

"Tomorrow... Another Bookend" Law School Convocation-1989

Graduation from law school is, hopefully, a memorable time for each of us. But why, you might ask, should you want to remember someone else's graduation? We think that there are at least two good reasons, reasons that justify reprinting graduation remarks delivered at the last Law School Convocation, in May 1989. First, it is amazing how much of law school remains the same from year to year, even from twenty or thirty years ago—friends, frustrations, and occasionally triumphs. Secondly, most speakers choose to remember the good times, the funny things that complement the joyous nature of the occasion. And, after all, who can resist a good joke!

"...Then I Switched To Decaf" Prof. Howard Erlanger

Now, as Yogi Berra would say, "Before I speak, I want to say something:"

I owe it all to caffeine.

Last weekend, I had a very unnerving experience. I sat down on a park bench, next to a guy who was clearly down and out. He looked at me and said, "You know, I had it all: A law degree from U.W., a great job, a condo, a BMW; —then I switched to DECAF!"

Seriously though, I am pleased and honored to be selected to address you this evening. In fact, on behalf of my colleagues, I am pleased and honored that you wanted any faculty member to speak to you at all! After all, you have had to listen to us for almost 4,000 hours of class time—and I know it wasn't always easy.

I keep thinking of that teaching evaluation that started out so grand. "Professor Erlanger, if I had just one day to live, I'd want to spend it in your class—because it would seem like a year!"

But I don't have a year, or even a day. In fact, Tedd tells me that I have exactly 15 minutes! I said, "Tedd, what happens

if I go over?" He said, "Hey—no problem. I'll ring a bell. It's just like in Trusts & Estates. You can talk as long as you want, but the students will leave when the bell rings."

What I would like to talk about tonight is the public image of the legal profession and your role in shaping that image. I think it's quite safe to say that the public is of two minds about our profession. On the one hand, it's clear that there is high status and a lot of social rewards that go with being a lawyer. (I assume you know that, or why else would you have gone through all that suffering that Joe just told us about?) On the other hand, lawyer bashing is great sport, and has been so for centuries.

In the 17th century, King Louis the 12th of France is reported to have said, "Lawyers use the law as shoemakers use leather; rubbing it, pressing it, and stretching it, all to the end of remaking it for their own purposes."

Just to prove that there are some things that are constant in this world, 300 years later, last week in fact, my brother-in-law pulls me aside to say, "Have you heard this one:

"A man had three daughters. One was an engineer, one an accountant, and one a lawyer. One day, when they were all over at his place for dinner, he was fed up with all the esoteric talk, and he decided to see if any of them still knew the basics. So he called each daughter aside, and asked her,

"What's two plus two?"

The engineer said "4-point-000."

The accountant said, "4 dollars."

But the lawyer pulled the shades, closed the door, put her arm around her dad and said, "What would you like it to be?"

Yet at the same time, we have a proud tradition of lawyers like Clarence Darrow, Louis D. Brandeis, and Thurgood Marshall. On TV we have "Perry Mason," replaced to be sure, by Arnie



Prof. Howard Erlanger

Becker in "LA Law," and in literature we have heroes like Atticus Finch, in *To Kill a Mockingbird*.

Now you might ask, what are we to make of all this? How can the public hold both these views simultaneously? On the one hand they see us as knights in shining armor, and yet on the other, as the student speaker put it two years ago, we're just slightly more popular than radioactive waste.

Well, I'm glad you asked that, because it reminds me of the story about the psychiatrist who gave her patient one of those ink blot tests. The shrink holds up the first picture and the patient says,

"Hmm, that's a picture of two people making love."

In response to the second, the patient says, "Same thing, two people having sex."

And the third, "Same thing, they're having intercourse in this one too!"

The shrink turns to the patient and says, "I'm afraid you have a fixation with sex."

The patient gets indignant. "I have a fixation with sex?!? You're the one showing the dirty pictures!"

