



11-1-2001

One of a Kind--Professor Emeritus Charles E. Rice

Robert E. Rodes Jr.

University of Notre Dame, Robert.E.Rodes.1@nd.edu

Follow this and additional works at: <http://scholarship.law.nd.edu/ndlr>

Recommended Citation

Robert E. Rodes Jr., *One of a Kind--Professor Emeritus Charles E. Rice*, 77 Notre Dame L. Rev. 289 (2001).

Available at: <http://scholarship.law.nd.edu/ndlr/vol77/iss1/7>

This Article is brought to you for free and open access by NDLScholarship. It has been accepted for inclusion in Notre Dame Law Review by an authorized administrator of NDLScholarship. For more information, please contact lawdr@nd.edu.

TRIBUTE

ONE OF A KIND—PROFESSOR EMERITUS CHARLES E. RICE

*Robert E. Rodes Jr.**

In the spring of 1959, when I was faculty advisor of the law review (then called the *Notre Dame Lawyer*), and my future colleague Bob Blakey was the student associate editor, we worked together on an article called *A.I.D.—An Heir of Controversy*.¹ The subject, artificial insemination from a donor, was interesting, the treatment was at once lively, rueful, and orthodox, and the conclusion was an engaging shrug of the shoulders: “Upon that note . . . your writer respectfully throws in the towel.”² The author, a graduate of Boston College Law School taking an advanced degree at New York University, was obviously a comer in the Catholic legal academy.

The author—of course it was Charlie—did not throw in the towel, however. He applied himself with steadfast militancy to one battle after another as traditional Catholic values came, one after another, under legal and constitutional attack. He had already distinguished himself on the law faculty at Fordham and had written a book on the Supreme Court’s school prayer decisions by 1969,³ when he came to teach at Notre Dame, and to locate his numerous and growing family in the wilds of Wyatt, Indiana.

* Paul J. Schierl/Fort Howard Corporation Professor of Law, Notre Dame Law School. This Tribute was originally published in the Summer 2001 issue of the *Notre Dame Lawyer*. Reprinted with permission.

1 Charles E. Rice, *A.I.D.—An Heir of Controversy*, 34 NOTRE DAME LAW. 510 (1959).

2 *Id.* at 529

3 CHARLES E. RICE, *THE SUPREME COURT AND PUBLIC PRAYER: THE NEED FOR RESTRAINT* (1964).

The year he came, he published *The Vanishing Right To Live*,⁴ a particularly prescient book in view of the fact that *Roe v. Wade*⁵ was still four years in the future. Also before *Roe*, Charlie participated in the quixotic proceeding of Robert Byrn, as guardian ad litem for the unborn, to get the New York courts to invalidate that state's legislative authorization of abortion. In 1971, he added another dimension to his polemical stand with *Authority and Rebellion: The Case for Orthodoxy in the Catholic Church*.⁶ Later works include *Beyond Abortion: The Theory and Practice of the Secular State*,⁷ beginning with a splendid dystopian account of the "Merciful Release" of an arthritic grandfather (particularly poignant to me now that I have become one), and *Fifty Questions on the Natural Law*,⁸ an engaging catechetical presentation of traditional Thomistic legal doctrine. Besides other books and articles, he has been writing a biweekly column for our student newspaper, *The Observer*, in which he argues that we shortchange our students by making them take out loans to pay the enhanced tuition required by research aspirations in which the students have no stake and that we violate truth-in-labeling principles by giving them theology courses in which orthodox Catholic doctrine is marginalized.

Although Charlie is an uncompromising polemicist, he is a fair one, and an amiable one as well. I have seen eminent theologians reduced to sputtering in reviewing his books, and social activists to something very like spite at his insistence on the priority of the life of the unborn among social causes. But neither orally nor in print have I seen him lose his temper or treat an opponent with discourtesy.

In addition to a robust faith and a profound, if sometimes, gruff kindness, I believe Charlie's cheerfulness in controversy is supported by his wry sense of humor. In a prominent place on the wall of his office (along with a picture of him shaking hands with the Pope, and a framed prison record compiled by his Fenian grandfather) is a large poster saying "Ski Terre Haute," with a picture of a skier in an Aspen crouch, looking as though he is racing down a hill, because the whole picture of the flat Hoosier prairie is printed at a 45-degree angle. Nearby is a poster that says, "Just because you're paranoid doesn't

4 CHARLES E. RICE, *THE VANISHING RIGHT TO LIVE: AN APPEAL FOR A RENEWED REVERENCE FOR LIFE* (1969).

5 410 U.S. 959 (1973).

6 CHARLES E. RICE, *AUTHORITY AND REBELLION: THE CASE FOR ORTHODOXY IN THE CATHOLIC CHURCH* (1971).

7 CHARLES E. RICE, *BEYOND ABORTION: THE THEORY AND PRACTICE OF THE SECULAR STATE* (1979).

8 CHARLES E. RICE, *FIFTY QUESTIONS ON THE NATURAL LAW: WHAT IT IS AND WHY WE NEED IT* (1999).

mean they're not out to get you." Or, more succinctly, as Charlie has said on a number of occasions: "Only the paranoids understand what's really going on."

I had the pleasure of serving with Charlie for twenty-some-odd years as co-editor of the *American Journal of Jurisprudence*. We did not always agree. Charlie expected our authors to be pretty explicit in their adherence to the principles of natural law that he taught and fought for, whereas I tended to see the same principles lurking implicitly in the work of scholars who thought they were doing something else. But one point where Charlie had unquestioned sway was in the running of the Annual Dinner that followed our Annual Lecture. From the hors d'oeuvres at the beginning to the cigars and Drambuie at the end, Charlie's dinners remain unsurpassed in the annals of academic partying. Gerry Bradley and John Finnis, who have replaced us as co-editors, are putting out quite as good a journal, but they cannot touch Charlie's dinners.

His invitations to these affairs were works of art. He would tell us some half truth about the afternoon's lecture—as that it would cover the work of Giambattista Vico during his time as a Professor of Modern Languages at Notre Dame—then warn people that they would have to have their hands stamped at the lecture in order to be admitted to the dinner—a total falsehood—and describe what a great dinner it would be—the true part. He always called on me to say grace at these dinners, and always did so in a tone that implied that I was going to say something funny. I was always duly disconcerted. (If there is a way of saying grace that is funny but not irreverent, I have not yet mastered it.) I gather disconcertment was the object of the game.

In fact, eliciting various kinds of cheerful disconcertment has been a regular mark of Charlie's presence among us. When we all gave introductory remarks at first-year orientation, Charlie would tell his students to feel free to telephone him any time day or night if they had a problem—and would then give them a colleague's telephone number. He would illustrate his Torts classes on defamation by defaming anyone he saw passing in the hall. If the mother of a student came to watch his class, he would call on her. In his first Torts class of the year, he would plant a few third-year students, harass them unmercifully, sometimes shake them, throw their books out the window, and finally expel them. Only after the real members of the class were thoroughly terrorized did he tell them it was all a joke.

Before going to law school, Charlie spent two years in the Marine Corps, and he spent two weeks a year on active duty as a reserve officer until he reached retirement age. I suspect he has always believed that something of a boot camp atmosphere is conducive to learning.

When he participates in first-year orientation, he establishes that atmosphere from the start. After telling a roomful of eager and bewildered students what fun his Torts class is going to be, he adds in his best Marine drill sergeant's voice: "You WILL enjoy it!"

Great numbers of students have obeyed him over the years.