

DEDICATORY ADDRESS

JOHN MARSHALL HARLAN †

Introduction by Gaylord P. Harnwell ‡

In ancient Greece, a fine new building justified its creation by its own beauty. It brought nobility into human life. Today, construction costs being what they are, we are constrained to ask that a new building not only be an ornament, but also an implement. In the case of a law school, it must be an implement for instructing and inspiring gifted young men and women of integrity in the practice of the law—the high art of reconciling conflict between men and between nations. It must be an implement for teaching them a reasoning process which many of them, we may be certain, will apply to the making of our laws, to the management of government and business, and to the leadership of community causes. A law school must also be a place where the faculty members may, through legal research, refine and extend the Rule of Law, and through extramural service bring their scholarship to bear directly upon the course of public affairs. In these ways, I believe we can expect this building to ennoble the lives not merely of those who look upon it, but the lives of all those who come within the influence of its scholarship, its counsel, and the judgment of its faculty.

Not long ago one of a group of foreign students visiting the Supreme Court building had pointed out to him a picture of my grandfather that hangs in my chambers. "Mr. Justice," he remarked in evident puzzlement, "I did not know that membership on the Supreme Court was a hereditary position."

As I stand here today I am not so sure that this young man's remark was as delightfully ingenuous as it then seemed. For my participation in this memorable ceremony can be accounted for only by the circumstance that almost sixty-three years ago, my ancestor, then Senior Associate Justice of the Supreme Court, filled the role, in what is called in the annals of this University "The Proceedings at the Dedication of the New Building of the Department of Law," that has been discharged today with such distinction by the present Chief Justice of the United States in the exercises marking this latest impressive addition to the physical facilities of the Law School. Thus you will see that my title deeds for this occasion are found in the vagaries of history and that my function here is simply that of a

† Associate Justice of the United States Supreme Court.

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supernumerary. I can assure you, however, that I am finding this a very exhilarating experience and count it a high honor to be included on the rolls of this great University, without ever even having had to pass an examination.

My few remarks will be addressed particularly to the young men and women in whose service this Law School of course primarily stands. There has been no time in the history of our country when well trained lawyers in large numbers have been more needed. This is so not merely because of the complexities of modern society, in which laws and regulations increasingly touch the daily concerns of everyone from corporation president to housewife, but also because the qualities of mind that a sound legal education develops are much required in this chaotic period of history. We have to recognize that many people are looking more to the skills of the scientist than to the wisdom of the statesman for preservation of the peace. The wonders of science are daily becoming terrifying actualities in the relationships between nations, while the restoration of world order through the Rule of Law still, for the most part, remains a dream. Yet the Rule of Law must ultimately be made to prevail if civilization is to be released from an armed stalemate or preserved from the worse fate of self-destruction.

Happily, in the English-speaking world, the Rule of Law, according to its traditional local norms, continues to shine brightly. In this county our institutions have proved capable of grappling with the great problems which World War II left in its wake. We cannot claim that all of them have yet been solved, but it can be said with confidence that we shall succeed in our goals, unless through impatience or loss of sense of proportion we should attempt to short-circuit the normal workings of our system. Surely society is entitled to look especially to us lawyers, whether on or off the bench, to keep our constitutional processes on even keel. May I suggest, necessarily in extremely summary fashion, three ways in which I believe these generalizations bear upon the circumstances and outlook of the present-day law student.

First, I would impress upon you the view that the orthodox legal curriculum has not lost any of its importance in the making of good lawyers. This is so because a lawyer lacking solid professional training is not likely to realize his full potentialities either at the bar or in the broader aspects of citizenship. The basic principles of private and public law which you are studying have mostly had long histories and their mastery will give you an understanding of what is meant by "ordered liberty" that cannot be so well gained in any other way.

A firm grasp of them will also engender disciplines of mind that fit the lawyer, beyond others, to judge the worth of appealing panaceas and to resist the excesses of the moment that an era like the present one is bound to produce. In a nutshell, what I am urging is that you will do well to devote your full energies to the hard core of the curriculum, eschewing at this stage of your development the temptation of becoming law reformers or political scientists, or of worrying about whether the Supreme Court with any change of membership is likely to become more "liberal" or "conservative."

