

LUNCHEON

HON. CHARLES E. CLARK

Chief Judge, United States Court of Appeals for the Second Circuit

Mr. Chancellor, and friends and fellow alumni of Syracuse:

Teaching, I find, is a disease of the most insidious character; once exposed to it, recovery is virtually impossible. Although time is fast working its corrective, I have actually spent more of my adult life in this occupation than in any other; that is my choicest memory and my proudest boast. Even now, I succumb regularly to the virus, and, like an old fire-horse, return for periods of law teaching in vacation time or other judicial breathing spells. Today in fact I would have been teaching a first-year law class at Yale had I not deemed your claims presently paramount. Thus when your invitation gave me the privilege of being a participant in a milestone of educational progress, the dedication of a fine new hall of learning, I could not fail to respond. And the occasion was for me all the more compelling, since it meant a dream come true for my old and cherished friend Paul Andrews, for years the heart and center of this School, as well as a new point of departure and opportunity for my brilliant former pupil, Dean Kharas, and his able faculty. To be here to share with you the joys of the occasion is alone adequate pleasure and recompense; but you have added to it all by your overflowing generosity in making me one of you, as indeed a fellow alumnus, as I have claimed in my opening remarks. This honor, which I can deserve only as representative of a court of rich traditions in this state and circuit, I accept humbly and gratefully in the spirit in which it is given and I thank you from the bottom of my heart.

In what I have just said, I have been glad to acknowledge the strong personal ties which bind me to this School and to American legal education generally. But I shall not leave this as an affair of the heart alone, much as I cherish this aspect. For I think the coldest intellectual appraisal of the situation will yield the same result. I am a believer in American legal education and gladly so testify. But I go further. I say that the finest thing American civilization has produced is its belief in and support of universal education, from the public school base on to the highest university or graduate and professional peak. Not too much in this troubled world of ours seems to give ground for real optimism. But here we do have a conviction of man's potential perfectibility, of his capacity for training to survive and to improve, which is truly heartening. And we daily act on that belief, devoting to its fulfillment men and materials which, though not enough, are prodigal in terms of other times and other places. It is wonderful and it is thrilling to have even a small part in so great an adventure.

In this fostering and flowering of the intellectual life in America, the law schools have had their worthy part. Their responsibility, in fact, has

been all important, being no less than the training of future generations in the science and the art of living and getting along together. For that, after all, is the basic function of courts and the law, whether it is the adjusting of the small, even petty, neighborhood disputes or the determining of the interrelationships of countries and sovereignties. And the American law school has had a unique, even a spectacular, growth. A hundred years, or even seventy-five, ago, it was a thing of comparatively little moment in the entire scheme of education or public service or government. Today it has become the sole gateway to the practice of law. It has superseded all other methods of law training and now claims allegiance, after a normal three years of serious and unremitting toil, of all those whose mistress is the law. And along with it as a natural correlative is the position achieved by the law reviews not only for outstanding student training in project research, but also for source book and authority for bench and bar.

This is an amazing change. But equally as striking is the prominence of the law men in all movements for the improvement of the law and its administration and of government itself. To many of us in the profession, law reform may be and is a cherished *avocation*, to engage as much time and attention of our thoughts as we can spare from our ordinary busy day. To the law professor, however, it is now his *vocation*, a recognized part of the career to which he is giving his life. It is but a truism to point out that, whenever now one scratches beneath the surface of any movement for improvement of the substantive law or the organization or administration of the courts or the simplification and modernization of governments, state, local, or national, one will find underneath a law professor and his trained staff supplying the spadework on which all the results must depend. Not only is the law school now indispensable for the training of the neophyte lawyers, but the devoted public service which it stimulates and gives yields a community benefit of incalculable value.

Now there has lately developed a trend in some quarters to find the schools deficient in their primary task of lawyer-training, to complain that they produce neither Marshalls, nor Websters, nor Max Steuers full blown on receipts of a law diploma. In spite of the wild charges of these vociferous critics—they seem to have had no real contact with either a modern school or a modern law practice, since they urge in effect only the copying of a village routine of several decades ago—I doubt if they represent any large numbers of practitioners. For it has been my experience that no more loyal and devoted alumni can be found anywhere than those law graduates who typically love and support the schools which gave them training. But I am concerned lest the schools do yield attention to these strongly voiced sentiments. For law professors are a fairly modest group; no one can read, as I do regularly, the current numbers of the valuable and instructive journal of Legal Education without being impressed by the continuing self-criticisms and yearnings for improvements in pedagogy there shown. So I hope that these

criticisms will not be accepted at their face value, since I am sure that they are completely wrong in their trend and deadening to what is most worth while in law training. They are emphasizing the merely vocational technics which can be quickly learned and imitated by the able college graduates now the backbone of our law school population. And by stressing these unimaginative routines they stifle what is most needed, the development of original, imaginative thinking in the legal fields which is the real present ideal of our finest schools.