I think we have the same problem as the shrink. We complain that the public is schizophrenic in its view of the profession, but it's the legal profession that's sending those mixed messages. We say we're not money grubbers, but then the ABA Journal features a cover story on "The ten largest jury awards of 1988, and the lawyers who won them." Inquiring minds want to know, I guess. We say we're professionals with a commitment to public service, but in fact lawyers don't do a whole lot of true pro bono work, and they generally resist efforts to impose mandatory pro bono service or mandatory financial commitment. We say the law is the last bastion of humanism, but clients complain that lawyers appear bored or indifferent, and exhibit a superior attitude.

What lesson can be learned from this, as you make your transition from being a student to being a professional? First,

let's face it, none of us is Clarence Darrow, and none of us is Arnie Becker. But at any given moment, it's easy to feel like you're either of them, or both of them.

When you hang up that shingle, or get your Bigelow carpet on the floor, you're going to feel pretty special: You endured three years of law school. You know what *res ipsa loquitur* means. You know what "lives and being plus 21" means, or at least you know that people think you know. But that same source of pride will be a source of fear, because you know how little you really do know. The key is going to be to keep a balanced perspective on all of this; to rejoin the real world as a real person; to prove yourself by the quality of your relationships with people, and to prove yourself by the quality of your work, not your legalese.

One quality that people are looking for in a lawyer is the lawyer's ability to relate to the client. Going to see a lawyer is not an easy thing for people to do. Clients are apprehensive about their problem, and they're concerned about revealing private matters. In this context a lawyer has to be more than a legal technician. He or she must be a clinician as well. As Dean Price of the University of Washington Law School put it, "The lawyer's role demands that the client be recognized and respected, not treated as an anonymous object being processed in an assembly line. The lawyer may have dozens of clients (frankly, I hope you have hundreds) but the client has only one lawyer, who might be the only lawyer the client has ever consulted."

One of the worst things you can do in law, or in anything else, is to think you're smarter than everyone.

Three people were in a small airplane which was in serious trouble. The pilot said "We only have one parachute; You all will have to decide who gets to use it. One of the three passengers was an older person who said,

"I've had a good, full life; you're both so much younger than I, so one of you should be the one to be saved."

The second person was a third year

law student who said, "Huh? Could you repeat the question?"

The third person wasted no time, saying, "I'm one of the smartest people in the world. I've spent years getting my education. I'm not about to see it wasted now!" With that, the person grabs it off the floor, puts it on, and jumps out the emergency exit.

The law student watches all this happen, and then announces, "The smartest person in the world just jumped with my backpack!"

Finally, if we want to be recognized as a profession, and not just a business, more has to be done to serve under-represented people in our society. Many of you have begun that commitment as students, through some of the clinics and through the Wisconsin Public Interest Law Foundation Summer Fellowships. Some of you have tithed one day's pay, from your clerkship last summer. As alumni and as practitioners in the community, you'll be asked for your continued support of the Public Interest Summer Fellowships, and of a loan forgiveness program for students with debt who take low paying jobs after graduation. I hope we'll be able to count on you for your support.

The late Bob Stover, in his critique of legal education, wrote about his own experiences as a student at another law school. He noted that the professional obligation to do public interest work was stressed on honorific occasions, especially convocations at the beginning and end of law school, but not much in between. He wrote that the speeches reminded him of bookends, beautifully crafted works of art and elegance, but with nothing in between. As I was preparing this speech, I thought I heard Bob's voice saying, "Tomorrow, you'll just be another bookend."

But I hope that over the coming years we, working together, will create something meaningful to stand beside those bookends.

Thank you.

"Pebbles... Polished and Diamonds... Dimmed?"

by Joseph DeCecco, '89

Isn't it amazing how the Law School can bend time and space so that three years seem like fifty? And what a glorious three years it's been.

There were many memorable moments during first year. For instance, we discovered that the City of Madison's idea of a parking space is one where someone else's car is already parked. We learned that the Financial Aid Office's definition of a gourmet restaurant is one where someone else has to clear your tray off the table.

First year was a time of being told what to do and when to do it, of unbending, pre-planned schedules and class selections. But we did what we were told and kept our mouths shut (particularly difficult for some of us). We all behaved like cattle being led to the slaughterhouse. We sensed something unpleasant was happening inside, but we didn't want to seem impolite.