Next, I venture an observation or two respecting your approach to the study of constitutional law. It is, I think, frequently overlooked that the Bill of Rights, even in the guardianship of the Supreme Court, is not the sole bulwark against the diminution or loss of things that are associated with what is called the American way of life. Three other factors are, I think, of equal, though perhaps less obvious, importance.

The first is the peculiar genius of our federal system under which we have achieved national solidarity and unparalleled strength and at the same time kept governmental authority workably diffused between the federal establishment and the states. The significance of that factor becomes increasingly apparent as the size of the federal bureaucracy continues to grow.

The second is the principle of diffusion of power within the federal government itself, under which the executive, legislative, and judicial branches of the government are each confined to their own spheres. History shows that if any of these branches of governmental authority undertakes unduly to intrude itself into the domain of another, the excursion will not long be tolerated.

The third factor is enlightened public opinion. With respect to decisions of the Supreme Court, the final expositor of the Constitution under our system, this factor is no less essential than in other aspects of the democratic process. Public enlightenment in this field is a function not merely of a free and responsible press, but also, and to an important extent, of the bar, to whom the public is entitled to look both for guidance in the understanding of constitutional decisions and leadership in respect for law. Given adequate enlightenment, which I am bound to say has too often been lacking in recent years, it disrespects the character of our people to suppose that they will not respond to the demands of a disciplined society. The American people know of course that their Constitution is not only a charter of basic individual rights but also an instrument of orderly government without which personal liberty would not long exist. They are also a fair-

minded people whose ultimate support can be counted on for any constitutional decision which, with due regard for the claims of history, is grounded on principles that are manifestly fair and right. To doubt these things is to foresee a future that has no anchors to the past.

The last thing I would say is on a somewhat different note, one in which you may even detect a certain amount of envy for those in your position. You will not, as was the case with most of your elders at the bar, have to wait long, perhaps not even a respectable amount of time, before opportunities of one kind or another will be knocking at the door. Whether it be in public or private endeavor, the able young lawyer is being sought after these days almost from the moment he leaves school, often indeed before he receives his parchment. For those of you who measure up the problem will be not to find worthwhile opportunities but to select the right ones, meaning by that those which give the best promise both of usefulness and of enriching personal development.

On this score I simply leave with you two thoughts. Those of you who choose to begin your careers in public service will do well not to overstay your initial tour of duty, for in whatever field your ultimate metier may be found, the exacting disciplines of private practice are something that, in my opinion, should not be missed or postponed too long. Those of you who, on the other hand, begin in private practice will not, I hope, foreclose yourselves from at least a measure of public service at some stage of your careers. Your country should be able to count on that, and I can assure you, though not perhaps with as weighty authority as others on this platform, that such service carries its own special satisfactions.

Let me close with a passage from the ancient Chinese philosopher, Confucius. Though written many centuries before the dawn of democracy, it seems to me to fit well the needs of a free society in these turbulent times when the importance of individual excellence is too often lost sight of through preoccupation with the grandiose.

The ancients who wished to illustrate illustrious virtue throughout the empire first ordered well their own States.

Wishing to order well their States, they first regulated their families.

Wishing to regulate their families, they first cultivated their persons.

Wishing to cultivate their persons, they first rectified their hearts.

Wishing to rectify their hearts, they first sought to be sincere in their thoughts.
 Wishing to be sincere in their thoughts, they first extended to the utmost their knowledge.
 Such extension of knowledge lay in the investigation of things.
 Things being investigated, knowledge became complete. Their knowledge being complete, their thoughts were sincere.
 Their thoughts being sincere, their hearts were then rectified.
 Their hearts being rectified, their persons were cultivated.
 Their persons being cultivated, their families were regulated.
 Their families being regulated, their States were rightly governed.
 Their States being rightly governed, the whole empire was made tranquil and happy.
 From the emperor down to the mass of the people, all must consider the cultivation of the person the root of *every thing besides*.
 It cannot be, when the root is neglected, that what should spring from it will be well ordered.
 It never has been the case that what was of great importance has been slightly cared for, and, at the same time, that what was of slight importance has been greatly cared for.¹

I have appreciated the privilege of addressing you, and know that this new building will enhance the carrying on of the great traditions of this Law School.