I would reiterate this because I know that is what in reality all of us—judges, law firms, corporate legal departments—do really want most in the young lawyers we hire. Given the choice between a lawyer who has copied many deeds, wills, or contracts from the form books and knows little else or a young fellow who, while knowing that form books exist and may be resorted to, has meanwhile been himself struggling to meet and solve concrete problems, I know we will take the latter. Legal thinking and imagination can be developed. I see it every year in the law clerks I get, not to speak of the young and untrained graduates who do absolutely the finest work before us in assigned and often hopeless cases. After all, the law school is the final step, the apotheosis as it were, of progressive education at its best, of learning by doing. A graduate of our schools will not know all professional routine at once; but he will know where to locate it and, what is more important, he will be expected to do, and expect of himself, some independent thinking on his own hook.

And so in my fortunate position of comparatively wide observation I have been able to see these young people from our modern law schools in competition with older and more seasoned hands. And I say with conviction that I would sooner trust my own life or fortune or sacred honor to these imaginative and thorough workers than to the careless and dull efforts of their seniors, those at least who now deign to spend their time in the courts—or who perchance are forced to do so by failure to tap the present rich rewards of office practice. I add further that I think these young lawyers and their teachers, sometimes accused of radical tendencies, are the real conservers of conservative American tradition in the best sense of the term. For actually they are believers in the Constitution and in the tradition of safeguarding and fostering the rights of the individual which is the foundation of the Bill of Rights. Unfortunately that is not true of others of our profession, even on the highest level, who seem to me so strangely to have lost a sense of these values. Thus our greatest association of lawyers in the country seems at least to this observer to be throwing away almost wantonly the real values of the Fifth Amendment, forgetting the classic exposition of Wigmore a half century ago that a democracy cannot afford to treat its minorities with the instruments of forced confession so usual and so nauseating a feature of dictatorial justice or injustice. Meanwhile it seems to me not without significance that the staunchest support for ancient con-

stitutional ways now comes not from bar association leaders, but from the dean of the law school of our oldest university.

Hence I find the law schools at once forward looking and conservers of our ancient and best traditions. They are doing a great work; they are a vital force in American life. My only fear is lest they be hampered in what they are doing. And the greatest problem is of course financial. It is a misfortune that a law school, a poor law school, may be so cheaply run. Everybody knows that a good medical school is costly; very few, however, seem to realize that it takes money to run a good law school—one which eschews the dull repetitious and dogmatic lecture for the "learning-by-doing" which is the earmark of the modern "project" method of teaching, best epitomized by the work of the law reviews, but now a feature of all advanced legal education. But in truth a university which commits itself to a long-range program of legal training on the level which I am visualizing is rendering that kind of public service which is its finest goal. First and necessarily must come the facilities; then and foremost must be found the men to use them at maximum. You, Mr. Chancellor, and your University have embarked on that program. This is not only a milestone, but a happy day for the administration of the law in this community and state and nation. I hope and believe it will prove to be equally so in the life and history of this great University.

JANE WHITE CANFIELD

This is a great day for all of us; for the University and its faculty; for the law students; for my father, Ernest White, for whom the new building is named; and for all of us who rejoice for him and with him. I think today he is feeling as Sir Winston Churchill felt on his eightieth birthday last week when he said that he felt a combination of pride and humility, two emotions which he had always before felt to be in opposition, but that he knew on that day he "had them both together well in hand."

Today E.I.—for so I call my father—has the satisfaction of seeing in concrete form the embodiment of one of his enduring interests—one of his faiths—and I am glad that it should be here in Syracuse where his roots go deep. He told me this morning that he remembers hearing his uncle, Andrew D. White, make the dedication speech at the founding of this University.

E.I. grew up in a family of boys—he had always regarded girls as a different "breed of cat," and when he found himself with three daughters he very much turned over our education to our mother—but he had four strong convictions or beliefs which applied to all children, boys and girls alike, and the older I grow the better I think they are.

I. His first conviction was that every child should be taught to play the game of chess—if not at home, in the schools, that it developed qualities

such as concentration and patience and long thinking better than any other exercise. Certainly the Cold War is like a great international chess game and I often think that we would be better equipped to deal with Russia now if our statesmen also belonged to a country of chess players.

