

IN MEMORIAM: PROFESSOR EMERITUS ROBERT E. RODES JR.

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Professor Emeritus Robert E. Rodes Jr. was an essential part of Notre Dame Law School for fifty-eight years. Though he retired in 2014, he remained as intellectually vigorous and engaged as ever, most recently putting the final touches on a book manuscript.¹

Bob was justifiably renowned for his extensive and superb scholarship in the areas of administrative law, civil procedure, ethics, jurisprudence, law and theology, legal history and welfare legislation (a partial bibliography of which can be found in Thomas L. Shaffer, *The Christian Jurisprudence of Robert E. Rodes, Jr.*, 73 NOTRE DAME L. REV. 737 (1998)). But it is also true that the many of us who loved him, loved him for his character as much as for his scholarly output, and that may account for the fact that when Bob passed away on the morning of November 25, 2014, reflections and heartfelt tributes to his legacy as a teacher, counselor, and scholar from colleagues and former students alike poured in and around the law school.

Bob's junior and senior colleagues related remarkably similar stories about his deep and lasting impact on their lives. U.S. Seventh Circuit Judge and Professor Kenneth F. Ripple provided an apt metaphor in describing Bob's impact on the Law School:

Every great institution has, as Scripture describes them, "living stones"—individuals who, sometimes at great personal sacrifice, become the foundation of all the accomplishments that come afterward. At Notre Dame Law School, Professor Bob Rodes will always be a supporting part of the foundation of this very special law school. He loved his students; he loved his colleagues; and he loved what he called the "legal enterprise" in which we all work together. He was the voice of the Spirit, always reminding us of our better selves.

"In person," said Professor James Seckinger,

Bob's love of people and generous spirit was as powerful as his intellect. When I first arrived at Notre Dame Law School as a member of the faculty, Bob Rodes, the theorist and historian, offered his time and guidance to help a new teacher develop a trial advocacy program at Notre Dame and learn how to teach aspiring litigators. Our walks around the lakes were always full of helpful ideas and calming advice that greatly assisted my transformation from the practice of law to academic endeavors. Bob's love of the intellectual life and his kindness toward each and every person is forever embedded in the Notre Dame Law School. His mission in life has been accomplished and he is with the communion of saints.

"Professor Rodes was my teacher, colleague, and friend," said Professor Richard Garnett:

1 The introduction to that manuscript immediately follows this reflection.

He welcomed me warmly when I arrived at Notre Dame as a new law teacher in 1999, and he has guided and encouraged me ever since. His “blood is in the bricks” of this community of learning and lawyers, which he has served and shaped for more than five decades. His generosity, charity, and decency have been a blessing and an inspiration to so many scholars, students, lawyers, and clients. Whether the subject was workman’s compensation law, liberation theology, church-state relations, or courtly love, Prof. Rodes was engaged, curious, and insightful. He made the Law School and its Christian mission of scholarship and formation his vocation, and all of us who are connected to or care about that mission are thankful to him.

My predecessor as dean, Professor Patricia A. O’Hara, has observed that

Although I did not have Bob in class as a law student, he taught me a great deal about what it means to be a generous colleague. In my early years on the faculty, I benefited from his mentoring, and I watched the gentle way in which he built consensus among senior colleagues of differing views. During my tenure as dean, I was privileged to share with Bob the news of his appointment to a chaired professorship—the culmination of a lifetime devoted to scholarly pursuits and to service of God in the tangle of his mind. In this day and age, it is rare to find someone who devotes more than 50 years of professional life to a single institution. Such was Bob’s love for Notre Dame and her Law School. Bob frequently ended his messages to colleagues with a few words in Latin. On this occasion, we wish Bob eternal rest: *Requiem aeternam dona ei, Domine, et lux perpetua luceat ei.*

Indeed Bob’s sustained scholarly and intellectual accomplishments impressed all who knew him. “I enjoyed the inestimable privilege of having Bob Rodes as a colleague and mentor for the past thirty years,” Professor John Robinson recalled for *The Rover*.