RESPONSE

JEFFERSON B. FORDHAM †

This bright, altogether pleasant, and functional building is the fruition of a common enterprise to which many hands have contributed. It is my privilege to acknowledge with warm appreciation what the friends of the School have done for it. We of the School are grateful to the President and Trustees for their continuing encouragement and for much tangible assistance through the University's

¹ Confucius, *The Great Learning*, from the BOOK OF RITUAL, in 1 LEGGE, THE CHINESE CLASSICS 221-23 (1861). (Paragraphing of original altered.)

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Development Office and otherwise. To Chairman Ernest Scott and the other members of the Law School Advisory Board profound thanks are due. When faced with the familiar but always depressing word that revised cost figures exceeded available funds, the members of the Law Board bridged the gap largely from their own personal resources. The largest single contribution in aid of the project was made by Mr. Lamnot duPont Copeland, a non-lawyer trustee. His response to the Law School's needs was both heartwarming and crucial. We are immensely grateful to him and all the other non-alumni contributors, and many there were.

It is to the alumni that special acknowledgement is to be made. Their leaders animated and directed the fund-raising enterprise with extraordinary devotion and staying power, and the alumni as a group provided the bulk of the funds. I salute their leaders—General Chairman Robert L. Trescher, Law Board Chairman Ernest Scott, Development Fund Vice-Chairman Robert M. Bernstein, and all the rest. The School is enduringly grateful for the vital concrete assistance and equally so for the loyalty and confidence which that assistance manifested. In a just sense, as I have said on another occasion, this building is a functional, tangible expression of the devotion of the alumni and their faith in the School's future.

As our visitors will have perceived, we are well along in the prosecution of a comprehensive physical plant program, but work remains to be done. First, dormitories for single male students and dining facilities for all Law School folk were provided. Then, as funds became available, this building was constructed as the teaching focus of the School. Yet to be done is the renovation of the original building as a center of research and scholarship. The raising of funds for this final phase is being conducted vigorously at the present time. It should be noted that housing for women and married students is comprehended in the University's general development plan.

This is hardly the occasion for a full projection of the Law School's gleam. I must undertake, however, to identify our sense of mission. Buildings, apart from aesthetics, are significant only as they serve in the prosecution of human activities.

It is always easy to say that the stress in an institution is upon quality, that there is constant striving for excellence. I yet say it for this School, and I believe that in doing so I express genuine commitment. What the faculty projects is a School of medium size—a maximum student body of 575, including graduate students, and a faculty numbering about thirty-five at the level of maximum enrollment. Such a student component would be at once large enough for a full-

scale program of rich and varied content and for the making of a significant institutional impact upon society and small enough for maximum formal and informal converse between teachers and students. The faculty would be large enough for a wide range of offerings, for much educational experimentation, for considerable sectionalization of courses, and for more than one faculty mind to be active in each major field.

There is and I think there will continue to be a compelling faculty preoccupation with the primary educational mission. The objective is to give the students maximum assistance in achieving in a high degree the intellectual competence demanded for the resolution of legal problems in adequate societal context and in gaining the breadth of perspective of and the depth of insight into the law, its institutions and processes. Certainly a curriculum and educational method directed to this objective can have all the range and the lively sensitivity to developments in the law and law practice that might be desired. What we want the students to get above all is a highly developed intellectual competence that can be employed effectively regardless of change in the law.

