

THE TRUTH ABOUT ADDISON MUELLER

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Not the whole truth, of course—we reserve that for our enemies.

In 1941 Addy and I had both belatedly undertaken the study of law at the Yale Law School. For the ten years before that I had been teaching French and Addy had been running a lumber business in Milwaukee. Conceivably there are even worse ways of preparing for law school than teaching French or running a lumber business but, off hand, I cannot think what they would be.

Addy signed up for Professor Underhill Moore's course in negotiable instruments—a course which baffled everyone, and infuriated almost everyone, who took it. It was Professor Moore's practice to teach by a series of linked hypotheticals: That is, if the student correctly answered hypothetical number 1, he would be faced with hypothetical number 2; then (if he survived number 2) with number 3 and so on in an apparently infinite series. On one occasion Addy had successfully fought his way through seven of Professor Moore's hypotheticals—an unheard of feat—only to fall flat on his face on number 8. As Addy was picking himself up and dusting himself off, Professor Moore, shaking his head sadly, remarked: "That proves, Mr. Mueller, that you did not—really—understand—*anything*."

In the fullness of time we both returned, after World War II, to teach at Yale and, by the Dean's bounty, were assigned to teach sections of the course in Commercial Law. Undergraduate students were assigned to one section or the other, without having a choice in the matter, but graduate students were allowed to choose. Two Korean graduate students, who were for some reason determined to take the course, spent two weeks attending both Addy's classes and mine. Having sensibly decided to enroll in Addy's section, they came to his office to tell him of their decision. I happened to be in Addy's office when they arrived with the glad tidings. Naturally elated at having scored off me so de-

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cisively, Addy could not forbear to press his advantage—to twist the knife once more in my still quivering flesh. He said to the spokesman for the Koreans: “I am sure that both Professor Gilmore and I would like to know why you decided to take my course instead of his.” “Oh,” said the spokesman, “Professor Mueller, you talk so loud.”

Turning to more serious matters, I am delighted to be able to explain, for the first time, to the readers of the Law Review the genesis of Addy’s remarkable casebook on Contracts.

On a sunny Saturday in the fall of 1947, Dean Smith of the Columbia Law School, in a remarkable feat of administration, succeeded in delivering twenty members of his faculty in New Haven (or, as the local New Haven newspaper put it, to the distinct displeasure of nineteen members of the group: “Adolph A. Berle and nineteen other members of the Columbia Law School faculty . . .”). The idea was that, in a series of such meetings, the Yale and Columbia law faculties would cross fertilize and enrich not only each other but American legal education as a whole. It is hardly necessary to say that the first meeting turned out to be the last.

By way of preparation for the afternoon’s intellectual feast, Dean Sturges of Yale had laid on an elaborate luncheon. (One of the features of Dean Sturges’ tenure was that on such occasions caviar was served in profusion—a pleasant practice which severely strained the Law School’s budget and was discontinued on his retirement from the Deanship.) At the luncheon Addy happened to be seated next to Karl Llewellyn of Columbia. Llewellyn, a friendly and gregarious type asked what courses young Professor Mueller was teaching and, on hearing that he was teaching the first year Contracts course, asked further what “novel ideas” about teaching Contracts the young man might have.

Until that moment Addy had had, of course, no ideas, novel or otherwise, about teaching Contracts. Like any Assistant Professor teaching any course for the first time he was getting as best he could from one case to the next, hoping against hope that the students would not actually throw things at him. However, if the eminent authority from Columbia wanted “novel ideas,” then, for the honor of the house, novel ideas had to be provided. Addy desperately improvised an entirely unheard of method of teaching Contracts. Llewellyn listened in silence, nodded curtly and resumed his conversation with some senior faculty member.

In due course the combined faculties adjourned to the faculty lounge for the serious business of cross fertilization and

mutual enrichment. The first order of business was an address by Professor Berle. I have no doubt that Professor Berle's remarks were of the highest interest but I must also report that no one heard a word he said. The reason for that was that when he began to speak he took out a cigarette. At the end of each sentence, he struck a match to light the cigarette but, carried on by the flow of his ideas, went on to the next sentence while the match flickered ineffectually out. The audience became entirely absorbed in the problem of whether Professor Berle would ever succeed in lighting his cigarette. Consequently, when he finished, there was no discussion of whatever it was that he might have been talking about. The second order of business was a talk by Soia Mentschikoff (who was, in private life, Mrs. Karl Llewellyn) on how to teach law. At that time Miss Mentschikoff had never in fact taught law anywhere, although she was about to begin doing so at the Harvard Law School. Her remarks were received in stony silence. It presently became apparent that the address by Professor Berle and the talk by Miss Mentschikoff were the only events which had been scheduled. It was also apparent that the meeting could not decently be adjourned for at least another two hours.

At that point Llewellyn said to his old friend, Sturges: "Wesley, one of your young men—I think his name is Mueller—was telling me at lunch about his ideas for the Contracts course. I'm sure we would all be interested in hearing them." Sturges looked at Llewellyn with an expression of absolute and total disbelief. However, the situation was, obviously, desperate. And thus it was that Assistant Professor Mueller was served up as the main course at the feast.

I spent the rest of the afternoon cowering in a corner, reflecting on the fact that there but for the grace of God (and the luck of the luncheon seating arrangement) went I. Addy, naturally enough, acquitted himself nobly; I have never seen a better illustration of the proposition that courage is grace under pressure. My memory is that the Columbias treated him politely but that his Yale colleagues, who had been sitting all afternoon in uncharacteristic silence, went after him like a pack of hounds baying after the fox. Indeed his only defender was Professor Underhill Moore who, before speaking up in Addy's favor, said to me under his breath: "Of course it's all nonsense but somebody has to do something for the poor chap."

It is to the unlikely events of that unforgettable afternoon that we owe Mueller on Contracts. Perhaps there is a moral to the story.

After some years Addy decided, on a point of principle, to resign from the Yale faculty. It is not for me to say what a loss his departure was to that distinguished institution but I can say what a loss it was to me personally. The truth is that, through all the years of our association, Addy and I had never agreed on even the most trivial point of law. We were at opposite poles on the proper reading of any case, on the correct construction of any statute. On my way to the Law School each morning, I was accustomed to work out in my mind how, that day, I would go about demolishing Addy's latest position, which was, invariably, as outrageous as it was untenable. After he left New Haven, a great deal of the fun seemed to go out of law teaching.

On a pleasant summer afternoon in the early 1960's my wife and I happened to be in Paris and were strolling along the Rue de la Paix. I remarked to Helen that, according to the French, anyone who sat for awhile at one of the tables outside the Café de la Paix would see everyone that he (or she) had ever known go by. Helen was willing to confront the past, so we sat at a table drinking some appropriate beverage. In less than five minutes Addy and Peggy Mueller arrived, claiming implausibly to have just flown in from Tokyo where Addy had been, even more implausibly, teaching law.

I like to think that there is some heavenly Café de la Paix where old friends and antagonists will unexpectedly meet to argue amicably about the errors into which, in the opinion of each, the other has fallen.