RICHARD VANCE WELLMAN

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I first met Richard "Dick" Vance Wellman when I was a graduate law student at The University of Michigan. As it turned out, Dick and I taught almost the same courses in our law schools. Perhaps I knew Dick best, however, as a Commissioner on Uniform State Laws.¹

The Model Probate Code (MPC) was promulgated in 1946 with Professor Lewis Simes, of The University of Michigan, as its Chief Reporter. As its name suggests, the Model Probate Code was intended to be a collection of probate statutes from which the respective states might pick and choose a well-drafted provision on a particular matter to be incorporated into their state statutes.² Probate laws constituted an area of the law that was (and still is) primarily a province of state legislation, and one in which the respective states believed they had an exclusive proprietorship that they guarded jealously.

The NCCUSL is an organization with commissioners from each state that attempts to achieve uniformity of the law by drafting legislation to be adopted by the various states. The NCCUSL achieved great success with the Uniform Commercial Code (UCC) and decided that its next project should be in the field of probate law. Therefore, in the mid-1960s, the NCCUSL attempted to create a Uniform Probate Code (UPC). Since the MPC had been drafted by Professor Lewis Simes, it was natural that the NCCUSL would return to Michigan for the reporter to draft the UPC. Dick Wellman was the Chief Reporter for the Uniform Probate Code. In this role, he led ten to fifteen reporters who were leaders in the field,

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¹ The National Conference of Commissioners on Uniform State Laws (NCCUSL). Every state has a minimum of three Commissioners. Dick served as Vice President of the NCCUSL from 1983 to 1985, as Commissioner from Michigan from 1969 to 1973, and as Commissioner from Georgia from 1974 until his death in 2005. Commissioner Wellman became a Life Member of the NCCUSL in 1989.

² Model Probate Code 10 (1946).
including Paul Basye, who had been a reporter on the MPC with Professor Lewis Simes.

Beginning with the UPC, Richard Wellman was either the Reporter or a participant in virtually every Restatement and statute designed to reform and modernize the law of trusts and estates for the next forty years. 3 Dick's primary goal was to make probate law simple, so that if a testator who planned his or her estate under the laws of one state moved before death, the will would have the same effect in the state to which testator moved. If he could accomplish that effect, it would make probate law cheaper and more efficient.

Dick Wellman truly believed that property should pass from one generation to the next as the testator (property owner) wished, with a minimum of delay (e.g., to pay debts of the testator) and with some minimal "public-policy" restrictions such as some form of forced heirship for the surviving spouse. Dick believed that state statutes should support this result, rather than serve as obstacles that could defeat this outcome because of complexity or unnecessary formality. To Dick's credit, one of his great achievements was creating a probate process that is cheaper, more efficient, and therefore more friendly to the wishes of testators.

After drafting the UCC, the NCCUSL had been successful in using a Joint Editorial Board (JEB) to follow the Act after promulgation to promote its enactment and determine if changes needed to be made. Because the UPC was a major modernization of probate law, it was decided to use this concept again to determine if changes needed to be made. Dick Wellman was named the

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Director of Research for the JEB for the Uniform Probate Code. The JEB/UPC was sponsored by the NCCUSL, the American College of Trusts and Estates Counsel, and the American Bar Association (ABA). The JEB is responsible for updating the Uniform Probate Code and reviewing other uniform legislation in the field of trusts and estates. Dick's title was soon changed to Executive Director, and Joe Straus, a prominent practicing attorney from Philadelphia, became the Chair. For all practical purposes, the late Joe Straus and Dick Wellman essentially directed the JEB/UPC, although there were a number of extremely well-qualified attorneys from the represented groups on the Board. The JEB/UPC has provided an invaluable service and continues today.

Without question, Dick Wellman put his stamp on probate reform over a forty-year period in which the probate process was modernized from an Elizabethan, English-type plan for succession to at least a twentieth-century approach.

In addition to his work for the NCCUSL, Dick was active in the American Law Institute (ALI) and the American College of Trusts and Estates Counsel (ACTEC). He was elected to the ALI in 1972 and became a Life Member in 1997. He was elected an Academic Fellow of ACTEC in 1973. In the ALI, Dick served as Adviser for Volumes 1 and 2 of the Restatement (Third) of Property: Wills and Other Donative Transfers, and for Volumes 3 and 4 of the Restatement (Second) of Property: Donative Transfers.

