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BRAINERD CURRIE

SCHOLAR

'His conversational patience, his personal kindness, and his unlabored use of very great learning could not help but stick.'

By William Van Alstyne*

When a scholar dies and memorial editions subsequently mark the loss, the most usual convention is to honor him in a *festschrift* of articles that measure his influence—tracing the impact of his work and his thinking, in measurable ways, upon the remaking of an entire discipline. In Brainerd Currie's case, that ought not be neglected, because surely his seminal contributions to choice-of-law theory have had a major impact. From an original trilogy of articles written in 1957 (which with later essays were to identify him as the first recipient of the Coif award), through a powerful symbiosis with the highest courts in California and New York, Brainerd regenerated a whole new intellectual life in the then-moribund subject of conflicts of laws. Much that has happened since then has been like footnotes to his own footprints.

Nevertheless, an erudite remembrance of Brainerd Currie would leave out certain things that are not easily measured. As a means of appreciation, it would suffer in the same way that the study of law itself has been said to suffer—that it sharpens the mind by narrowing it. Most especially for that reason—to fill in the personal contributions he made—I am grateful for the invitation to write briefly about Brainerd; it is frankly in the interstices of what is already well known about him as a distinguished

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scholar that he most touched my own life, as I know, too, he did so many others. His example may also say something more generally that others who teach fully believe but are too embarrassed to say in their own behalf and in behalf of their profession.

As a student articles and book review editor at the *Stanford Law Review* in 1957, I met Brainerd for the first time during his year at the Center for Advanced Studies in the Behavioral Sciences (which was even then already known informally as "The Leisure of the Theory Class"). During the days that he worried through parts of an article manuscript, without knowing it, he made a lasting personal difference. Something in his conversational patience, his personal kindness and his unlabored use of very great learning could not help but stick: impressions of what a thoughtful person was like in academic life, and of how, by personal qualities as much as by measured scholarship, such people are helpful to others. Eventually (and largely, as it turned out, as a consequence of his doing), I turned up as his junior colleague at Duke. The two brief years with him here were never disillusioning of those first impressions. "On duty" or off, he was at ease with music, with literature, with things non-legal, with subjects constitutional and historical. Brainerd Currie was a person even Thorstein Veblen would have liked; Veblen would have acknowledged Currie as an exception to Veblen's general view that professional schools (law schools and business schools most of all) were but academic money-changers who, under Gresham's law, must inexorably drive out a more authentic higher learning.

Were Brainerd Currie's career measured only by the traceable professional influence of his ideas, it would be impressive enough. But when all that might be done, we would nonetheless have measured away the person and chloroformed a number of qualities that continue to make him memorable these ten years after his death. As this issue of the *Mercer Law Review* is dedicated to his memory, I think it should be said, without the usual shuffling embarrassment, that Brainerd's personal qualities still animate a great deal others in higher education also cherish, qualities that abide.