

THE YALE LAW JOURNAL

Volume 84, Number 1, November 1974

In Honor of Fred Rodell

Foreword

Justice William O. Douglas

Fred Rodell, my friend for 40 years and more, has one of the most creative minds I have known. I knew him first when he was a student at the Yale Law School; he was indeed one of the most outstanding ones of my seven-year teaching regime. I should say I write with prejudice, for Fred and I were through both thick and thin together.

On graduating from Yale Law School in 1931 he went to Harrisburg, Pennsylvania, as secretary to Gifford Pinchot, at that time Governor of Pennsylvania. He spent two years with that foresighted conservationist, then joined the Yale faculty. Before long he was publishing his first book, *Fifty-Five Men*, a story for laymen in plain dramatic language of the drafting of the Constitution—done in the tradition of Charles A. Beard. During these years he was a senior editor of *Fortune* magazine and a contributor to the *Chicago Times* and other papers and magazines including the *Progressive*.

Three years later he produced his second book, *Woe Unto You Lawyers!*, a slashing description of many law practices and a perceptive, vivid account of the weighting of the law on the side of the dominant interests. He taught Taxation for a while, then Constitutional Law and Labor Law. Perhaps the course more students enjoyed than any other was his course in Writing—how to write articles, how to write on legal subjects, how to be literate as a lawyer. He had a way with students that established a close intimacy, and it was perhaps in the writing course that that relationship was nurtured best. As a teacher Fred was no Simon Legree—not a task master in any form—but he was a confirmed iconoclast. He challenged well-known principles, probed them for frailty, and put a student on edge finding his way out of the labyrinth. One who took his course did not memorize; he thought it in depth.

By the late thirties and on into the forties and fifties, Fred was trying his hand at politics both in Connecticut and at the national level, making radio appearances, debating the opposition of the more conservative party, and writing letters to editors protesting their opposed views. He was active in the Council For Democracy and in the Consumer Coop in New Haven. In 1940 he published his third book, *Democracy and the Third Term*, in which he frankly described why those who were for F.D.R. previously might not want him for a third term and why his old opponents might now be supporters.

His interest in the Court and in the evolution of constitutional law was intense and he had much to say those days of the opposed views of Frankfurter and Black. His book *Nine Men*, a critique of the Court, was published in 1955 and was a fair prophecy of many things to come. For years he brought his constitutional law class to Washington, D.C., for a day, arranging for

the class to hear cases argued and afterwards to have thirty minutes with each of four, five, or six justices. This annual pilgrimage was for him a sentimental journey.

I suppose that in his middle years at Yale he must have regretted not having been honored with a named chair at the Law School. It became a matter of comment in ever-widening circles, for he was by all odds one of the ablest teachers of all time and one of the best loved by students. He was always true to the nonconformist mold in which he was cast, and some of those prized fringe benefits passed him by because the status quo represents most every campus. But Fred Rodell was, I think, even more moved by what a barber in New Haven did than what the Yale Trustees could have done. The barber named one of *his* chairs for Fred.

Fred is an expert fly fisherman, tying his own flies and making a study of the ways and habits of "fresh water trouts," as Izaak Walton would put it. He fished the best streams in this country and became especially fond of the streams in the Basque country in France. His outdoor activities brought photography to his close attention, and he worked wonders with color film. His latest book, *Her Infinite Variety*, published in 1966, shows the artistry of his work.

He wanted to do a book on the Warren Court, and I believe he had made a start on it when a series of health setbacks ended the effort. Yet in hospitals or while convalescing at home, he has contributed a steady flow of letters and short stories to the press. His mind has always been a few paces ahead of events, and he is one of the few of his generation who understood and spoke for the younger generation who were in great rebellion in the sixties. He is a master of limericks; most that I heard in the last 40 years, whether in Alaska or Texas, were gems of his own creation. Perhaps he will agree to leave an unexpurgated volume for those who follow.

Fred Rodell in my time has lived greatly under the law in the best Hugo Black tradition.