

Wilber G. Katz

Harry Kalven, Jr.*

Wilber G. Katz, *Dean of the Law School from 1939 to 1950, and a faculty member for over thirty years, died on May 17, 1979, in Milwaukee.* Harry Kalven, Jr., *one of Mr. Katz's students at the Law School, upon Mr. Katz's retirement from the teaching of law, wrote a moving tribute originally published in the Wisconsin Law Review. In honor of Mr. Katz, we reprint this tribute, which is unsurpassed in freshness, charm, and loving admiration.—The Editor*

Wilber Katz was a member of the faculty for over 30 years and was Dean of the University of Chicago Law School from 1939 to 1950. It was a crucial time of transition for the school as it moved from a period of orthodoxy typified by such legendary names as Mechem, Hall, Freund, Bigelow, and Bogert into a position of leadership among contemporary schools. Wilber had with him a remarkable group of men—Edward Levi, Malcolm Sharp, Charlie Gregory, Sheldon Tefft, Max Rheinstein, William Crosskey, Fritz Kessler, Henry Simons, and, a bit later, Aaron Director and Roscoe Steffen—remarkable, I think, even when one makes discounts for nostalgia. It was, under the stimulus of Robert Maynard Hutchins, a period of fresh and radical rethinking of the purpose and style of legal education with experiments in a four-year curriculum and comprehensive year-long sequences; introduction of training in accounting, economics, and psychology; and implementation of a serious individual tutorial program in legal writing and research for the freshman year and industry studies for the senior year. It was a time of steady, excited reflection and experi-

mentation by the faculty. Of course, such experimentation was destined to be not altogether successful, but it served to give the school its intellectual trademark—a professional home of liberal education in the law. The history and evaluation of that moment of ferment in legal education has yet to be written, and it is difficult indeed to bestow individual credits given the affection and admiration one has for that whole group who generated an environment of excitement, serious purpose, warmth, and grace; but I think that Wilber Katz was clearly the principal architect.

In a unique and wonderful manner, Wilber Katz combined firmness with extraordinary gentleness, high purpose with grace and wit, professionalism with an amateur's spontaneity and curiosity, and anxiety with poise. As a teacher and a friend, he was always serious enough and concerned enough to pay one the compliment of criticism, a gentle but firm corrector of one's flaws.

I am bemused by sudden memories of odd fragments of conversation and gentle, modest anecdotes such as his delighted disclosure at one early point in our friendship that little children often had trouble with his name and ended up with "Wibbler." It was a disclosure that was to mark me for life; even now when I go to use his name I have to think twice. Years ago, he was appointed by the United States Supreme Court to argue a postconviction appeal under the then notoriously complex, frustrating, and impenetrable Illinois procedures. Wilber was so offended by the stance of the lawyer representing the state, who had expended great ingenuity and skill in defending the wretched scheme (an example, I suppose, of a lawyer devoting his selfless best to his client's cause), that he declined to meet with him for a friendly breakfast on the morning before the argument. Then there is an episode which rises to mind

* Mr. Kalven, JD 1938, was The Harry A. Bigelow Professor of Law at The University of Chicago and taught at the Law School until his death in 1974. This tribute is adapted from the Winter, 1973, issue of the *Wisconsin Law Review*, which was dedicated to Wilber Katz. Adapted with permission.



every time I face the ordeal of marking blue books, an ordeal especially painful for Wilber: to moderate the sense of burden that a large pile of unmarked exams always gave him, he hit upon the stratagem of dividing them into small piles and hiding them around the house so that at any moment he could look around and he could deceive himself into thinking he was almost through. The stratagem was a great success psychologically until the day came when he could not remember where he had hidden the last pile! There was his long and determined effort to get interested in baseball. He had been baffled and then intrigued by the fact that two of his apparently rational students and friends, Walter Blum and I, invested such serious attention in the matter. But after going to several games, reading the sports pages dutifully, and listening to us talk some more, he concluded that baseball was a peculiar cultural taste that one had to begin to develop when one was much younger than he. There was the *Law Review* dinner my last year at school. Wilber had almost single-handedly brought a *Law Review* into existence at Chicago a few years before and had been unstinting in his help on its behalf. He was preparing a set of remarks from the vantage point of the father of the *Review*, playing over in his mind various changes on that theme, when I, borrowing a maxim from my mother, chanced to introduce him as “the *Review*’s best friend and severest critic, our Mother Katz.” There were the marvelous marionette shows

that the Katzes, thanks to Ruth’s artistic gifts, used to put on at their home with Wilber busily pulling the strings and somehow supplying the voices for a dozen different characters. Perhaps lost to culture forever now is one especially memorable show, a take-off of a University of Chicago Roundtable, which had a script written by Edward Levi, then a student, and which featured a puppet named Mortimer J. Adler. Ruth had, at one point, made a puppet of Wilber, and he was fond of telling that whenever he slipped into pomposity or vanity, he would be given a gentle reminder the next day and find his puppet sitting in his big arm chair.

Above all, Wilber Katz was a teacher. It was the clear consensus of the student body when I was at school that he was the “hot” teacher, the real focus of classroom excitement; the taste for him was shared equally by the students who approached law study with philosophic yearnings as by those who had already developed a firm taste for the more worldly aspects of careers in law. The passage of time and the accumulation of experience at law teaching have supplied distance now to those youthful judgments. The verdict still stands; he was simply the best teacher I ever experienced. He exuded the quick intellectual brightness and taste for logic that law schools have always prized; he carried rigor and authority in the classroom; but his teaching, even of a large law class, was like a conversation with a friend—it had an endearing quality because he almost never, in his excitement over what he was discussing, completed a sentence! He was effortlessly polite and gentle and shunned any use of the power to bully which had been so much a part of the older case method teaching tradition. He taught always like a man seized with an idea. And he made law proper exciting. I recall now with a touch of awe that his teaching of the statutory scheme regulating preferences under the Bankruptcy Act alchemized it into a splendid subject matter for intellectual analysis. And finally, he was interstitially, but only interstitially, philosophical. The stuff of his classes, to borrow Llewellyn’s phrase, was law stuff, but it was interwoven with hints of larger themes.

There was a second characteristic of his teaching that impresses me now as I look back. He had a firm sense of the architecture of a course and of the teaching responsibility for it. The plot of his courses always emerged with clarity from the sequence of individual class sessions. He steadily counteracted the myopia that the case method can engender. You may not have been able each day to know exactly where

the class was on his secret map, but you inevitably emerged from his courses with a firm sense of where you had been.

He was very good whatever the field; he was splendid when he taught from a congenially subtle pattern as with his bankruptcy course and Roscoe Steffen's great casebook. But he was at his utter best in his own course in corporations, for which he had developed his own set of teaching materials and into which he had built, really as a pioneer, a substantial

dose of accounting. I have classmates who went on to distinguished careers at the corporate bar who swear to this day that Wilber's materials were and remained their bible for years after they left law school, so well had he met the teacher's responsibility for detecting the structure of a field of law. One can only regret that in his modesty and nonexhibitionism, he never sought to publish his corporation materials, although they stick in my mind—and it is now 35 years—as the very model of a casebook. ■

