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## HENRY MOORE BATES

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THERE are people to whom any sense of fitness would assign a long life. Henry Moore Bates is one of these. In full vigor of mind until the end and before any physical deterioration had occurred to render his days uncomfortable to himself or his family, he died April 15th, on the sixteenth day following his 80th birthday. At eight o'clock in the evening before he died he was in bouyant spirits, his humor was keen and kindly, as always; his laughter was young. Eight hours later the end came. He was unafraid. "When it (was) time for him to take his leave, he (was) as ready to go his way as to engage in any other seemly, or self-respecting act; careful of one thing, that while life (should) last his understanding (should) never disown the relation of a being possessed of mind and social aim."

If any solace is to be derived from the event it is to be found in part in the fact that the end came suddenly and as Dean Bates, a courageous man, would have wished it to come, and in part in the fact that the superb qualities of his mind and the rectitude of his character exert a direct and profound influence upon the conduct of scores of University of Michigan Law School alumni.

Dean Bates served the law school for thirty-six years as teacher and dean, having joined the faculty in 1903, after eleven years of successful law practice in Chicago where he was recognized as the leader of the younger members of the able bar of that community. He was appointed dean of the law school in 1910. He retired in 1939, at the age of 70. To the alumni of the law school his life illustrates the truth of a remark made by a respected and revered 19th century English statesman: "The great business of life is to be, to do . . . and to depart."

Most of those, and they are numbered in many hundreds, who studied under Mr. Bates, could not avoid learning at least two things from his teaching and example, both of which have been aptly expressed by Cardozo: One is that "Skill is not won by chance. Growth is not the sport of circumstance. Skill comes by training; and training, persistent and increasing, is transmuted into habit. The reaction is adjusted even to the action. What goes out of us as effort comes back to us as character." The other, that "The common law, unless bound and riveted by statute, has instruments at hand of many varieties and shapes for the molding of that justice which is the end of her endeavor."

In 1903, when Mr. Bates joined the faculty, the law school was at the beginning of a period of slow transition. Inheritor of a great tradition, it had been content to rest on its inheritance during a time when two or three other schools were shaking themselves loose from purely informational instruction and were successfully turning to the

development of a new approach in teaching—an approach which emphasized the development of the capabilities of students rather than their capacity to absorb and remember information. The law school had able men on its faculty in those days and they were led by an able dean; but to those of us who were then in attendance it subsequently became apparent that if the methods and purposes of instruction had not been changed when they were changed, the school might have dropped into the ranks of third or fourth rate law schools. Certainly it was not then a great law school except in virtue of the tradition which it had inherited from such men as Judge Cooley.

Dean Hutchins, an able administrator and an excellent teacher in an earlier tradition, was raised to the presidency of the university and Mr. Bates was appointed to the deanship of the law school. He was 41 years old. He had had brilliant success as a practicing lawyer and, during the preceding seven years, as a teacher in the law school. Those of us who were privileged to be his students in that early period well remember what he did to us and for us more than forty years ago. His teaching methods were somewhat novel in the school—so novel that frequently Dean Hutchins accompanied prominent visitors to Professor Bates' class to observe what was going on. Not infrequently he and his guest remained throughout the entire class period. And on occasion, the methods observed by the visitor subsequently brought offers to Professor Bates to change permanently to other law schools. Fortunately for the future of our school, such offers were refused.

Dean Bates not only did not believe, he knew, that a law school could not afford to devote any time to teaching a student how to take a default. The first day he worked in a law office in Chicago he had been asked to do that very thing. To his chagrin, he didn't have even a hazy idea of how to proceed. The office boy was sent to the court clerk's office with him and there gave him an expert two-minute demonstration of how the law is practised. Thus he had already begun to learn, although he may not then have fully realized it, that mere information and knowledge of "how-to-do it" are easy to acquire and that they can be acquired by the untrained man without ever going to law school.

With the aid of his colleagues, and with the tolerant encouragement of President Hutchins, revision of the curriculum and the methods and materials of instruction in the law school began under the leadership of the new dean, and, within a very few years, the law school of the University of Michigan took rank as one of the best law schools in the United States. The mere acquisition by the law student of a body of information was no longer enough. Intellectual effort

and development were required in addition and they came rapidly to be so strongly emphasized that one who successfully took Mr. Bates' course in wills never after that experience had to take a formal course in the law of damages. In studying the first he had, of necessity, been required by the method of teaching to develop capabilities which enabled him to handle the second subject without direct guidance.

