

PROFESSOR EDWARD R. HAYES—A TRIBUTE

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Dedication of an issue of the *Drake Law Review* to Professor Edward R. Hayes, now Professor Emeritus, is highly appropriate and, in retrospect, seems so richly deserved as to be long overdue. He taught at Drake for more than four decades, from 1948 to 1989, served as Acting Dean in 1967 to 1968 and as Associate Dean from 1973 to 1986, and was a vital part of the Law School throughout his tenure. His record of teaching and scholarship reveals traits typical of an outstanding faculty member: his lifetime of steadfast, effective, and genuine service—to the Law School, the University, the bar, his community, and his country—has set a high and inspiring standard for all. Among the many beneficiaries of his service was the *Drake Law Review*, to which he has contributed twenty-six articles and writings and for which he also served as faculty advisor for a decade. He was above all, and he remains, an outstanding colleague.

How did he come to Drake? Edward R. Hayes is a native Iowan who went to school in Iowa and made an impression on those who had him in class and otherwise knew him. As usually happens, opportunity followed, and in our case, Drake was the beneficiary. Ed attended the University of Iowa and graduated in 1941 with a Bachelor of Science and Commerce degree, majoring in Accounting. Afterwards, he enrolled in the University of Iowa College of Law, but after a semester he went into military service. He started as a Private and ended up as a Master Sergeant, working his way with the Medical Corps from Arkansas to North Africa to Italy. Following the war, he returned to the University of Iowa College of Law, and performed well. He graduated with honors, was a member of the Board of Editors of the *Iowa Law Review*, worked as a research assistant to Dean Mason Ladd, and was elected to The Order of the Coif. Ed was so good at accounting that he was chosen, even as a law student, to teach accounting at the University of Iowa College of Commerce for three

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semesters. Together with his success in law school, the experience nurtured in him a strong desire to teach in law school. So after graduating from Iowa, Ed enrolled in Columbia University Law School's LL.M. program, where he concentrated and wrote his thesis on business and taxation and earned his degree in 1948. That same year, Drake Law Professor Scott Rowley retired. Rowley was a nationally recognized authority on business, particularly partnership law, and Dean Tollefson needed to find a good replacement. At some point, Tollefson was contacted by Iowa Dean Ladd, a good friend if also a friendly competitor, and Ladd brought his former research assistant to Tollefson's attention. Dean Tollefson contacted and interviewed Ed in New York and made him an offer on the spot, which Ed accepted.¹ Ed returned to Iowa to take the bar and teach at Drake, and has been a part of the school ever since.

Ed had concentrated on corporate, business, and tax courses in his LL.M. program, and that was where Drake needed him. Courses he taught regularly at Drake included Business Associations, Agency and Partnership, Accounting for Lawyers, and Government Regulation of Business. Often there were other needs to fill, however, and the faculty was not large. So, Ed was also known to teach Criminal Law and Torts on occasion. Interestingly, despite his academic background in and desire to teach taxation, Dean Tollefson did not assign Ed to teach tax courses because Ed had never practiced tax law, and the Dean wanted someone who had practiced tax to teach those courses. Some years later, the Iowa Attorney General asked Ed to serve as Special Assistant Attorney General of Iowa and accept assignment to the Iowa State Tax Commission. Ed accepted, and while there he helped draft legislation and state tax regulations. With this practice experience in tax, Dean Tollefson was satisfied and assigned Ed to teach tax. Thereafter, Ed regularly taught Income Tax, Estate and Gift Tax, Business Planning, and Estate Planning. As time went on, Ed added Securities Regulation to the rotation of courses he taught at Drake. In the process, Ed Hayes contributed not only breadth but depth to the Law School's business and corporate curriculum, from basic principles of business organization and taxation to advanced courses in the areas of business and estate planning and securities regulation. By common account, he had and he communicated high expectations for students, and that standard, in combination with a preference for the

1. No other member of the faculty interviewed Ed Hayes before the Dean made him the offer and Ed accepted. It may be noted that there has been some decline in the authority of Deans since that time, but anyone who knew Dean Tollefson remembers him as a special case and a good judge of talent. It was, as people say, "a good hire."