Dick coauthored, with George E. Palmer, the casebook, Cases and Materials on Trusts and Succession. That casebook has gone through several editions and changes in titles. With the addition of Professor Lawrence Waggoner the book became Family Property

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6 GEORGE E. PALMER & RICHARD V. WELLMAN, CASES AND MATERIALS ON TRUSTS AND SUCCESSION (1960).
7 GEORGE E. PALMER, CASES AND MATERIALS ON TRUSTS AND SUCCESSION (2d ed. 1968); RICHARD V. WELLMAN, LAWRENCE W. WAGGONER, & OLIN L. BROWDER, JR., PALMER'S CASES AND MATERIALS ON TRUSTS AND SUCCESSION (3d ed. 1978); RICHARD V. WELLMAN, LAWRENCE W. WAGGONER, & OLIN L. BROWDER, JR., PALMER'S CASES AND MATERIALS ON TRUSTS AND SUCCESSION (4th ed. 1983).
Law: Cases and Materials on Wills, Trusts, and Future Interests, which combined the early editions with another book Dick Wellman had coauthored with Professor Olin Browder.

Because I have mentioned only Dick Wellman's monumental efforts in the areas of academics and legislative drafting, one might think that he had no time for anything else. There were two additional qualities that showed there was much more to his life. One was the meeting of the UPC Drafting Committee held in Boulder, Colorado, in the summer of 1968. The reporters went to Boulder for approximately six weeks to "draft the Uniform Probate Code." Wives and children were brought along, and we spent the six weeks in a dormitory at the University of Colorado. It was a truly novel idea for drafting legislation, and it put the UPC on the fast track. Drafting sessions were held every day beginning at 8:00 a.m. and ran to 5:30 or 6:00 p.m. We had weekends off, and everyone scattered over that beautiful state.

With very bright and strong-willed individuals from law schools across the country, the sessions were often very intense, but were also conducted in a very professional manner. Dick's daughter, Jane Wellman, ran the mimeograph machine and kept the redrafts reasonably up to date. The children made new friends and the spouses were very compatible. Although several Big 10 universities were represented and there was no agreement regarding football, the drafters worked in harmony on the probate code. One current law school dean, Dean Allan Vestal of the University of Kentucky Law School, was one of the children in that group. Fishing was an interest of some drafters, though the biggest "thing" caught by one of the drafters, Gene Scopes, was himself when he was casting and caught the hook in his ear. In short, there was little reason to expect the group to work so well together, but they worked together incredibly well on the probate code.

The second (but not second in terms of importance) thing in Dick Wellman's life that showed he had a life other than the Uniform Probate Code was his family. Dick was a great family man. Most men believe they are very fortunate to find one woman who they

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love and with whom they wish to spend most of their lives. Dick found two wonderful women. He was not a man born to live alone, but I do not know where he found the time with all of his work to find two women, different but yet alike in many ways, with whom he could spend a number of years. First, there was Louise, with whom he had six children, and she preceded Dick in death. Dick loved his family! Lou had the ability to make Dick relax after a day of intense drafting of proposed legislation. She was somewhat of a free spirit, loved the arts, and was ever gracious in dealing with other people. For the most part, Lou handled the children and made the family very close, but Dick was always there.

Dick loved a good joke, whether it was on him or one he may have done to someone else. He enjoyed laughing and would often laugh heartily at jokes he had heard several times before. He enjoyed playing golf, although he started playing so late that he probably was not as good as he would have been if he had spent more time playing in his youth. Even if there was only a nickel riding on the hole, Dick played it with great intensity, as if those other players were trying to “steal his money,” and they would laugh heartily as they flailed away at the golf ball. All of this helped to relieve the intensity of battling with other lawyers over probate.

After Lou’s death, Dick married Natalie, who survives. When they met, Natalie was the house-mother at a sorority, and Dick was the “sweetheart.” Natalie, whom Dick also loved dearly, helped Dick relax and get away from work, which sometimes could be very intense. Natalie is also a superb jokester and can tell a joke with great relish. Dick would laugh each time almost as if it were the first time he had heard the joke. They traveled together to a lake in Northern Michigan and to West Virginia with equal enjoyment. Natalie also found the Cleveland Clinic, which extended Dick’s life for some time.

Dick Wellman was a outstanding scholar and a great family man. He never attributed ill-will or self-interest to another individual who might disagree with him. If another individual disagreed with Dick, particularly in a drafting session, it was, in Dick’s belief, because Dick had not explained his position well enough. Therefore, it was up to Dick to explain his position to the adversary, which he would explain and explain and explain.
Richard Vance Wellman was a man who had few, if any, enemies and who loved everyone, particularly his family. He worked tirelessly to modernize an area of the law that had not had a major revision or modernization in almost 300 years. He did a very good job on all accounts.