Certain courses, which may properly be termed basic, were required to be taken. Comparatively, they were few in number. The larger number was in the elective list. It was recognized that the entire field of the law could not be adequately covered by a student in three years. A few courses were thoroughly studied; a method of approach to legal problems was thoroughly learned and the spirit of our lady the common law hovered constantly over the classroom. Precious time was not devoted to "bread and butter" courses.

It should not be thought, and no alumnus of the law school would think, that Dean Bates was a revolutionist. His informed and deep sense of history, especially of English and American history, made it impossible for him to favor change merely for the sake of change or to favor suddenness of change. He was a devotee of the common law. He understood and appreciated its history, its development, and its adaptability. With the aid of his associates he emphasized these things. The result, it is safe to say, is that wherever you find in practice today a lawyer who was trained at Michigan from 1903 to 1939 you will find a lawyer who approaches and solves his problems in the flexibly adaptable tradition of the common law, whether they be of contract, tort, wills, administrative law, or labor relations.

During the early part of the period 1910-1939 the law school was built into a truly great school of law. The alumni neither underestimate nor overestimate the importance of the dignified and beautiful structures which now house the school. They but serve to clothe it in a manner befitting the stage of greatness to which Dean Bates guided its development.

But Dean Bates was much more than the effective teacher, more than the expert administrator and builder of a school of law. He was, above and beyond that, a wise and generous counsellor of the students who sought his help. He knew much of the background and activities of students who didn't even suspect that he was more than merely aware of their existence. Although contemptuous of the shirker, he gave liberally of help and support to the student who was trying to do good work. The door to his office was always open.

The law school graduates of the period 1903 to 1939 cannot forget, if they would, the ability, time and energy Mr. Bates devoted to

the successful organizing and launching of the Michigan Union. Those of the early part of that era who had the privilege of receiving constantly his wise advice and active guidance during the years before the Thomas M. Cooley residence was bought for Union purposes, and those who went through with him the period which culminated in the financing and construction of the Union on the site of the Cooley residence, will not forget the long and fruitful hours of thought and activity he put into a project for the benefit of all Michigan students—a project which is now taken pretty much for granted.

He was the leader in the building of this great school of law. That means that he possessed the ability and the driving force necessary to the carrying through of a great project. At the same time he was a shy and modest man; a man of sensitivity of mind and spirit. Although slow to offer his friendship, when it was offered it became something of great value; something which sustained you and made you proud.

More than 1700 years ago the imperial Roman moralist penned some simple words to himself which are, without quotation, adaptable to describe Dean Bates as he was known to and will be remembered by the alumni whose private and professional lives he directly influenced:

He esteemed nothing an advantage which would compel him to break faith, to forfeit self-respect, to suspect or hate or execrate another, to play false, to desire anything which required screens or veils. He was loyal to his own mind. He made no scene, heaved no sighs, needed not a wilderness nor yet a crowd. The best was his, the life that neither sought nor shunned.

Now that he is gone, except from memory, we can appreciate what he taught us, what he did for us, why he did it, and why so many of us will continue to be influenced and guided by him. He gave us to understand in some degree the institution to which he was completely devoted—the institution of law and justice. His own loyalty to that institution is best expressed by the dean himself in a letter he wrote to his mother on April 20, 1918, and from which I am privileged to quote, concerning his decision to return to the Michigan Law School after a year at Harvard. These are his words:

“Finally (not as a matter of sentiment about Michigan) I have never been quite able to rid myself (and I wanted to do so) of a feeling that until the situation at Ann Arbor was on a more secure basis—there was my duty in life. I don't know that I can explain it to you but that has been my feeling. Sometimes the hard thing, the self-denying thing, is the thing one ought to do and the doing of which brings its own reward. It is not a duty

to the University of Michigan, except incidentally, but to the profession—the institution of Law and Justice—which I feel. For years that has been the interest I have felt my life dedicated to, for such service as I could render.”

*Herbert W. Clark*

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