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A Tribute to Dean Lindsey Cowen

IN the fall of 1955, I entered the University of Virginia Law School. At that time, Virginia believed that first-year courses should be given by its best teachers. The theory was that law was self-taught. If you gave beginning students a good learning experience, then when they became second and third-year students and lawyers they would be able to learn on their own.

In the first-year program, Hardy Dillard taught Contracts. A philosopher and brilliant lecturer (in other times, he would have been called an “orator”), he was to be Dean of the Law School and later would sit on the World Court. Charles Gregory taught Torts. Recently come from the University of Chicago, he was a creative scholar and the author of *the* labor law text and our torts casebook. Emerson Spies taught Property. A dynamic, classroom autocrat, a Rhodes Scholar, he would be Virginia’s Dean in the mid-70’s. Charles Woltz taught Criminal Law. Quiet, demanding, a combination of tough mind and courtly manners, he was the paradigm Virginia lawyer. For most of his career, he was the Reporter for the Supreme Court of Appeals of Virginia. And, Lindsey Cowen taught Civil Procedure. Young, energetic, he had mastery of both details and the big picture in this our most difficult course. He had been at the head of his class, Editor-in-Chief of the Law Review, and in private practice in Ohio for several years. He had returned to Virginia to be a professor and the School’s Associate Dean. We thought our first-year teachers were a remarkable group. Looking back, I do not believe we were more generous in our judgments than students are today.

After I graduated, I joined the Virginia law faculty. Lindsey Cowen, who had been my teacher, became a colleague and friend. He left Virginia in 1964 to become Dean at Georgia. From Georgia he came to Case Western Reserve University Law School, where he has been our Dean for the past ten years. Now, as he leaves the Dean’s office at the Law School to spend more time in the classroom, it seems the right occasion to share my thoughts about Lindsey Cowen. I want to tell you what I see, what I think about when I view the public side of this very private person.

As a student, I remember seeing him as the Associate Dean, the schedule arranger, the administrative doer and fixer. In deal-

ing with students “in difficulty,” he balanced rules with discretion. He kept one step back from showing his personal feelings about the “problem children.” He was never judgmental when he dealt with us; no favorites, no good guys or bad guys. I do not remember any of us sensing that his decisions were calculated to meet with our approval, or anyone’s approval for that matter. We did think that he could smile a bit more. But this was Virginia and the fifties, and formality—no, civility—was very important then in legal education.

After becoming a member of the law faculty, I grew closer to Lindsey Cowen. He displayed qualities of character and mind that had not been so easy to appreciate when I had been a student. The distance between teacher and student had been greater than I had imagined. He was extremely bright; more intellectual than I had supposed. His command of the rules of law was extraordinary, his recall and swift application of those rules was to be envied. But the quickness, the practical turn of mind was more evident in faculty gatherings. Respecting his abilities and judgment, his colleagues gave him considerable authority over a wide range of matters involving curriculum, students, faculty status, and money.

He understood his colleagues’ interests and represented them well, sometimes at personal cost. There was that critical time when the Law School at Virginia was trying to improve its faculty salary picture. The group who controlled its alumni Foundation had adopted a resolution promising financial support for salary increases from the Foundation’s funds. Subsequently, the University, on its part, declined to provide an equal increase for salaries, although earlier it had hinted it might match the alumni’s support. When the alumni group learned of the University’s decision, it rescinded its resolution. Some on the law faculty construed this as a breach of trust. However, to argue the matter to the alumni seemed impractical, a firm decision not to increase faculty salaries having been made. The “safer” course was to let the issue lie. Surely there was personal risk to anyone who suggested to a strong-minded, influential group of Virginia lawyer alumni that their conduct could be viewed as lacking in integrity. Lindsey Cowen, the Associate Dean, courteously, but forcefully, presented the faculty’s position. I distinctly recall that although most faculty

members supported his position, it was a small group that did so “out loud.”

That it cost him much seems certain. Long after he had departed the law school, we heard the stories of “that young dean with the temerity to affront the alumni” by holding a mirror to their conduct. I suspect, that once having decided it was right for the alumni to be reminded of their “retreat,” “that young dean” did not stop to consider whether there was a safer course to take. If he did, we saw no sign of it.

When he went to the University of Georgia as its law Dean, this side to Lindsey Cowen’s character, this quality of principled directness, became more evident. The Georgia Law School had been reduced to a handful of teachers and students. He helped rebuild the school, attracting talented, dedicated faculty and students, and restoring its prestige. He gathered the support of alumni and the state’s governors and legislators, delivering on his promise to build a school of which all could be proud.

The brief recounting tends to conceal what is significant about this success story. During the mid and late 1960’s, Georgia had its civil rights problems. In Athens, where the law school was located, blacks could expect very little by way of legal assistance from the local bar. It required a special person to influence a law faculty in the Deep South to resolve unanimously to provide legal assistance to all who sought it, regardless of their race. The public stance taken by Lindsey Cowen evoked harsh personal attacks. These damaged the new Dean’s relationships with both the lawyer and lay communities in Georgia. They clearly threatened his hold on the political and financial support necessary to carry out his plans for the law school.

There occurred one other incident early in his tenure as Dean at Georgia, perhaps more threatening to his career and his plans for the school. He was to make a speech at a major Law School function. Among the important guests sharing the speakers’ platform was the late Senator Herman Talmadge, arguably the most powerful politician in Georgia at that time. Protest marches in Selma, Alabama, to secure voting rights for black citizens, had produced violent police reaction. The Dean of the state law school, one who taught constitutional law, had an obligation to comment on the phenomenon of civil disobedience and the violence attending it. Lindsey Cowen could have spoken against

those whose excesses in championing their causes disturbed the legal and social order. He could have compromised with a neutral "plague on both your houses" speech. Instead, he spoke of the injustice of a system that made it necessary for decent people to protest. Hearing these words, Senator Talmadge angrily and audibly interrupted his remarks, chilling the occasion, and making it clear Lindsey Cowen had a powerful enemy. That the Georgia Law School story had a happy ending does not diminish the significance of Lindsey Cowen's choosing to do what he knew had to be done.

In the coming year, he will be able to commit himself more fully to teaching. These few incidents pulled from the past say something about the kind of teacher he has been and will be. He teaches by example. Through what he does, and by what he is, he teaches that we have the capacity to do what is right regardless of the cost to personal goals or reputation. The public side of Lindsey Cowen's life shows that we have in our profession, persons who do what is right, simply because it is right; that there are persons who can teach us that lawyers should be good rather than clever. We have been privileged to have had Lindsey Cowen as our Dean. We are fortunate to have him now as a teacher, colleague, and friend.

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