

## CHARLES E. CLARK\*

THE life of Charles Edward Clark has been intimately connected with the life of the Yale Law School and with the lives of us who have been associated with it. He came here as a student in 1910 and graduated in 1913 with one of the highest academic records in the school's history. For six years he practiced in New Haven with a firm which has always had the closest ties with the school; and then in 1919 he became assistant professor of law. For the next 20 years Judge Clark was a full time member of the faculty. From 1929 until 1939, when he was called to the bench, he was dean of the school. From 1951 until the time of his death he was a lecturer at the Yale Law School and during part of that time he took a substantial part in helping to carry the heavy load of the procedure courses.

In teaching and scholarship, as in life, Judge Clark had wide interests. In his earlier years on the faculty, his fields included property and estates and in each of them he made substantial contributions: as author of *Covenants Running with the Land*, still a classic; as co-author of *Probate Law and Practice of Connecticut*, for years the leading authority on that subject. But Judge Clark's great love was for civil procedure and in this field of his choice he made the greatest contribution that any man has made in America for over a century. He was Reporter to the Advisory Committee on Rules for Civil Procedure appointed by the Supreme Court of the United States in 1935, and the rules which were proposed by that committee became Federal Rules of Civil Procedure in 1938. They stand out as the greatest achievement in American civil procedure since the original Field Code of 1848. And though he had able advisors and assistants, Charles Clark was the architect of these rules. They bear the unmistakable imprint of his ideas and his philosophy.

The reason why Judge Clark's contribution to procedure was so great is the best of reasons. He always saw clearly what the proper rule of procedure is. No one perhaps will challenge the familiar saying that procedure should be the handmaiden, and not the mistress of justice. Surely this is the central principle that should guide all labors in the field; but it is no more self-executing than broad injunctions to be righteous and abjure sin. And through the ages, procedure has had a disturbing way of beguiling her devotees with the narrower challenge offered by the chance for adroit manipulation of her internal concepts. It was Judge Clark's peculiar gift to perceive the implications of the central principle for each of the many detailed rules which make up procedure, and to see the relationship of these details to each other,

---

\*Faculty Resolution on the death of Charles E. Clark, prepared by Professor Fleming James, Jr., approved by the faculty of the Yale Law School, January 9, 1964.

all in the light of the overall objective which he never lost from view. No one knew so intimately the individual trees in the forest; no one had a better understanding of the forest as a whole.

The Federal Rules were a product of Judge Clark's years at the Law School and in practice—they were adopted before he was appointed to the bench.

The period of Charles Clark's deanship was a golden age for the Law School. These were years of excitement and intellectual ferment; of experimentation and growth of stature—though not of size, for it was at this time that the Law School deliberately chose to limit its enrollment and resist the opportunity to become the numerically large school which its new-found pre-eminence opened up to it. Dean Clark was no passive spectator in these events. It was his nature to be in the forefront of movements he believed in.

Charles Clark was often a center of controversy and he never shunned it. Yet he did not seek it for its own sake. His battles were, rather, for principles and institutions he believed in. And, as in the field of procedure, so in the rest of law and in life, a cardinal principle for Judge Clark was Justice, as he saw it. For this he was not only always ready to do battle, but he was also dogged and persevering in his pursuit of it, far beyond the capacity or taste of most men. This quality sometimes produced antagonism, but it always maintained respect. And this quality for all its occasional abrasiveness—which mellowed through the years—was intimately bound up with the tremendous motivation which informed the man and all that he did. This is part of what made him great; and he was great.

But Judge Clark was also a kindly man who had genuine affection for people associated with him and a sensitive consideration for their real needs. And he also had humor and a sense of fun that kept away all grimness from his strong and pertinacious purpose. These qualities combined to make him greatly and deservedly beloved by his colleagues. We shall miss him as a member of our family, but we shall take a warm and affectionate pride in his goodness and his greatness that is now a part of the fine tradition he helped so much to build.