The Chief Justice

The address delivered by The Honorable Earl Warren, Chief Justice of the United States, at the dinner which followed the laying of the cornerstone of the new Law Buildings:

This, for me, has been an exciting day. To have participated with the Lord High Chancellor of England and with the faculty and friends of the Law School of the University of Chicago in laying the cornerstone of its new building was a thrilling experience. The construction of any new law school building is a notable event, but the construction of this particular building should be one of great significance to the Bench and Bar of our Nation as well as to the cause of legal education. It will be unique among the law schools of the world. Standing between its great parent University and the American Bar Center, and containing a courtroom that will be used for sessions of the Illinois Supreme Court, this building will offer its occupants an unprecedented opportunity to enrich the conventional legal curriculum with the spirit of scholarly achievement, the practical outlook of the organized Bar, and the day-to-day operations of one of our most distinguished state courts. It will not merely be a one-way street between the law school and these other segments of our profession. Benefits will flow to and from each of them. Each can pass on to the others its own strengths, and receive support from them where strength is needed. It will provide the best opportunity in America for an integrated approach to the many problems that confront all of us in the administration of Justice.

The proximity of these institutions and the spirit which brings them together should insure the development of a unique Law Center—one that will provide a place where the members of the organized Bar of this country, students, teachers, and judges can cooperate in the continuing task of building and administering a legal system that will keep pace with the changing needs of our Society. The orderly development of jurisprudence and the proper administration of law must always be among the most important objectives of a free nation. We must never become complacent or self-satisfied with either the content or administration of our system of justice. The adaptation of our laws to the changing needs of our people requires the closest cooperation among all segments of our profession. Our total experience and knowledge, academic and practical, must be marshalled if we are to meet the challenges to our legal system. It must not be treated as a mechanical operation that can be improved in the isolation of a laboratory or through the medium of theoretical discourse. The operation of our laws and of our Government can only be evaluated in terms of practical application. Everything we do must include the human equation, for what we do with our legal system will determine what American life will be—not only now but in the years ahead. This important responsibility must be shared by the Bench, the organized Bar, and the law schools, each being oriented to the other and all dedicated to the common aim of improving the substance and administration of our laws. In view of the special opportunities afforded by its unique affiliation with Bench and Bar, the Law School of the University of Chicago must discharge a special responsibility to that end.

Life in the world of today has become increasingly complex with the rise in population, the concentration of people in great metropolitan areas, and the tremendous growth of our industrial and economic structures. The problems of law and government are further increased by world tensions that place additional strains on our democratic processes. Every factor at work seems to increase the complexity of life in this highly organized society so that we must continually be on guard to preserve individual freedom and to protect the dignity of the individual.

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The laws that serve our Nation must develop and grow with the changing needs of our social, political, and economic life. As citizens demand more of their governments, legislation becomes more pervasive. We already have a mass of regulations and a complex of Government Commissions, Boards, and Agencies essential to their administration. With each increase in complexity a new legal specialty appears. Now we can even observe the growth of specialties within specialties. Accompanying this growth in public or administrative law has been an increase in the volume of litigation in our courts, which are now more than ever beset with the problem of keeping their dockets current. All of these factors act as a drag on the orderly development of a legal system dedicated to the preservation of a free, democratic society.

In this labyrinth of administrative practice, specialization, and court congestion, we are in danger of losing the spirit and scholarly quality essential to a profession. Specialization of itself is not to be criticized. In some fields it becomes necessary. But one of its faults is that our young lawyers may lose their perspective by becoming specialists too early, perhaps before they have learned to become lawyers. Too often they lose contact with the soul of the law. The subject matter of materials supplied to members of the Bar by institutes for continuing legal education is almost entirely of the “how to do it” variety. As necessary as a practical approach may be, it is threatening to turn the practice of law into a trade. The myopia of specialization is aggravated by its materialistic companion, the ever-increasing emphasis on speed.

It is in our law schools that the spirit and scholarly direction of our legal system must be supplied. It is here that the practical operation of contemporary legal institutions can be oriented with reference to the traditions and objectives of the Anglo-American system of law, a system developed in and based upon the needs of a free society. It is the law student who must be imbued with the spirit of the law, for the practicing lawyer will seldom have the time, the opportunity, or the will to achieve that orientation for himself. Well grounded in the great principles on which our jurisprudence is based, the law student will be equipped to discharge his obligation to society and to his profession—to assist in the growth and improvement of a legal system adequate to meet the needs of tomorrow.

