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In Memoriam

***1125 EULOGY FOR JAMES WILLARD HURST**

Shirley S. Abrahamson [FNa1]

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In 1956, at twenty-two years of age and completing law school, I learned a very important lesson that I remember to this day. The lesson: go to dinner parties. And, if at all possible, sit next to someone you do not know.

I take this lesson seriously because a dinner party--sitting next to someone I didn't know--brought me to the University of Wisconsin law school to study with Willard Hurst.

In April 1956 my husband Seymour and I drove to Indianapolis from Bloomington for an Indiana University Law Review dinner party. I sat next to Daniel Mandelker, a former student of Willard's, and a law teacher at Indianapolis. Upon learning that Seymour would be coming to Madison as a post-doctoral fellow with Bob Irwin and then with Jim Crow, Professor Mandelker insisted he call Professor Hurst on my behalf.

And so it was that I arrived in Madison in September 1956 to be Professor Hurst's graduate student in American legal history.

When I arrived in Madison, Professor Hurst had an assignment waiting for me. He wanted me to write on quality control in the Wisconsin dairy industry from Wisconsin territorial days until the great depression of 1929. He wanted me to write about his way of looking at legal history--how changes in the law had influenced the real world of dairying in Wisconsin and conversely how the real world of dairying had influenced the law regulating the dairy industry.

Professor Hurst informed me that I was to bring my experiences to bear on the topic. He was certain I had something to offer. I had grave doubts about the contributions of a twenty-two-year-old from Manhattan whose only connection with the dairy industry was through her purchases of milk (to which she had developed an allergy) and Velveeta cheese (a staple in the Abrahamson home). Professor Hurst reassured me, as he did all his students. "Remember," he said "no one knows as much about this subject as you do. Be bold."

I learned a great deal from the dairy industry study and my years with Professor Hurst.

***1126** I learned that I would not be comfortable calling him Willard until nearly fifteen years would pass.

I learned that Velveeta is processed cheese.

I learned that if you were going to write you had to be methodical in your approach.

I learned that time was a precious commodity and that it was especially precious to Professor Hurst. Who else used every moment so wisely and well? Willard was known to read the New York Times while waiting for the bus to take him to and from the law school. Willard read to Frances while dinner was being prepared.

I learned that everyone felt guilty troubling Willard with questions or with manuscripts; but I also learned that we all imposed on him despite our misgivings about troubling him. While on the court I continued to clear any subject of a major speech or law review article with him.

Colleagues at the University of Wisconsin and at universities around the country would work for weeks and months to produce a draft. Within a day or two after receiving the draft Willard would send his response.

Willard's response to a draft was often pages of notes. Single-spaced pages of notes, typed on a manual typewriter with broken keys and whose ribbon seemed not to have been changed for two or three years--if ever. I learned that for all his typing Willard was a poor typist. His typos and cross-outs were visible to all.

Willard's notes were often longer than the text he began with. His notes were often better than our pieces. Many an author thought that Willard's notes, rather than the draft texts, should be published.

Willard also taught me, as did his two friends Jim Doyle and Gordon Sinykin, that each generation of lawyers has an obligation to help the next and that the time invested is worthwhile for both the older and younger generations.

I learned to value, because Willard did, the practicing bar. And I must say, one of the best practical lawyers I have ever known was Willard, who never practiced law a day in his life.

I learned from Willard the value of working on a wide range of topics. Aside from legal history, Willard was interested in contemporary legal problems. He wrote on statutory interpretation, workers compensation and the legal process. A recent 1996 Journal of Supreme Court History refers to Willard's magnificent study of treason written for a 1942 landmark treason case. You could talk to Willard about everything.

I learned from Willard, as I did from Howard Temin, that we must make our own paths rather than follow the paths of others. Once when Willard told a leading law school dean that he was working on "legal economic history," the dean harrumphed, "You'd never get away with it at my place." Willard charted his own course.

***1127** Others learned these lessons from Willard, too. Frances was kind enough to share with John Frank and me some of the letters she has been receiving about Willard. Themes were repeated--Willard was a hero, a giant. All expressed amazement at his intellect. He had our respect and affection.

Professor John Robertson wrote of Willard's "humble brilliance." Professor Jack Ladinsky wrote that Willard was a "wise, kind and gentle scholar--with fine ideals and clear mind."

