1952

Wilbur Harkness Cherry

Henry Rottschaefer
Wilbur Harkness Cherry was born in Toledo, Ohio, on November 28, 1887, and died in Minneapolis on February 21, 1950. He received his Bachelor of Arts Degree from McGill University in 1907. His preparation for the profession to which he devoted his life began in the fall of that year at the Law School of Columbia University from which he received his Bachelor of Laws Degree in 1910. He was a member of the Student Editorial Board for Volumes 9 and 10 of the Columbia Law Review, serving as Secretary for the Board in charge of publishing the latter of those volumes. Immediately after graduation he practiced law with the firm of Esselstyn and Haughwout in New York City with which he was connected for two years. He then came to Minneapolis and engaged actively in practice from 1912 through 1925. In 1914, two years after coming to Minneapolis, he became an Instructor in Law at the Law School of the University of Minnesota on a part time basis. In 1917 he was promoted to the rank of Professor of Law still on a part time basis. In 1925 he left the active practice of law to accept appointment as Professor of Law on a full time basis, a position that he held until his death.

The distinguished services rendered his chosen profession, both as a practicing lawyer and as a teacher, were the logical result of his intense interest in law in all of its aspects. He brought to bear upon the problems of law an extraordinarily keen mind, an unusual degree of wisdom, and the highest ideals. He was not content to be a mere observer of the passing scene. He realized fully that the attainment of objectives that he deemed worthwhile required hard work. His extensive participation in the activities of the State and Local Bar Associations bear witness to his willingness to carry more than his fair share of the load. He believed firmly that it was a principal obligation of the State Bar Association to promote the public welfare by improving the law where experience had revealed defects. Among his conspicuous contributions in implementing this philosophy were his services as a member of the Committees that drafted the Minnesota Business Corporation Act in 1933 and the Probate Code in 1935. He also accepted it as axiomatic that the State Bar Association should assume, as one of its public obligations, the raising of professional standards, and worked diligently to achieve that objective. He served on the Association's Board of Governors from 1926 to 1943, and in 1939 acted as a
Minnesota member of the American Bar Association's House of Delegates. His interest and participation in the State Bar Association's activities continued until his death. His devotion to the work of the Association expressed his philosophy that lawyers are inevitably public servants, and that the public has a right to look to them and their associations for leadership in making law a more effective instrument for realizing justice.

I knew Wilbur Cherry best as a colleague on the Faculty of the Law School of the University of Minnesota. His connection with the School extended over a period of 36 years, during which he has taught a majority of the lawyers now practicing within the State. He played an important part in shaping the policies of the Law School, and was constantly consulted when difficult decisions of policy and administration had to be made. He bore the major responsibility in the administration of the loan and scholarship funds and served for years as Treasurer of the Minnesota Law Review Foundation. He developed a course in Practice that was unique among the Law Schools, was widely known and acclaimed by law teachers, and gained for him national reputation. His eminence in the field of legal education received due recognition when he was chosen as President of the Association of American Law Schools in 1939.

A knowledge of the theory and art of teaching seemed one of his innate characteristics. He believed that the function of a teacher was to guide the student in his learning process, and was a finished artist in the give and take of classroom discussion. The students not only respected him, but became his friends and remained such after their graduation. His contacts with them were not limited to those immediately involved in the teacher-student relationship. Many a student sought his advice on personal matters, and he gave each generously of his time. He gave financial assistance to many a needy student, but only his very close friends were aware of this. He made generous provision to continue aid to needy students after his death.

It had always been one of Professor Cherry’s cherished beliefs that the lawyer should use his knowledge and skill to promote the public interest. He practiced this philosophy by accepting numerous and important assignments to public service. He served as Secretary of the Minnesota Crime Commission in 1926 and 1927; as an Adviser to the American Law Institute’s Committee in charge of drafting a Code of Evidence from 1939 to 1942; as a member of the
United States Supreme Court's Advisory Committee on Rules of Civil Procedure from 1935 until his death; and as President of the Minneapolis Legal Aid Society from 1947 until that time. But his public services were not confined to areas immediately concerned with his profession. Unable to enter the military forces in World War I, he served his country by active participation in numerous civilian activities promoting the victory of the ideals of freedom for which he had offered his life. During World War II he served as Compliance Commissioner for the War Production Board from 1942 to 1945, and did so without accepting any financial compensation. This imposing record of public service was the natural expression of the philosophy he believed and lived, that no man liveth unto himself alone.

But a man is more than a member of a profession, or even a citizen. He is ultimately an individual weaving a philosophy of life into a pattern of experience. Wilbur Cherry possessed an unusual capacity for deep and abiding friendships. The scope of his intellectual and cultural interests enriched not only his own life but that of all who came in contact with him. A keen and delicate sense of humor added zest to his companionship, and gave his scale of values a classic balance. He eschewed the shallow optimism that ignores difficulties and constructs Utopias, but believed that progress was possible only through intelligently directed effort. Though conscious of its limitations, he believed that the law could, and should, be used as an instrument of progress. His long and distinguished career at the bar and as a teacher were an expression of his fundamental philosophy. In his passing, the bar lost one of its finest representatives; the teaching profession one of its greatest exponents; the public one of its most devoted servants; and his colleagues and host of friends a loyal friend.

HENRY ROTTSCHEFER