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John Evarts Tracy

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This issue is dedicated to the memory of John Evarts Tracy

JOHN EVARTS TRACY

JOHN Evarts Tracy, for twenty years a member of the University of Michigan Law School, died on December 31, 1959, at the age of seventy-nine. We, his colleagues, hereby record our sympathy for his widow and for those whom he fondly called "his children," our pride in his achievements as a successful law teacher and writer, and our gratitude for the privilege of association with a man whose generosity and goodness never failed to make their impact upon all who knew him.

Two years before his death, Professor Tracy completed his *Autobiography*. Not written for general distribution, it conveys the spirit of the man in a way no impersonal record ever could. It reveals more of John Tracy than we had known, and we have felt free to quote from it.

After many years of successful trial practice in various parts of the United States, John Tracy was appointed to the Law Faculty in 1930. He described his coming to Ann Arbor:

"Among the friends I had made in my practice in Chicago was Wilson Mills, an attorney in Detroit. . . . He was anxious to have me come to or near Detroit and, hearing that the professor of Corporation Law at the University of Michigan was about to retire, he wrote the Dean of the Law School, suggesting that I be invited to take his place. The dean replied that the place had already been filled, but suggested that he would like to meet me. So, on one of my business trips to Detroit, I went out to Ann Arbor and met Dean Bates, who showed me around the campus and said that he would like to have me come to Ann Arbor and deliver some special lectures on corporation problems. I agreed to do this and, about February, 1930, I went there and gave the first

of my eight lectures. After I returned to Chicago I was interested and pleased to receive a letter from Dean Bates, saying that law teachers were born and not made, that I was a born teacher and he would like to have me come and join his faculty."

Although it meant a substantial financial sacrifice, John Tracy decided to accept the invitation to join the Law Faculty. He was highly successful as a teacher. To those who studied under him, it was apparent that Professor Tracy derived great enjoyment and satisfaction from teaching. In his view there were no dull areas of the law. He approached each subject with a genuine and lively interest, and he possessed the ability to stir a similar interest on the part of his students. In numerous instances, the flame thus lighted for the first time in his classroom continued to burn brightly long after the student had finished his formal legal training.

One of Professor Tracy's great teaching assets was the long period of law practice he had had, with its enormous variety of experience. He drew on this reservoir unstintingly. Very often the practical significance of an abstract proposition of law was brought into sharp focus by a pointed illustration of its operation in a problem he had faced in practice.

The effectiveness of his efforts in stimulating the intellectual processes of young men and women, in enhancing their understanding and appreciation of the law, and in encouraging the development of their capacities to the highest degree of excellence, was augmented by the atmosphere that prevailed in his classroom. It was intent but never strained. Students participated freely in the discussions, even in the larger classes, without fear that their beginner's mistakes might embarrass them. Professor Tracy used the Socratic method, not as a cross-examiner but in a provocative fashion as an intellectual pilot. He was a man of plain words who made his thoughts clear. He was also blessed with a delightful sense of humor and enjoyed nothing more than a good joke. Occasionally he would tell one on himself. His students could not but sense that here was a man who liked what he was doing, who understood the intellectual (and sometimes emotional) problems of the legal neophyte, who was not

only willing but eager to help them, and who viewed them not merely as a group of names on a chart but as individual human beings who were his friends. A student would sense these things in Professor Tracy's class because in truth that was the kind of teacher he was.

His attraction to creative, scholarly writing had manifested itself before his coming to Michigan in three articles and a widely-recognized legal treatise entitled *Corporate Foreclosures, Receiverships, and Reorganizations*. During his first summer in Ann Arbor, he worked on his second book, *Corporation Practice*, volume 19 in Fletcher's *Cyclopedia of the Law of Private Corporations* (Perm. Ed.). His autobiography tells how he came to do further writing:

"Soon after I began to teach I found that our students were getting an excellent training in the study of law, but they knew little about how lawyers actually work. So, in the spring of 1931, I announced a series of lectures to law seniors on the problems they would encounter in practice. The lectures were well attended and well received and I repeated them the next year. In 1933 I published the lectures in a small book, entitled 'Hints on Entering the Practice of Law.' Many years later I rewrote the book, considerably enlarging it, and it was published by Prentice Hall in 1947 under the title 'The Successful Practice of Law'. . . .

