

WHAT IS A LAWYER?

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## WHAT IS A LAWYER?

### I. INTRODUCTION

On the first of September of our bicentennial year of 1976, I had the privilege of speaking at the opening of this school of law.

I was proud to speak at that opening, because it was a great milestone in a dream we all shared - a dream of a law school dedicated to the same principle as Campbell College itself. As Senator Josiah Bailey said here 74 years ago, that principle is character.

The opening of this school was not the culmination of the dream. It was a beginning. So too, the day when the first class graduates from the Campbell College School of Law is not a culmination of the dream. You have been trained here to be practicing lawyers; which is the **true** estate to which any person trained in the law should aspire.

But the dream will not be fulfilled until we see just what this law school has produced. We must see, when you get out into practice in the communities of North Carolina, whether this fine school has

forged in you the qualities that will show our dream is a reality. You must show us that you are objective, diligent, independent and the sentinels of freedom for the people of your communities.

## II. A LAWYER IS OBJECTIVE

The first thing we hope you have learned is the primary tool of the practicing lawyer - objectivity.

What does it mean to be objective and why is it so necessary? I heard a description the other day of what a lawyer is -- a person who can describe a spiral staircase without using his hands. Or in

a metaphor more in keeping with the new order  
in North Carolina -- a lawyer is a person who can  
drink a dry gin martini and concentrate on the  
taste of the vermouth.

As lawyers we cannot and should not lay claim,  
as do the physicians, to any god -- like body of  
knowledge. We do not claim to know anything that  
the layman does not know. After all, the practice  
of law is just the application of statutes and cases  
to the particular facts of your case. Those statutes,  
cases and facts are all in English, so your client

could read them. The difference between you and your client is that you have been trained to treat a matter of passionate interest to him without passion. You can analyze, dissect, read and write with sincere and interested detachment and clarity.

So you have not really been learning law or facts at this school. Hopefully, your study of the law has only been a vehicle to teach you the tools of your profession. Your studies here should have taught you how to think, analyze and express yourself so clearly that all of your clients will benefit by your

advice and the advocacy of their true best interests.

Not what they, with their subjective attachment to the case, think is best, but what you with your superior powers of analysis and judgment know will finally serve them best.

### III. A LAWYER IS INDEPENDENT

As day follows night, so a lawyer cannot be objective unless he be independent.

John W. Davis was one of the greatest lawyers this country has ever seen. He had a distinguished career in the practice of law, in Congress, as

Ambassador to England, as law professor and as Solicitor General of the United States. Upon being urged to run for President in 1924 he said:

"You offer me a chance to be the Democratic nominee for the Presidency which carries with it in this year of grace more than a fair prospect of becoming President of the United States. In exchange, I am to abandon forthwith and immediately a law practice which is both pleasant and, within modest bounds, profitable; to throw over honorable clients who offer me honest



employment; and desert a group of professional colleagues who are able, upright and loyal. If this were all, I would think your figures pretty stiff, but you are really asking something still more.

No one in all this list of clients has ever controlled or even fancied that he could control by personal or my political conscience. I am vain enough to imagine that no one ever will. The only limitation upon a right-thinking lawyer's independence is the duty which he owes to his clients, once selected, to serve them without the slightest thought of the effect such a service may have upon his personal

popularity or his political fortunes. Any lawyer who surrenders this independence or shades this duty by trimming his professional course to fit the gusts of popular opinion in my judgment not only dishonors himself but disparages and degrades the great profession to which he should be proud to belong. You must not think me either indifferent or unappreciative if I tell you in candor that I would not pay this price for any honor in the gift of man....

There is nothing I resent more than the idea that a lawyer sells himself body & soul to his clients."

If you are to look at your client's case fairly, you must not only have the skills to be objective, but there can be no part of your heart or mind serving any opposing person or position.

Further, no part of you can be so beholden to the client that your best judgment is compromised by fear of losing his patronage or desires to ingratiate yourself with him.

If you are to have the professional integrity so necessary to real success as a counselor and trial lawyer, you must never sell yourself to any

client. You must remember that you are a professional he has retained, not a servant he employs.

In the trial practice, there is a duty at least equal to the duty to your client. That is your duty to the Court. You are at all times an officer of the court, whether you prosecute or defend, or represent plaintiff or defendant.

Your duty to your client never permits you to manufacture positions, obscure the facts, misquote the law or delay without good cause.

IV. A LAWYER IS THE SENTINEL OF FREEDOM

To quote John W. Davis again, from his law class oration at Washington and Lee, in 1985:

"[The] lawyer has been always the sentinel on the watchtower of liberty. In all times and all countries has he stood forth in defense of his nation, her laws and liberties, not, it may be, under a shower of leaden death, but often with the frown of a revengeful and angry tyrant bent upon him."

As you go out to practice law in the communities of North Carolina, you carry with you the responsibility of being the first line of defense

against those who would diminish the freedom and liberties of your fellow citizens.

As has become terribly clear to us in the last few years, the threats to our freedom do not come just from outside our country or from the radical left within our country. We have seen the evidence of threats to the fabric of our free society from the establishment figures in our own society, who would seek to demean our government and diminish our liberties in the naked seeking of power, the arrogant concealment of their abuse of our institutions and

their contempt for the idea that the people should govern themselves at the lowest level.

If you are not the sentinel of freedom and the herald of the dangers of oppression at the local level, who shall be? You are uniquely trained not only to recognize these threats to liberty but, in your very practice, to see that no man is oppressed.

When I spoke here at that opening ceremony, nearly three years ago, I quoted to you words from Supreme Court Justice Jackson when he was chief prosecutor of the Nazi war criminals at Nuremburg.

Let me quote to you today from the opening statement to that court in the trial of Field Marshall Milch, who was in charge of slave labor for Hitler.

The lawyer who wrote and delivered this statement as the prosecutor is a distinguished lawyer who now lives over here in Southern Pines, Colonel Clark

Denney:

"Freedom is, to an extent, properly regarded as the symbol of human progress, the measure of civilization. Much of man's history can be expressed in terms of his fight for freedom. Man's personal freedom is his most precious prerogative,



the exercise of his free will is his distinctive function. The building of a legal structure to protect the freedom of the individual is the basic purpose of good government."

That legal structure is held up by the day-to-day integrity and devotion to fairness, freedom and liberty of you people who will be our practicing lawyers.

V. CONCLUSION

You give us great hope. Those of us who revere the law believe that our dream of having a law school truly dedicated to the training of local, practicing

lawyers may come true in you. If you go into the practice with the skills and character that the school has taught you will achieve what John W. Davis said was the highest hope of a lawyer.

"In the heart of every lawyer worthy of the name there burns a deep ambition so to bear himself that the profession may be stronger by reason of his passage through its ranks and that he may leave the Law itself a better instrument of human justice than he found it."