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John W. Wade: Friendly Critic and Sensitive Scholar

The stretch of time during which I have known and loved Dean John W. Wade reaches back to the Depression year 1931. We first met on one of those dry, burning September days that frequently mark the opening of the fall semester at Ole Miss. By coincidence this occasion might appropriately be called Embarkation Day for both John and me. John, having completed his undergraduate program with accustomed distinction, was ready for his first encounter with the study of law which was to be an exposure to the mysteries of torts. The teacher—obviously a fledgling—mounted the podium and undertook to deliver a lecture from an elaborate set of notes on which he had been working for the four preceeding days. This unhappy hour, which was the occasion of my first experience as a law teacher, also initiated John into the vagaries of law study.

Somehow we both survived, and as the course progressed I managed to attain a bit of self-confidence. I came to realize what I should have known already from my own experience as a student: extended lectures cannot serve as a steady diet in law teaching. The most successful class serves as a forum in which the teacher seeks to draw out the student and, hopefully, is one in which at least some of the students will be inspired to elicit even more from the teacher. Accordingly, I began to experience that hunger for response with which teachers are so well acquainted. Could I excite at least a few in that class? Could I arouse some measure of curiosity and possibly even a spark of nascent skepticism? I was not disappointed.

As I look back on that small class, I remember it as a good one. We had lots of fun. The teacher could boast only three or four years of maturity over his students; hence, he was vulnerable and was often attacked with considerable spirit. From the beginning John Wade faced me with the kind of challenge that can be both the delight and the despair of a beginning law teacher. His characteristic mode of attack by way of imperturbable but relentless prodding will be recalled with admiring pleasure by more than a generation of his own law students. This role of the friendly, reflective skeptic, which is so fundamental a part of the intellectual make-up of John Wade, has been manifest in his every response from the first moment he looked at a law book or listened to a law lecture. I do not know even now whether John realizes how richly

his quiet but intensive questioning endowed my freshman year of law teaching. Many were the times when his critical reaction to some proffered idea of mine prompted me sharply to pull in sail, or when some considered but heartening observation of his encouraged me happily to put an extra sheet into the wind.

I was to enjoy only one year with John in my role of teacher. A year in graduate school and several years of law practice passed before I again resumed teaching at Ole Miss, and by this time John had entered Harvard and was preparing for a law teaching career himself. This graduate exposure supplied a new measure of sophistication, and John's familiar critical temperament, thus reinforced, assumed wide and exciting dimensions. Our reunion came in 1936 when John returned to Oxford as my colleague. Three of the happiest years of my life followed, and close association with John Wade as my teaching colleague and companion was a major contribution to the goodness of those days. During this period I was beginning to try my hand at writing. Every thought that I entertained in those years was first given its beating on John Wade's anvil before I dared commit it to paper. In the course of this friendly batting of heads with John much material was torn up and a great deal added. This continuous interchange of ideas afforded me pleasure and stimulation that I have only rarely found elsewhere in later years.

After our association in the thirties, we each left Ole Miss and John's path and mine separated. Although I followed faithfully and approvingly the current of his progress as he committed his thoughts to paper, for a time our exchanges of ideas on a face-to-face basis became infrequent. Eventually, however, we were afforded an opportunity to discuss the law of torts under unusually satisfying circumstances, in the company of as challenging a group of scholars as could be imagined. This occasion for our reunion arose when John and I were included in the group of advisors for the *Restatement (Second) of Torts* by Dean Prosser, who was serving as Reporter. There were twelve of us,¹ and for about ten years we met twice annually at some pleasant secluded spot for sessions of several days' duration to fulfill our function of subjecting the Reporter's own observations and conclusions to critical scrutiny. These gatherings were characterized by spirited, although friendly, argument. Often our differences assumed such acuity that any

1. Professor Laurence H. Eldredge; Judge Gerald F. Flood (Deceased); Professor Fleming James, Jr.; Professor Robert E. Keeton; Dean W. Page Keeton; Judge Calvert Magruder (Deceased); Professor Allan H. McCoid; Professor Clarence Morris; Professor Warren A. Seavey (Deceased); Dean Samuel D. Thurman, Jr.; Justice Roger J. Traynor; and Dean John W. Wade.

prospect for a reconciliation of viewpoints appeared dim. At such confounding moments it was nearly always John Wade who, possessed of some rare capacity to refine the points of difference between us, managed to emerge with the happy phrase or expression to which we could all assent.

I am confident that every advisor to the *Restatement of Torts* shares my appreciation of John's rare talent that enabled him on so many occasions to distill the essence of our differences, thus paving the way for reconciliation and progress. The debt of the American Law Institute to John Wade is indeed profound, and its recognition of his valuable contributions prompted it to select him as Reporter for the *Restatement* when Dean Prosser retired from that position.

In closing, my appreciation of John Wade's talent for administration has necessarily been gained at second hand from my acquaintance with the abundant growth and success of the Vanderbilt Law School under his stewardship. But my principal admiration for John Wade, the fine sensitive scholar and companion of my spirit, comes from the warmth I have felt at his fire.

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