Socratic Method, put high premium on preparation.

Enriching Ed Hayes's teaching was a habit and practice of scholarship that began in law school and continued throughout his forty-plus years at Drake. A bibliography of his work identifies twenty-six publications in the *Drake Law Review* and several other articles published in the *Iowa Law Review*, *Minnesota Law Review*, and *Vanderbilt Law Review*. Subjects range from surveys of business and tax law,² including securities laws and business planning,³ to title standards⁴ and special assessments.⁵ His research and scholarship followed his teaching interests and mirrored his involvement in the Iowa State Bar Association, especially his service on the Taxation Committee and the Corporation and Business Law Committee. His scholarship reflected the research and learning he expected of his students, and it was intended to be of use to the profession, a historic orientation of the Drake Law School to the bench and bar which continues as a hallmark of the Law School to this day. In 1969 he produced *Corporation Law and Practice*, Volumes 5 and 6 of West's Iowa Practice Series,⁶ for which he also authored annual pocket part supplements. He revised this two volume treatise in 1985⁷ and continued the pocket parts for six years after his retirement in 1989.⁸

It is possible to teach and to write without becoming otherwise engaged in the school. Ed Hayes was *never* of that sort. Indeed, even his teaching and scholarship are aspects of his service to the Law School and the profession, evidence of a strong desire to contribute and to make a difference. In truth, Ed Hayes is known for unfailingly having the best interests of Drake Law School, his colleagues, and students in mind and in

2. E.g., Edward R. Hayes, *Survey of Iowa Tax Law and Procedure—1975-1976*, 26 DRAKE L. REV. 331 (1977).

3. Edward R. Hayes, *State Regulation of Securities Issues*, 17 DRAKE L. REV. 170 (1968).

4. E.g., Edward R. Hayes, *The Iowa Titles Standards II*, 3 DRAKE L. REV. 36 (1953).

5. E.g., Edward R. Hayes, *Special Assessments for Public Improvements in Iowa: Part I—From Birth to the Idea to Soliciting Bids*, 12 DRAKE L. REV. 3 (1962).

6. See EDWARD R. HAYES, 5 & 6 IOWA PRACTICE: CORPORATION LAW AND PRACTICE (West 1969).

7. See EDWARD R. HAYES, 5 & 6 IOWA PRACTICE: BUSINESS ORGANIZATIONS (2d ed. West 1985).

8. At that point, in characteristically collegial fashion, Ed brought fellow faculty member and colleague Matt Doré, Richard M. and Anita Calkins Distinguished Professor of Law, to the attention of West Publishing Company, and recommended that he be asked to write a new edition of the treatise. See MATTHEW G. DORÉ, 7 IOWA PRACTICE: BUSINESS ORGANIZATIONS (West 2004).

heart, a total dedication to supporting the students and building the school. Sometimes there was glory in the opportunity to serve. After Dean Maurice Kirk, Dean Tollefson's successor, left in 1967, Drake University President Paul F. Sharp asked Ed to serve as Acting Dean of the Law School, and he did so. By all accounts, he served with distinction. Thereafter, he was asked by his successor Don Scarlett to serve as Associate Dean, and Ed served in that capacity from 1973 to 1986. Here, too, he served with distinction and unbelievable loyalty. He managed the Law School scholarship program, he was a primary recruiter for the Law School and visited numerous colleges in a five-state area, he prepared the class schedules, responded to the ABA Annual Questionnaire, dealt efficiently with myriad student and faculty issues, and of course, continued to teach and to publish. It was Ed Hayes who developed the Law School's first successful Patricia Roberts Harris grant proposal, securing much needed federal funding to support scholarships for minority law students. His support of students and devotion to the Law School also found expression in the Edward R. and Cora Hayes Endowed Scholarship, a scholarship he and his wife Cora endowed.