Finally, we were allowed to actually choose one course. Elated at our new found freedom, we hadn't yet learned that when you choose between two evils in Law School, you eventually end up with both.

During our second year, however, we began to blossom. Many of us got jobs in the "real" world of law. Time and time again we were reminded of the universal law firm credo: "If it wasn't for the last minute, nothing would get done."

We were introduced to the real definition of pay equity. Remember that? We got paid ten bucks an hour while the client was being charged a hundred. And all the time we were being held to research standards beyond the abilities of many of the Associates. It just isn't fair. I mean, for example, bank tellers or bank managers can write all the bad legal briefs they want, and nobody cares. But let a law student write one bad check . . .

Anyway, third year was a coming of age, a rite of passage. We could see the light at the end of the tunnel, although some of us were just kinda facing the

wrong way. We knew that hard work never killed anybody, but why take the chance? Third year was when I began to suspect that Ambrose Bierce was right when he said, "Law School is where pebbles are polished and diamonds are dimmed." I figured I had to be a diamond because my grade point average showed my pebbles weren't being polished.

But were we excited at the prospect of joining that great kinship of the American judicial system. Some of us were able to participate in trials, and we marveled at a system where people are judged by a jury of their peers. We marveled until we realized that the defendant's fate was in the hands of twelve people who weren't smart enough to get out of jury duty.

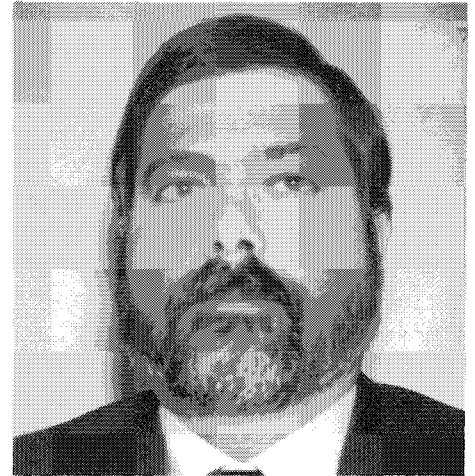
Still, there was a sense of camaraderie, of united purpose. I'll never forget the day when I was serving as a prosecutorial intern and was second chair in a trial. The public defender leaned over from her table and said to me, "Joe, you know it doesn't matter whether you win or lose." That, I thought, is the bottom line. The system is served when you do the best you can. But then she continued by saying, "Joe, it only matters whether I win or lose."

But the greatest achievement of our third year was finally almost figuring out how to be successful on law school exams. We came real close, but just didn't quite get it right. Sort of like the religious composer who wrote "Onward Christian Sailors."

At any rate, we leave the past three years behind—all of the frustration, the problems, the lack of any social life whatsoever, secure in the knowledge that it can't get any worse. A word of caution, though, against high expectations. In the immortal words of Yogi Berra, "The future is like the present, only longer."

Well, I had a lot of fun doing this, and I particularly appreciate your choosing me to speak tonight. But I wouldn't be me if I didn't make a few personal observations.

There is a man not present tonight whom I sorely miss. His untimely passing deprived him and his lifelong partner and companion of the chance to spend their twilight years together, to finally



Joseph DeCecco '89

rest from a lifetime of work, to comfort each other as they grew old together. They had toiled their entire lives, sometimes at two or three jobs at a time, not for themselves, but to be able to provide the next generation with the opportunities that had not been available to them. They asked for nothing except a chance—a chance to prove they could work as hard as the next person. And while they hold a unique place in my heart, they are far from being unique.

There are many, many people just like them across this country. People who only ask that they be judged by the content of their character and the sweat of their brow. And when that chance is denied them, either intentionally or by accident, by prejudice or ignorance, to whom do they turn?

They turn to you and me. We are now the system. The "them" has become "us." And sometimes it's very difficult to wade against the stream of popular opinion. It's not easy to say "Yes" amid a sea of "No's." It's not easy to say "No" amid an ocean of "Yes's." It takes a special kind of courage to do what has to be done simply because it's the right thing to do.

I've seen that kind of courage in this class. And I have no doubt that I will continue to see it.

I will miss you all very much. Good luck and Godspeed.