

JUSTICE ANDY DOUGLAS '60: REMARKS ON DEAN CHARLES W. FORNOFF

Justice Douglas delivered the following remarks at the Fornoff Society celebration.

In a speech given by U.S. President Theodore Roosevelt titled “Citizenship in a Republic” and now referred to as “The Man in the Arena,” the president said:

“It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.”

In the fall of 1952, I first met a giant of “The Man in the Arena.” Charles Wright Fornoff came to the College of Law in 1939. In 1941, he was appointed acting dean. In 1945, he became dean and full professor of the College, which soon established a tradition of excellence in teaching, administration, and service. Under Dean Barros and our great faculty and administrative personnel, that tradition lives today – a fact for which we all need to be grateful.

History reflects that back in 1942, the College and its dean were, not unlike today, faced with serious problems. With the advent of World War II, enrollment was reduced. The dean had to recruit and promote, as well as educate and administer. But his hallmark never changed. Upon commencing his service, he inherited four classrooms and a small library. During the ensuing period of time, he kept the doors open, thereby affording the opportunity to many women and men to attend law school who would not have otherwise had the chance to become lawyers. While he didn’t suffer fools lightly, he was always fair and gave freely of his time and attention, including helping to solve students’ financial problems with compassion and ingenuity. His rich and powerful voice was never very far from every student’s hearing.

I was one of those students to whom he offered the opportunity. I came to learn of a new program he intended to start called a “combined curriculum.” If a student had enough credit hours and decent enough grades, after two years of undergraduate study, the dean could admit the student to the College of Law and permit the student to use the first two years of law school as the last two years of undergraduate study and, then, in two more years, the student would receive a law degree. My hours qualified, but my grades were not very good. I, with much trepidation, visited this giant of a man in his office. After about an hour, he told me he would take a chance on me if I agreed to stop my



“political stuff” and concentrate on being a real student. In my undergraduate years, I had been president of my class, student representative to the Student Council, and an officer in the Inter-Fraternity Council. There was, he said, no room in law school for such activities.

I agreed. I was admitted. The plan was that my first two years in law school would be, also, my last two years to obtain an Army commission through the ROTC and then, said the federal government by way of a written contract, I would have two more years to finish my law work before I would have to go on active duty to serve my agreed time. This seemed to be working out fine with the exception that, again, I wasn’t a very good student. My excuse was that I had a full-time job, a wife and child, and a house mortgage and little or no time to study. The dean would hear none of this, and he often counseled me in his office to do more – and better. He said if you want to be in the arena, you must perform. Mediocrity was not acceptable, and the word “can’t” wasn’t in Black’s Law Dictionary – or any other dictionary.

Notwithstanding all this pressure, things went OK for those two years. I passed all my courses. I also received my commission as a second lieutenant and an additional piece of paper ordering me immediately to active duty. I asked the government, "What about my contract?" No response except report to Fort Benning as ordered. I took the matter to Dean Fornoff. He just laughed at me. He knew I knew the definition of a contract – a definite agreement between two or more competent parties based upon a legal consideration to do or refrain from doing some lawful thing. He said he knew that I wasn't competent, and he knew for certain that the U.S. Government is never a competent party and, therefore, forget the contract, go do my time, and he would see me when I returned in two years. This was the time when the Korean War was ending, the Vietnam War was beginning, and Israel and Egypt (and other Arab countries) were engaged in outright warfare. The government concluded that the army couldn't run without Lt. Douglas. I was assigned to command an infantry platoon and was on my way to the Middle East when the five-day war was settled. I went, I saw, I learned, and I returned – and the dean was there waiting. He readmitted me with

a stern warning. I had to buckle down and do better. I was taking his Evidence courses, Trusts, Labor Law, Taxation, Trial Practice, Wills, Personal Property and other classes; working a full-time job with three children now; a mortgage; working in the library two nights a week (the off nights from classes) and each weekend; but none of that made any difference. He said I could do more. There were some student/faculty issues, and the dean thought I should run for president of the Student Bar Association. I said, I "can't." He said, "We don't use that word," and I guess I have never used it again.

