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SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 30 | Number 4

Article 5

6-1-1952

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Recommended Citation

Dillard S. Gardner, *Chief Justice Walter P. Stacy*, 30 N.C. L. REV. 485 (1952).

Available at: <http://scholarship.law.unc.edu/nclr/vol30/iss4/5>

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CHIEF JUSTICE WALTER P. STACY*

DILLARD S. GARDNER**

A year has passed, and nature with a carpet of green has softened the raw contrast of a new-made grave. The alchemy of time has transmuted the sharp pangs of grief into a dull sense of loss.

All that was mortal of a great Chief Justice lies at rest on a sunny knoll at Hamlet. An era in our law has ended. For three decades he sat on the Supreme Court. For more than a quarter of a century, he was the presiding officer. In some fifteen hundred opinions, found in fifty-three volumes of the Reports, he spoke for the Court. His life was the law. His legal opinions were the lengthened shadow of the man. The work of a great public servant sometimes overshadows the man. So it was with him. He was not merely the Chief Justice; he was a living institution. The life of the law is its interpreters. Particular controversies give life-or-death—to the enacted words; to the just interpretation of those words he dedicated his life. He was no abstract philosopher dreaming of an ideal system of jurisprudence. Neither was a crusading reformer, white-hot in his zeal for some cause. His achievement was the greater and more lasting, if the less spectacular, because of this. Within the frame of everyday life, and within the periphery of the living law, he applied himself to the accomplishment of justice among named men in specific controversies. Let other men write about the law; he wrote the law.

Few men in our time have applied such full talents and energies with such singleness of purpose. To accomplish this fearlessly and completely, he willingly paid the demanded price of an impersonal detachment from the social world about him. He held himself apart from men that all might respect him equally. Save for a few brief years of marriage, he lived alone. He had no hobbies. He severely limited and circumscribed his social contacts, especially in his later years of impaired health. With whole-souled devotion, he gave himself to the law and in it found his full recompense. As he once said of another, "We shall not see his like again." Even if one with his rare talents should appear, it is inconceivable that he would, for so long a time, so completely consecrate himself to the law in such self-denial and self-discipline. He was a thinker, and he who lives with thought must take loneliness by the hand. He who walks ahead must often be content to

* Chief Justice Stacy died September 13, 1951.

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walk alone. He who leads must risk being misunderstood. He knew all this and accepted it. In return he gained what Justice Holmes described as "the secret, isolated joy of the thinker who knows that, a hundred years after he is dead and forgotten, men who never heard of him will be moving to the measure of his thought. . . ." Like Holmes, too, he proved that "a man may live greatly in the law . . . there as elsewhere he may wreak himself upon life, may drink the bitter cup of heroism, may wear his heart out after the unattainable."

One evening at Chapel Hill, I heard Dr. Frank Graham ask the honor-man in the law school whom the students regarded as North Carolina's ablest judge. Instantly, the student answered, "Undoubtedly, Chief Justice Stacy." Why?" shot back Dr. Graham, ever the teacher. Deliberately, the student answered, "He unerringly goes straight to the crucial question involved, then states the law concisely." Dr. Graham was satisfied and turned away. He did not hear the student add, in an undertone, "Sometimes he states it too concisely—for a student." The student's appraisal was so apt that I could not resist telling the story to the "Chief." He chuckled heartily over it, then lapsed into one of his rare moods of intimacy. He observed, "What is not properly before us, we should not decide. My own opinions are as important for what is left unsaid as for what is said." Then, with a twinkle, he observed from long experience, "What you do not say, you don't have to take back."

He wrote as he talked—with measured deliberation. He weighed his words—and was frugal in their use. He rode the English language with a tight bridle making it do his every command. His written opinions are incisive, brief, terse. In content and word, his search was ever critical and selective. He often examined a dozen synonyms to find the one word with just the shade of meaning wanted. With the sure touch of the master, confident of his command of his field, he bored deliberately into the heart of the problem. In his constant search for the significant and the crucial, he brushed aside the incidental and the superfluous. He never flinched or faltered as he moved in on the problem. There was never any doubt that the problem would be solved; an air of inevitability hovered over him as he worked. His old philosophy teacher, Horace Williams, had trained him in the philosophy of Hegel. A fundamental assumption of Hegel was that all that is actual is rational and all that is rational is actual. Out of this belief flowed the firm conviction that all problems presented to man are capable of solution; the work of the Chief Justice continually demonstrated this truth. In the writing of opinions, he was anxious to come to grips with the basic question, sure of his capacity to solve it. He often remarked that he was "up a tree." He climbed most of the trees in the

orchard of the law—and he always came down with fruit. He liked to use the expression “boring for oil,” implying as it does that truth lies hidden deep and is found only by the discerning and the industrious. Yet, the long, labored and elaborate opinion found no favor with him. On one occasion when a colleague, new to appellate duties, filed an opinion extensively surveying a field of law, he gently chided him by referring to it as a “treatise.”

A thwarted poet is imprisoned in the heart of every truly great judge. In his chambers, when he died, was a well-thumbed copy of essays on the English poets; the critique of Wordsworth had been read again and again—and many passages were underlined. Now and then the poet would speak in his opinion (as in *State v. Wingler*), but usually the artistic touch was confined to a happy phrase or a chiseled sentence, the final and expert touch of the master craftsman. To the world he often presented the austere countenance of the judge who placed the sense of duty above all else, but his infrequent moments of intimacy revealed a profoundly sensitive nature and a warm sense of humanity. Busy as he was, I never knew him (and I have found no one else who ever knew him) to betray the least impatience when interrupted in his work. He was always a wise, helpful and sympathetic consultant. He wore the office of Chief Justice with a profound sense of personal responsibility. He always seemed mature beyond his years. He came to the bench as a young man and steeled himself early in the stern discipline of judicial propriety. Schooled in the often severe university of hard knocks, there was more than a touch of granite in the man. In personal matters and matters of conviction, he was aloof and self-contained. He did not wear his soul upon his shoulder. Only in his will do we find this fleeting flash of self-revelation, “In looking backward over the journey, the road seems strewn with victories and defeats. I have never consciously tread the path of the cynic. I face the future with confident faith in the purposefulness of life.” As Edna St. Vincent Millay observed, “What a man believes, he lives with quietly.” He who was an enigma in life, in death has become a legend.

Justice Holmes once observed that the high court of each jurisdiction restates its law every generation and Chief Justice Vanderbilt has more recently observed that this happens every thirty years. It is a striking coincidence that this is just the period covering Chief Justice Stacy’s service on the Supreme Court of North Carolina. Though his body has returned to the earth from which our common parents sprung, already we know the immortality of his spirit, for four million citizens of his beloved state live and move and have their being under a body of law in no small measure shaped by his hands. He built not alone for the day when he was with us. He built also for that future which is the

present, and beyond it for that future which is yet to be. To him was granted that unique power vouchsafed to few men, an immortal authority which projects into the future beyond his own day and time. One day he read to me from a dissent he had just written, then turned and said, "You are a young man and will probably be here when I am gone"; then, with a smile he added, "Tell them to put on my tombstone, 'He knew what he was about.'" He knew that all life is expendable, to be frittered away or dedicated to a high purpose. His life was a calculated sacrifice to a noble end deemed worthy. Within the ambit of the law he found the opportunity to burgeon out to the fullest those rare talents which were his. Much of the warp and woof, which is the tapestry of North Carolina law, is his handiwork. In a confused age which can say it rarely and with hushed tones of abiding respect and unconcealed admiration, we repeat his own requiem,

"He knew what he was about."