commonplace today. Wes Sturges was engaged in the same kind of enterprise in his own field. He was an indefatigable worker. He looked at cases with new insight, his eye always fixed on what the courts did. He had no conventional guide-line. Adopting Dean Clark's procedural approach, he broke down old categories and created new ones. He was never bemused with abstractions.

This is not the time or the place to review his work in detail, or his gradual rise from a dissenting voice in legal education to an acknowledged leader. It is sufficient to say that in my view he revolutionized the conventional law curriculum.

The most interesting and exciting years of my life were the eight years which I spent as a professor of law at Yale. I remember so well when Wesley Sturges, after working half the night, would come into my office in the morning with a new discovery in the field of Credit Transactions or Arbitration. Wes Sturges had broken loose from the conventional classifications of the Law. The discoveries were new and exciting. I remember the long talks on the new kind of curriculum that Bill Douglas, Walton Hamilton, and Wesley Sturges were trying to establish at Yale under the sympathetic leadership of Dean Clark. These men, though working in different fields, were united in one common idea. That was that the center of the law, and the source of its growth, was the understanding of legal procedures.

As Dean of the Law School, Wesley Sturges carried on in the same tradition as Dean Clark. By the time he resigned the Yale Law School had become the pre-
eminent representative of a modern and original approach to the study of the Law.

I close with a word about Wesley Sturges as a personality. I have known few men with such complete integrity and independence of thought. He accepted no theory or idea merely because all sound and respectable people were endorsing it. His sense of humor was so keen that he would laugh at himself as well as others. It redeemed him from all trace of vanity. His integrity was beyond that of an ordinary lawyer. When, during the depression, he left law teaching, it was to assume the post of adviser to a trade association at what seemed to his colleagues a fantastic salary; he resigned from the association without giving any consideration to financial loss when its members would not follow the advice he gave them. The freedom of expression, the opportunity to follow his own ideas, rather than defending those of his clients, which he found in the teaching of law, were worth more to him than financial reward.

The values for which the Yale Law School stands today, which I believe are unique values, not to be found to any comparable extent in any other school, are personified in the life and work of Wesley Sturges.

It is a sad day when we have to bid him Good-bye.

WESLEY A. STURGES
Fleming James, Jr.

When I came to the Yale Law School as a student in 1926, Wesley Sturges was already one of the outstanding teachers among a group of great teachers, including seniors like Arthur Corbin and W. W. Cook, and juniors, as they then were, like Charles Clark, Edwin Borchard, and Robert Hutchins.

This was an exciting era. Hohfeld was still a fresh memory and his analytical method had stirred up one of those academic controversies so dear to the student's heart. But in this renascence of the Yale Law School there was also another movement under way which I think had deeper significance and more lasting influence than Hohfeldian analysis. This was legal realism, which was by no means confined to Yale, but was a fairly new thing in American legal scholarship and found warm hospitality at the school, particularly among the younger members of the faculty.

The brand of legal realism most familiar to Yale Law students of the nineteen-twenties was known as the Functional Approach. The essence of this was an insistence on viewing legal rules and concepts in the light of their social utility and function—evaluating them in their relationship to the rest of life, so to speak, rather than as parts of a self-contained and more or less self-sufficient conceptual system.

This, of course, is a basically simple and now thoroughly familiar idea that permeates much of legal scholarship and teaching. That was not true in the nineteen-twenties. Then the Functional Approach was a fighting faith that en-
listed some of the ablest and most forward looking men of the time. Well in the vanguard of these men was Wesley Sturges. Indeed, as I look back, I think that to the students of that day in the Yale Law School Wesley symbolized the Functional Approach.

Not only was he in the forefront of a movement that had a profound effect—I think for the better—on legal thinking, but his personal qualities as a teacher made him one of the great law teachers of his generation. He had a way about him, tinged by an older New England, that was homely and dry and a little sardonic, but made warm and appealing by an underlying kindliness and a genuine affection for his students. I remember his starting out more than one class by saying: “Good morning, Mr. Chancellor, I am a Surety, favorite of Equity, and I wonder what you can do for me this morning in the following situation.” Then he would go on to probe and question, sometimes the devil’s advocate, seldom stating or explaining. At times he would ride a student pretty hard, but I have never known one to resent it, for there was never any malice. The upshot of it was that we came to the understanding and the insight by ourselves; this I think is the best kind of pedagogy.

Wesley was not only an influential thinker and great teacher; he was also a very attractive person and a warm human being whom we looked on with pride and affection. He was always neat and carefully dressed and there was something debonair about his manner that made him cut a dashing figure in our eyes. Five years after I graduated I came back on the faculty to teach. I remember asking George Dession—my closest friend on the faculty then—about my new colleagues. The one thing that stands out in my mind from that conversation is one of the things he said about Wesley. “You can trust him,” he said, “Wesley is completely honest.”