II. His second belief was that everyone should learn to handle a horse. In thinking this over, I remember the innumerable lessons that I learned. I was fortunate enough to grow up at the end of the trotting horse era when the State Fair track was the center of training for local horses and when amateurs were driving. I used to go out with my father in the spring to help him work his horses. Driving a trotting horse takes a great deal of skill for one must demand the maximum of speed without allowing the horse to break over into a run, a delicate balance. One must put enough pressure, but if too much is demanded of him he breaks, and so loses the race. This I have thought since is a very clear, graphic illustration of Toynbee's theory of challenge and response.

In "rating" a horse one has to learn to gauge his stamina and his speed so that he does not spend too much on the first quarter mile but has the reserve energy to pull out ahead on the home stretch. E.I. was a master at this and could always make a horse trot a few seconds faster than any one else. This is something we have to learn in any competition as well as in the business of living—to be able to gauge our energy and to keep a reserve so that we have it when the push comes.

In appraising our friends, E.I. would say, "That young man will never have the lick to make it in the home stretch," or, about a pretty precocious young girl, "I always mistrust a filly who trots too fast too soon."

Perhaps many of you remember Charlie Alvord's tailor shop which was at the entrance of the White Memorial Building. It was a sort of unofficial horsemen's club or meeting place, where bits of news were exchanged and many horse deals effected. There were several maxims—"Never buy a horse that is for sale," "Never cheat a man on the horse but always cheat him on the price." No one ever seemed to be anxious to buy or anxious to sell and it was hard ever to hear a price mentioned. To me it was a great mystery. Woe to the man who could not spot a spavin or splint! But what training to sharpen the wits!

In the hunting field, E.I. taught me to surprise a horse over a tricky jump, to act so quickly and so decisively that he had not time to decide that he was afraid and so refuse. This is a psychology that I have often used with my children since.

In taking a high hurdle, one has to learn to collect one's self and the horse as one faces the jump, to gain momentum as one approaches it, lending one's self to the rhythm of the horse, neither anticipating his jump nor lagging behind resisting. Then, as one reaches the hurdle, to give over, to "throw away the reins," as they say, to abandon one's self to the thing at hand. This translates itself endlessly in other ways, for a high dive; for a ski jump; or for loving; marrying; and bearing children; or even in waltzing

if you are the lady. And how better to learn the exercise of authority? Not to command by the spur or by the lash, but by the tone of voice, the pressure of the knee, and the steady hand on the bit.

In vain I have tried to think of lessons that the young can learn today from driving automobiles, and they seem to be only negative ones—"Do not drive too fast," "Do not fall asleep at the wheel," and so forth.

III. I.E.'s third faith was in public speaking. The belief that everyone should be taught to stand before an audience, to speak in a voice that could be heard, and to speak good English. In our school days recitations were in order, and the learning of poetry, and E.I. spent endless hours sitting before us, while my sisters and I stood in front of him, feet together, hands behind our backs, as he drilled us. There were the great words,—“The quality of mercy is not strained,”—“Four score and seven years ago,”—“Sunset and evening star.” Then there were the countless poems that linger like melodies in the memory and bring back a nostalgia as we say them over. “It is an ancient mariner and he stoppeth one of three,”—“O Captain! My Captain! our fearful trip is done,”—“Under the spreading chestnut tree the village smithy stands.” I can still hear all the intonations of E.I.'s voice as I say these lines.

Doing jury duty in New York I have been struck by the inadequacy of many lawyers in the court room. How little conception they have of the authority of the voice, or of the magic of the use of words! Law is after all a science which must be interpreted to come to life, and lawyers are the interpreters. How can they properly interpret unless with the persuasion of the voice, and the command of vocabulary and of the language?

IV. For E.I.'s fourth faith, there is cause for rejoicing on all counts, for this faith is in the Law, and the belief that by teaching and training, every child should be taught respect for law and for the great Anglo Saxon tradition of parliamentary law on which the American institutions are built. One of E.I.'s early heroes and the subject for his prize oration at Cornell, was John Bright, who combined great oratory with law reform—and his favorite statesmen have all been men of law—Justice Holmes, Charles Evans Hughes and Elihu Root.

It seems clear that the status of law in this country has never been as healthy, as strong and dynamic, as it is today. Law schools are better, the faculties are better, and the world begins to look to America for leadership in this field. The scope constantly broadens. As the laws of our towns, states and federal government are backed by force to put them into effect, so now we begin to hope and believe that some day international law and the World Court will have the same backing and power—that we will move into a new era when enforceable law will replace international anarchy.

And so for E.I.'s fourth faith he may feel well content—for not only has he the satisfaction of being part of this concrete accomplishment here today, and of the honor of having his name in stone, but also because he can look ahead into the future, with a growing sense of confidence and of hope.