During my term as president of the Student Bar fell the 50th anniversary of the College of Law. The dean directed that I handle the anniversary banquet in conjunction with the Toledo Bar Association, the College of Law alumni, and our Student Bar Association. I, of course, said the dean, was to be the anniversary and banquet chairman. The dean prodded, counseled, commiserated and, with his firm hand, guided me through contacts with President Truman, Governor Williams of Michigan, and Justice Eugene Black, a justice of the Supreme Court of Michigan who wrote "Anatomy of a Murder." Justice Black

became our speaker when Governor Williams had a fiscal emergency in his state. All the dean would say to me is to get used to it. It's called "life" in our profession and the world of politicians. The banquet was a huge

success except for the unveiling of an oil portrait of Judge Conn that looked nothing like him and was, in a word, hideous. My responsibilities on behalf of our students and their problems also worked out well.

The final piece of this puzzle, that typified the dean and is directly within my knowledge, came next. It was now time to get ready for the bar examination. What happened next I am not able to explain, but I have brought with me the documentary proof of the events. I received my degree on June 6, 1960. However, by machinations I am not prepared to discuss, I had taken the bar exam during the first week of March 1960 and received a letter dated May 2, 1960, informing me that I had passed the exam. I was sworn in on May 17, 1960. Thus, before I was officially graduated, I had taken and passed the bar exam and had a license to practice law. This could only have happened through the intervention of Saint Charles W. Fornoff. He had made it happen to give me a head start on my career.

The last official meeting that I can remember with the dean was on the day I received my bar results from the Supreme Court. Like I suspect many of you, I called the Supreme Court that morning to get the results. I remember being physically ill in my stomach. I gave the clerk my code number, and she gave me the result. I said there must be some mistake. While I had passed, that result could not be mine. I again gave her the number, and she gave me the same result number. I was in shock. I immediately went to my car and drove to the law school. The dean, as always, was in his office. I told him the story, and I asked him to call the court. He said he would because he was pretty sure that the very favorable result given to me was not correct. He called, received the result, and then abruptly



hung up. I then received, laced with profanity from a man I had never heard a really cross or profane word from, the scolding of my life. For the first 15 minutes, he told me about my non-study habits and what might have been if I would have fully committed myself. But that was the past, and this great man was all about the future. He then launched into a monologue about my future employment, where I should let this career take me, what my obligations were to our profession, all the things we had been through together and, of course, I better never give any effort that was not my best.

When it was finally my turn to speak, I simply said, “But Dean, I passed.” He came out from behind his desk and, this man who every time I was in his presence I was in awe, hugged me and said, “I’m proud.” We both had tears in our eyes. Now, he said, I have some other things I need you to do.

This was not unusual from this great man. He was in the arena. He forced me into the arena and taught me that it is better to try and fail than never to have tried at all. He was a source of inspiration to hundreds of law students. He was a leader in urging women to



become lawyers when most spots in law schools were reserved for men. He was always helping students become employed after graduation. He had several passions. He loved the law, he loved our beloved College, and, above all, he loved his students who aspired to be good lawyers. During my time, Dean Charles Wright Fornoff was a true giant among his peers.

In closing, just a brief personal note. Dean Fornoff made it possible for many of us here to do well professionally and

financially. He made it possible for us, each night as we lay our heads on our pillows and say whatever prayers we engage in, to thank the dean for paving our way into a profession where we can each night say: “Today, I helped somebody.” What more could any woman or man ask from a profession? Remembering this, we need to do what we can to assist, in every way, this College, its faculty and administration, all dedicated to doing for others what those who have gone before us did for us. ■

We are looking for attorneys and judges to serve as trial or scoring judges at the 2018 American Mock Trial Association Regional Tournament, Feb. 24-25, at The University of Toledo College of Law.

If you would like to participate as a volunteer judge at one or more of our rounds, please contact the Law Admissions Office at 419.530.4131 or law.admissions@utoledo.edu and identify which of the following time slots you are available to cover:

- Saturday, Feb. 24 (9 a.m. - noon)
- Free 1 hour CLE for volunteers: Ethics and Social Media for Judges and Lawyers (noon - 1 p.m.)
- Saturday, Feb. 24 (1 - 4 p.m.)
- Sunday, Feb. 25 (9 a.m. - noon)
- Sunday, Feb. 25 (1 - 4 p.m.)
- I’m not sure which date/time, but I’d like to help.