He was blessed with a luminous intelligence and an encyclopedic memory. His religious faith pervaded everything that he thought and wrote. But what was most endearing about him was the joy that he took in the intellectual work to which he committed his life. Even in his last days, when an accident had left him almost completely unable to use his extremities, he would throw himself into an intellectual exchange with vigor and delight. Supremely confident in his position, he would listen with care to the case for the other side. Then, with a quick and telling distinction, he would easily demonstrate the error in the other side’s take on the question at hand. In this he resembled none of his contemporaries more than he resembled Ronald Dworkin, whose work he found immensely stimulating even if he did not find it wholly convincing. People who say there’s no such thing as an irreplaceable person never met Bob Rodes.²

In a letter to the editor of the University’s campus newspaper, *The Observer*, Department of Political Science Professor Emeritus Peter Walshe noted that, “When his biographer was asked if Pope Francis was conservative or liberal,

2 John Robinson, *In Memoriam: Professor Emeritus Robert E. Rodes, Jr.*, *ROVER*, Dec. 4, 2014, at 3.

he responded that Francis was neither, rather he was ‘a radical Catholic.’ The same could be said of Bob Rodes.” Walshe then quotes John Noonan, Jr., a past member of Notre Dame’s law faculty and currently a Senior Judge on the U.S. Court of Appeals for the Ninth Circuit:

“Robert Rodes is unique in his construction of a Christian jurisprudence. In *Law and Liberation* he addresses the malaise and dilemmas of a consumerist society with brilliant candor, warm charity and comprehensive wisdom. His approach will please only those who are not the slaves of self-interest, institutional bias or partisan ideology.”³

A first-rate scholar and colleague, he was also, finally and crucially, a teacher. Bob loved teaching, and this may be one of his most lasting legacies as generations of lawyers are now practicing what they learned in his classrooms. Henry J. Catenacci, a 1969 NDLS grad and member of the Notre Dame Law Advisory Council, was one such grateful student who wrote me to say,

I had Professor Rodes for at least three courses at NDLS, including one in which I was the *only* student—an elective in “Medieval Law.” Despite the fact that only one student registered for the course, Professor Rodes still spent the time and effort to go forward with it, and it was a wonderful experience interacting with him on a one-to-one basis. He told me I would be the only law student in the country who would know how to “sever a tithe.”

“It may sound useless,” Henry says,

but it was far from it, since although I have never had to sever a tithe, I have for over forty years had to think like a lawyer intellectually and ethically, and Bob Rodes was a significant part of that education. He invited students to his home with his wonderful family, and was always available to discuss anything. He was quintessentially Notre Dame, and when I hear the expression “educating a different kind of lawyer” this unique and wonderful man will always come to mind.

Bob Rodes earned his A.B. from Brown University in 1947. After serving as an Ensign in the U.S. Navy from 1947 to 1949, he attended Harvard Law School, graduating magna cum laude and earning his LL.B in 1952. He worked in the legal department at Liberty Mutual Insurance Co. from 1952 until 1954. He then taught law at Rutgers University until 1956, when he joined the Notre Dame Law School faculty as an assistant professor of law. He achieved the rank of associate professor of law in 1958 and was named a professor of law in 1963. In 2000, the University honored him for his teaching and scholarship in the fields of legal ethics and jurisprudence by naming him the first permanent holder of the Paul J. Schierl/Fort Howard Paper Corporation Chair in Legal Ethics. On August 25, 2013, he celebrated his sixtieth year of marriage with the love of his life, Jeanne Rodes, at a party held at the Morris Inn directly across the street from the Law School.

3 Peter Walshe, Letter to the Editor, *Robert Rodes, Radical Catholic*, OBSERVER, Dec. 11, 2014, <http://ndsmcobserver.com/2014/12/robert-rodes-radical-catholic/>.