This was a productive period for Wesley. It was about this time that the casebooks were published for his two great courses, Credit Transactions and Debtors’ Estates—we had used mimeographed materials in my student days. Also the text book on Arbitration appeared, which marked him as an outstanding leader in this field. There were also original and leading articles dealing with wage earner credit administration. These, of course, were along one of his main lines of interest. But there was another article in the field of procedure—suits by and against unincorporated associations—which for years stood as the leading article in the field.

The nineteen-thirties were not only a productive period for the school, but the life of the school was marked by an intimacy and camaraderie within the faculty that we who were a part of it look back on with nostalgia. By this time others had joined us: Ashbel Gulliver, Harry Shulman, Underhill Moore, Thurman Arnold, and William Douglas. Wesley was particularly intimate with Arnold and Douglas and this trio were very much at the heart of the school’s life in all its aspects.

Later on, after the War, Wesley became our Dean and carried on the fine tradition of that office. This was a challenging and difficult period of readjustment; under Wesley’s leadership it was also a period of growth.
During this time I came to realize in a new way the truth of George Dession's appraisal. A faculty soon learns the measure of their Dean's trustworthiness, and Wesley's was complete. I also came to see the depth of his kindliness and his tolerance for the frailties of others—colleagues and students. There was nothing sentimental about it—it was the tolerance born of strength and understanding.

And so over a long and close association I have seen many sides of Wesley and I have seen him in many roles. In all this time I have never felt a sense of disillusion or disappointment. The bright picture we had of him as students was never tarnished throughout his life. He has immeasurably enriched the lives of the individuals and the institutions who have been associated with him.

†Lafayette S. Foster Professor of Law, Yale Law School.

WESLEY A. STURGES

Hugo L. Black, Jr.

Some of us may wonder whether or not we shall live on after we pass. But we should not so wonder about Dean Sturges.

Dean Sturges excelled at a high calling which offers to those gifted enough to meet its challenges an extraordinary opportunity to live on after death: the teaching of the young. He aimed to train leaders of men. He often remarked that lawyers are the policy-makers of the world and that a function of a school of law was to equip its students for policy-making. His techniques developed that self-reliance so necessary to a man in the lonely hours of deciding a high-level question of policy. That he succeeded in his aim is well attested: his students sit on the Supreme Court of the United States; in Governors' mansions; in the Congress of the United States; in the ranking chairs at the Justice Department, the Treasury Department, the State Department, the Department of Defense; as high counsel to corporations and to labor unions; as partners in the great law firms of America; and in the crowded loneliness of court rooms all over America.

To the man, all of them will tell you that Wesley Sturges in the class room contributed more to their development than any other man. For Dean Sturges could make a class room come alive as no other man could. His techniques passed science and ascended to the level of art. He never revealed himself to you, for that would have defeated his ends. He assumed the role of the inscrutable and unpredictable world of law and politics which would surround you when you left the academic halls. It was up to you to take care of yourself as he asserted and contradicted, growled and smiled, deceived and leveled, ridiculed and complimented, twisted and darted, attacked and retreated. Dean Sturges taught from a chair of law. But he taught more than law. He taught lessons of character. As the symbol of authority in the class room, he often took a ridiculous position and pretended to assume that anyone who disagreed with him had no sense. But if he got by with this posture without challenge from
his students, you could read the disappointment in his face. He meant to teach
intellectual self-reliance and intellectual courage, and if his students failed to
recognize authoritarian nonsense or recognized it and failed to challenge it
out of fear, he felt he had failed in his purpose.

He taught also the processes of law and the tools of lawyers. He made sure
you had an opponent no matter what statement you made. Either he set another
student against you, or, if he could not find one, then he took you on himself.
Classroom arguments continued into the hall and often into the dormitories.

In the process of teaching the semantics of the law, he was not beyond ask-
ing you to compare the incomparable and to distinguish the indistinguishable,
and, if you indicated it could not be done he would do it. If, as a result of
all this, you were confused and told him that you did not think you were
learning any law in his course, he would just smile and tell you not to worry;
that you could bring all the law you wanted with you to the final exam.

Making you stand on your own was one offshoot of Dean Sturges' guiding
philosophical principle. He believed in individual liberty and individual re-
sponsibility. He would fight in a minute about an invasion of a minority right,
but at the same time he was quick to recognize and cut down a supposed un-
derdog making a false cry of alarm. He believed that every individual should
enjoy the liberties in the Bill of Rights with no ifs, ands, or buts. Although he
would protect the right of a foolish individual to engage in irresponsible con-
duct so long as it hurt no other person, the Dean had no use for personal
irresponsibility once it trenched on the rights of others, nor any desire to help
when he felt that a person had no one but himself to blame for trouble.