Special mention may be made of his service to the *Drake Law Review*, for which Ed was Faculty Advisor from 1954 to 1964, for it serves to emphasize the same capacity for tireless and uncomplaining service to the Law School that is fully evident in other ways as well. Ed served the *Review* in a variety of critical ways. If that meant writing articles himself or working with student scholars like Max Teske or Jim Perkins to co-author a publication to support a newly launched issue of the *Review*, Ed was there. If that meant typing Professor Richard "Dick" Hudson's handwritten manuscripts, because they were hard to read and Ed could do so, Ed Hayes was the one who typed them, all of them. If that meant personally assisting in separating the *Review* issues being mailed to every member of the Iowa Bar, sorting them by cities and zip codes to facilitate bulk mailing and bulk mailing rates, Ed Hayes was there.⁹ Law Review staffs are quite a bit larger today than they were forty and fifty years ago, and traditions have evolved and technologies have emerged that have made publication and distribution of the *Review* quite a bit easier than it

9. Thus it comes as no surprise that, by carrying on Ed's model of steadfast and effective service, the *Drake Law Review* currently ranks in the top twenty-five most-cited law journals in the nation by federal courts. See MOST CITED LEGAL PERIODICALS, at <http://law.wlu.edu/library/research/lawrevs/mostcited.asp> (last visited Nov. 29, 2004) (search by "Cases 1997-2004," sort by "Rank"). For more information, see DRAKE UNIV. LAW SCH., LAW SCHOOL NEWS, at <http://www.law.drake.edu/calendarNews/> (last visited Nov. 29, 2004).

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once was. Understanding the character of Ed Hayes and recognizing the contributions he has made to the Law School, one has to remember not only his teaching and his scholarship, but also his willingness to do whatever the Law School needed to have done. If that was recruiting, if that was preparing the semester schedule, if that was typing a colleague's handwritten articles, if that was serving in the numerous ways that he did for the University at large—in short, if there was work to be done, Ed Hayes could be counted on to do it.

Engagement and service may be the defining qualities of Ed Hayes. He is part of what Robert Putnam has called the “long civic generation”¹⁰ that played so prominent a civic role in the building of post-World War II America and its institutions and communities. He not only served in World War II but remained in the service afterward. He was recalled to service during the Korean War, during which he served on the legal staff of the U.S. Medical Procurement Agency for a year and a half, from 1950 to 1952. He completed basic and advanced courses at the Judge Advocate General School, U.S. Army Reserve, remaining in the service until 1960. He served the University in a plethora of ways, including as Faculty Senate President, and also as an annual supporter of the Friends of Drake Arts. In the Iowa Bar Association he labored on committees, reviewing legislation—including securities, tax, limited partnership, and corporate laws—and was the reporter for the subcommittee that drafted the revised Iowa Securities law, and for decades was an annual speaker at the Iowa Tax School and other tax and business law conferences and institutes. He was also a longtime member of organizations such as the American Judicature Society, the American Civil Liberties Union, and the American Association of University Professors. This evidenced continuing engagement and commitment to vital principles. He was also engaged with his faith, as he provided support and leadership to his church. He volunteered time and labor to the food pantry and pursued personal interests like bridge, genealogy, and history. All the while there was also devotion to his wife Cora (of 58 years) and their four children. His service continues: even now Ed Hayes volunteers at the Iowa State Historical Library and the Iowa Genealogical Society. As had been the case at Drake, there are big projects in which he is engaged, like building a biography of every state legislator who has served in the Iowa Legislature since Statehood in 1846, or indexing by county the census volumes from the 1920s (the census was reported by county, and none of the ninety-nine

10. ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* 254 (2000).

volumes had an index), and other work that just needs to be done, like typing labels or putting boxes of newspapers away. In either case, Edward R. Hayes has remained a person people can count on to contribute and help get the job done.