In this School scholarly research by faculty, students, and associated researchers is regarded as a principal function—a function intimately related to the educational effort. It may be possible for a person who engages not at all in independent research to do a stimulating job in a law school classroom, but I am certain that in general it is the teacher who digs that can be expected to enrich his teaching both with command of the subject and depth of insight. Careful, self-critical articulation of the fruits of research in published writing is important to the intellectual growth of the teacher, apart from the contribution to knowledge that may be involved. I am not referring to a wooden policy of publish or perish; the point, institutionally, is to assemble and hold together a genuine company of scholars and to provide the conditions most conducive to pursuit of research. At this day, one hardly need add that this embraces any form of research, whether resort to available legal and other materials or to empirical investigation, and whether a simple legal inquiry or an interdisciplinary undertaking. We are keenly conscious that legal problems must be viewed in social, behavioral, economic, and political contexts.

We envision increasingly important student participation in research. Student research already has a secure place in the educational program with a progression from simple, closely supervised work in the first year to mature relatively independent inquiry and

writing in the third. I take pride in the fact that the students are making substantial contributions to legal learning through summer field studies and otherwise.

I should like to end with more specific reference to the theme of the dedication program. The theme, as Chief Justice Warren has brought out so clearly in his convocation address, has compelling relevance to legal education. The first law of life is change. The rate and the magnitude of change in this generation are totally unmatched in all the history of man. If human society is to live under the Rule of Law, as we cherish it, there must be at once adaptability and a distribution of political and legal authority—of decision making, if you will—between various levels of human community on a basis which relates responsibility and authority to the actual reach of human problems.

In my view, we must look to the future, as well as the past, in the conduct of legal education and must give attention to human problems, present and emerging, particularly at those levels of community which have been the focus of discussion in these proceedings. Beyond this, a law school should make itself felt in the extension of the legal order through its research efforts and through the more direct participation of its people in public affairs. A school equipped with the requisite human and other resources for its educational and research responsibilities will have the capacity for substantial, direct contributions to the development of the legal order in the larger sense with which we have been concerned. As I perceive the role of this Law School in the drama of legal development, its stage is set in the world theatre of human affairs.

REMARKS

ROBERT L. TRESCHER †

The new Law School building is the fulfillment of a long-standing dream of the Law School family, and it makes us extremely happy. I hope, therefore, that I may be pardoned for speaking proudly of the role of the alumni in that project. All who have worked with the alumni will agree with me that their sense of loyalty to the School is extraordinarily strong. Their loyalty is an expression of appreciation for the fine legal education that they have received at the hands of such eminent scholars and teachers as Pepper, Roberts, Lewis,

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Mikell, Keedy, Harrison, and Goodrich, just to mention a few of those who are now deceased. All of them have their counterparts now. The alumni confidently expect that the quality of legal teaching and of the School generally will remain high.

Happily, the alumni have never flinched when asked for support, whether in time, effort, or financial resources. We have always been proud of our Law School, and the new addition to it delights us and makes us prouder than ever. It gives us a warm sense of satisfaction to be able to share in providing the physical plant that our fine faculty needs and so richly deserves.

I would like to express a few thoughts about the campaign that produced the funds for the new classroom building, the two Law School dormitories that were dedicated in 1958, and the Law School dining commons that was dedicated in 1959. Of course, a large team effort was required, and those who gave major help are far too numerous to name. However, I cannot resist expressing special thanks to Ernest Scott, Robert M. Bernstein, and Duffield Ashmead. Mr. Ashmead conducted a special campaign among the five younger classes with extremely good results. I would also like to express our gratitude to the many lawyers, not graduates of our school, and non-lawyer friends who contributed generously. I cannot name all of them, but I must single out Mr. Lamnot Copeland whose large gift put us over the top with respect to the new classroom building.

Finally, I must take this opportunity to give the lion's share of the credit where it is due, to Jefferson B. Fordham, Dean of the Law School. He has been the indispensable ingredient in the success of the campaign. He gave an enormous amount of time, thought, energy, and financial support, and was so effective in articulating his gleam for the Law School that the job of passing the "tin cup" was relatively easy. We alumni are especially grateful to Dean Fordham for keeping our Law School in the forefront of legal education. I am sure that I speak for all our alumni and friends in saying that we are very grateful to have been able to share in this educational enterprise that is so important to the legal fraternity.