"Although I came to Michigan to work in the field of Corporations, due to the sudden death of a colleague I was asked to teach the course in Evidence, and that eventually became my major field of teaching. Not being satisfied with any of the published casebooks on the subject, I decided to get out my own casebook, which I used for a couple of years in mimeographed form, where I could make changes as I encountered new problems in teaching, and, in 1938, the book was published in printed form under the title 'Cases and Materials on Evidence'. . . .

"After I retired from teaching, in 1949, I wrote and had published a one volume text on the same subject, entitled 'Handbook of the Law of Evidence,' also published by Prentice-Hall. . . .

"One of my colleagues, E. Blythe Stason, who taught the course in Municipal Corporations, had gotten out his own

casebook and, when he was made dean of the law school, when Mr. Bates retired in 1939, I was asked to take over that course. It was a rapidly developing field and the publisher of his book thought it was time for a new edition of the work. Dean Stason asked if I would collaborate with him on the new edition and I agreed to do so. . . .”

Significant as Professor Tracy’s legal writings were, they were not his only publications. In 1936, the *Michigan Alumnus Quarterly Review* published the first of a long series of articles and sketches, which brought enjoyment to countless readers and are well worth reading and rereading. The last of these, “The Case of In Re Neagle,” was published in the winter 1959 issue.

Professor Tracy’s generosity and helpfulness to young people and children were widely known. He provided for the care and education of three nieces and a nephew, who were left orphaned at an early age. He always referred to them as “his children.” In many ways, he helped others. During his work on the board of the Children’s Aid Society, he was not content merely to attend board meetings; instead he interested himself directly in the problems of the children under the care of the society, visited the boarding homes in use, and in every way demonstrated his real concern with their problems.

In addition to what might be termed his direct philanthropy, John Tracy was interested in a myriad of University and community affairs. We quote again from his own account:

“For the University I have served on the University Council, The Senate Advisory Committee on University Affairs, the University Committee on Honorary Degrees, the Board of Directors of the Michigan Union, and the Board in Control of Intercollegiate Athletics. On the last named board I served for seven years and I enjoyed very much my associations with the coaches and the athletes, who were a very fine lot. . . .

“In community affairs I served a term on the City Council, as alderman from our ward. I was a member of the Board of Directors of the Y.M.C.A., and of the Ann Arbor Golf and Outing Club. I was a member of the Board of

Trustees of the Presbyterian church, I served on the Budget Committee of the Community Fund and I served, for many years, as a director and, at one time, as president of the Ann Arbor Branch of the Michigan Children's Aid Society. I served as a director of the Ann Arbor Rotary Club and as president of the club."

Rarely does a man appraise himself with the acuteness and modesty expressed by John Tracy when he wrote:

"The years in Ann Arbor have been particularly happy, with enjoyable work, assured tenure, congenial associates, a fascinating procession of students going by, to teach and to know whom was a constant joy, and, since 1933, the companionship of a charming, companionable, loving and devoted wife. . . .

"My life has been what most people would call successful. . . . I have attained some honor and standing as a lawyer, a teacher, a public speaker, a writer and a citizen. . . .

"I have not been a great man. I have a good mind, but it is quick, rather than profound. It does not compare with the minds of some of the students I have taught. I have not been a great lawyer, a great teacher, a great orator, or a great writer. What success I have attained in life has been due to the fact that, in nearly everything I have undertaken, I have been better than the average. . . . From some ancestor,—I have always wondered which one—I inherited a certain amount of common sense, which has enabled me to reduce a legal problem to its simplest proportions and to devise for clients solutions to their problems that had baffled lawyers who were abler and much more erudite than I was. If I have made any contribution to the law, it has been in its simplification.

"In view of the many adversities I have encountered, I have been fortunate in having been created by the Lord an extrovert and an optimist. I have done little brooding or self-analysis and I have usually, although not always, had confidence in my abilities and powers."

We, his colleagues over the years, believe that John Evarts Tracy underestimated himself in the foregoing statement, and that his abilities and powers were of a much higher order than

he was willing to admit. We know that he left the University of Michigan, the Law School, hundreds of its alumni and each of us individually far richer, intellectually and spiritually, because he lived and worked among us.