When asked to define and thus distinguish a “profession” from pursuits for earning a living, Harvard Law School Dean Roscoe Pound explained

[t]he term refers to a group . . . pursuing a learned art as a common calling in the spirit of public service—no less a public service because it may incidentally be a means of livelihood. Pursuit of the learned art in the spirit of a public service is the primary purpose.¹¹

That defines Ed Hayes pretty well, too. In his classes, his scholarship, his service to the bar, and his work with students, faculty colleagues, and lawyers, Edward R. Hayes certainly pursued law as a learned art, and it was a calling he was proud to pursue together with others to whom he was unfailingly respectful and generous of his time and his talent. Always there has been a sense of mission and a desire to serve, whether to support the profession, to build the school, to serve the community, to improve the law and its practice, or to respond where the opportunity to make a difference presented itself. His work and service have not gone unrecognized. In 2001, Drake University presented him with the Drake Medal for his significant and sustained service to the University community for more than four decades, and each year students receiving tuition support from the Edward R. and Cora Hayes Endowed Scholarship are grateful. This Tribute is deserved recognition of the continuing impact of his contributions over the years to Drake University Law School and its students, its faculty and staff, and its graduates.

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11. ROSCOE POUND, *THE LAWYER FROM ANTIQUITY TO MODERN TIMES* 5 (1953).

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The following is a list of *Drake Law Review* articles authored or co-authored by Professor Emeritus Edward R. Hayes:

The Iowa Title Standards II, 3 DRAKE L. REV. 36 (1953).

The Iowa Title Standards III, 3 DRAKE L. REV. 87 (1954).

Tax Aspects of Charitable Giving, 5 DRAKE L. REV. 85 (1956).

The Farm Operation Agreement—Partnership or Lease, 6 DRAKE L. REV. 37 (1956).

A Pioneer Iowa Law School—Iowa Wesleyan University, 10 DRAKE L. REV. 105 (1961).

Maintaining Corporate Control: A Comment, 11 DRAKE L. REV. 19 (1961).

Special Assessments for Public Improvements in Iowa: Part I—From Birth to the Idea to Soliciting Bids, 12 DRAKE L. REV. 3 (1962).

Special Assessments for Public Improvements in Iowa: Part II—Further Pre-Assessment Procedure, 13 DRAKE L. REV. 25 (1963).

Special Assessments for Public Improvements in Iowa: Part III—Making the Assessment, 14 DRAKE L. REV. 3 (1964).

Special Assessments for Public Improvements in Iowa: Part IV—Judicial Review, 15 DRAKE L. REV. 3 (1965).

Special Assessments for Public Improvements in Iowa: Part V—Release, Collection, Liability, and Conclusion, 16 DRAKE L. REV. 3

(1966).

State Regulation of Securities Issues, 17 DRAKE L. REV. 170 (1968).

Iowa Tax Laws and Proceedings, 19 DRAKE L. REV. 379 (1970).

Recent Developments in Iowa Tax Law and Procedure—1970, 20 DRAKE L. REV. 626 (1971).

Iowa Tax Law and Procedure—1971, 21 DRAKE L. REV. 282 (1972).

Iowa Incorporation Practices Re-Examined—Part I, 22 DRAKE L. REV. 1 (1972).

Iowa Tax Law and Procedure—1972, 22 DRAKE L. REV. 550 (1973).

Iowa Tax Law and Procedure—1973, 23 DRAKE L. REV. 386 (1974).

Iowa Tax Law and Procedure—1974, 24 DRAKE L. REV. 370 (1975).

Professional Corporations in Iowa—1970-1972, 25 DRAKE L. REV. 161 (1975).

The New Iowa “Uniform” Securities Law, 25 DRAKE L. REV. 267 (1975).

Survey of Iowa Tax Law and Procedure—1975-1976, 26 DRAKE L. REV. 331 (1977).

Survey of Iowa Law—Iowa Tax Law and Procedure, 1977-1978, 28 DRAKE L. REV. 599 (1979).

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Survey of Iowa Law—Tax Law and Procedure 1979-1980, 30 DRAKE L. REV. 503 (1981).

Limited Partnerships — Iowa Style, 32 DRAKE L. REV. 1 (1982).

Jack Yeager's Legacy, 51:4 DRAKE L. REV. [ii] (2003).