Professor Bernie Cohen's letter summed it up for me and John Frank as we read it Friday evening: "Willard Hurst was one of a very small number of people who combined a towering intellect with a gentle tolerance of ordinary minds. We ordinary ones will miss him greatly."

As we read Professor Cohen's letter Friday evening, John Frank asked Frances to tell us the truth. "When the two of you were alone," said John Frank, "did Willard express surprise at how incompetent some of us were?" (My very thought but I feared asking the question.) To my relief

and John's, Frances answered, "Definitely not."

I stood in awe of Willard. Over the years I continued to think of myself as his student. As I became his colleague, a frequent guest at his home and a friend, the awe never subsided.

In 1956, when I was twenty-two, Willard seemed old to me--he was forty-six, with abundant, wonderful white hair. He was a nationally recognized scholar. He always wore a white shirt and tie. He was incredibly serious.

Boondoggle was not a word in Willard's vocabulary. When he was invited to lecture in Japan, he told a colleague he would limit his viewing of Mt. Fuji to what he could see from the train.

The story is told that when Willard's law school office was moved to the then new 1963 law school building, the movers put his desk on a large dolly and Willard hopped aboard to continue his typing. He missed only thirty seconds of work.

His reputation for intellectual excellence and productivity grew during the forty years I knew him.

Willard at eighty-six looked the same to me as he did at forty-six. Indeed, I thought him a young eighty-six, as Seymour and I had aged to catch up with him.

But there was more to Willard than hard work and scholarship. Over the years Seymour and I got to know the more relaxed side of Willard.

Soon after we came to Madison we got to know Frances, Debby and Tom. The Hursts' cocker spaniel Jeff and the Abrahamson's Irish setter Betsy B were classmates at the Badger Kennel Club dog training class on Wednesday nights. And yes, Willard wore the white dress shirt to the ***1128** training class--but it was open at the collar. How embarrassing for us all that neither of our dogs rose to the top of the class.

If Willard was the ivory tower member of the Hurst family, Frances, an historian in her own right, is the one active in the community. She and I became good friends through community activities. Many an envelope she has stuffed and many a drive we have taken together across the state during my campaigns for the supreme court. During these trips I could rest and rely on Frances to carry the conversation whether at the Teamsters Union hall or an elegant home on the bluffs of LaCrosse. In a Know Your Madisonian column she admitted "I'm still a sort of crusader."

Then there were the Hursts' dinner parties--always a wonderful treat. Willard liked small dinner parties and resisted all our attempts to get him to celebrate his important birthdays with the many friends who wanted to visit with him.

At the Hurst dinner parties there was some talk was about the law, of course, but there was also talk about politics, the most recent doings of Professor Tom and Dr. Debby, and Frances's new found talent as a photographer and her interest in sculpture. It was during these dinner party conversations that I truly saw the non-professional side of Willard:

Willard, the Green Bay Packer fan.

Willard, the movie buff.

Willard, the devotee of mysteries.

Of course, in keeping with his serious side, Willard tended to read mysteries that taught him something. Emma Lathen's John Putnam Thatcher, executive vice-president of Sloan Guaranty Trust, taught Willard about high finance and international trade and investment. Mary Helen at

the Booked for Murder bookstore says Willard delighted in Michael Gilbert, a British barrister, whose books have legal aspects but are best characterized, she said, as "intelligent British mysteries." Willard also enjoyed the newer mysteries by women writers. He was fascinated by the "new genre" spawned by the changing status of women. To Mary at Booked for Murder, Willard was a great man who became remarkable because he was nice.

David Margolick, writing for the New York Times in Willard's eightieth year, characterized Willard as "one of those people who retain[s] all the fire, impatience and curiosity of youth."

***1129 * * ***

Willard Hurst was renowned nationally and internationally as founder of the field of American legal history. He was a shining light in the Wisconsin legal community, a great colleague at the Law School and a friend to generations of law students and lawyers.

To those of us gathered here this afternoon, he was our wise teacher, mentor, role model, neighbor and good friend. Our lives were made richer by having known him.

We shall miss him.

[FNa1]. Chief Justice, Wisconsin Supreme Court.

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