One of the most difficult tasks of law is to remain stable and yet not to stand still. While law must be adapted to serve the needs of a dynamic society,
whether and to what extent it is doing so should be tested largely by the experience of the past. This calls for legal training that takes into account the social, economic, and political forces at work in our society. Perhaps even more important, it calls for legal training that will draw upon the whole history of civilization. Law is by nature conservative, and at each step it must be tested by the logic of reason and by the experience of history. Holmes, painting with one of his broadest brushes, once said, 'A page of history is worth a volume of logic.'

Legal education should be regarded as the foundation of our legal system, the guardian of the common objective and responsibility of maintaining and advancing the state of our civilization. It must provide, not only excellence in technical legal training, but it must also contribute to the growth and quality of our legal institutions. Their development must be viewed, not only with respect to the needs of the present, but with equal attention to the wisdom of the past and the prospects of the future. Its objective must not be to build a new and independent system, but rather to supplement an existing one, to conform to an architectural symmetry that is the product of 6,000 years of civilization and the contributions of lawgivers from the time of Hammurabi. Justice must be regarded as the sum total of man's achievements and aspirations since the beginning of recorded history. Without that heritage, the small contributions of the past century would be both impossible and meaningless.

The student of law in America must recognize that law as an element of our civilization was derived or inherited from former civilizations. The sculpture on the front of the Supreme Court building in Washington demonstrates some of the ancient sources of our concept of "equal justice under law." Those marble figures have a real and living significance today, and the contributions they represent should be dear to the hearts and minds of freedom-loving men everywhere. The shield of Achilles signifies the ancient origin of law and custom. The Praetor, publishing the edict that proclaimed judge-made law in Rome, signifies the importance of judges at work. The third group, Julian and a pupil, illustrates the development of law

A view of the Grand Ballroom as the Chief Justice begins his address.
by scholar and advocate. Justinian is depicted publishing the first modern code of law. Thence we see King John signing the Magna Charta giving legal rights to all men, followed by the Chancellor publishing the Statute of Westminster in the presence of King Edward I. Later we see Coke barring King James I from sitting as a judge in the “King’s Court,” thereby making the Court independent of the executive. And, finally, John Marshall is seen delivering the opinion in Marbury against Madison.

In like fashion, on the interior of the Courtroom one finds a procession made up of Menes, Hammurabi, Moses, Solomon, Lycurgus, Solon, Draco, Confucius, and Octavian. This group, each of whom made his contribution to the development of law prior to the time of Christ, emphasizes the interdependence of law, ethics, politics, and religion during the formative stages. On the opposite wall of the Courtroom are depicted those who came later: Justinian, Mohammed, Charlemagne, King John, St. Louis, Hugo Grotius, Blackstone, Marshall and Napoleon. Of all these great lawgivers whom we honor for their contributions to our present system of justice, only John Marshall was an American. Man’s struggle to achieve justice and freedom knows no racial, ethnic or political boundaries. The age-old struggle is a common heritage of every race, creed or religion. Each generation of each nationality has contributed something to our understanding of man’s relation to man and man’s relation to God. From antiquity to modern times, all mankind has engaged in the quest for a more perfect system of government based on various concepts of justice.

Our legal system is most closely identified with and indebted to that of England, and we are honored to have such a distinguished representative of that great nation with us this evening. It is most appropriate that the Lord High Chancellor of Great Britain should join in these ceremonies, for his high office carries with it the duty of leadership in the improvement of the British legal system, and thus symbolizes the contributions of the past and the leadership of the present.

The culture of any civilization can be measured to a large degree by the extent to which it can utilize the experience of history. Especially is this so with law, for it is nothing more or less than an accumulation of the wisdom of the past. This does not mean a reversion to antiquarianism or the perpetuation of laws developed to serve a society now outmoded. Law must not be placed in a strait jacket of historical precedent, but, as pointed out by Maitland,

“We may see the office of historical research as that of explaining and lightening the pressures that the past must exercise upon the present, and the present upon the future. Today we study the day before yesterday in order that yesterday may not paralyze today, and today may not paralyze tomorrow.”

While there has been a widespread dissatisfaction with strict adherence to the historical school of jurisprudence, we must not turn our backs on the rich heritage of the past. It is entirely proper to be concerned with facts, with realities, and with the relation of law to contemporary society. We must approach law with a desire to know what is really going on in the law, its impact on our accepted values, and its effect on our institutions. However, there is no reason why legal realism and historical jurisprudence cannot develop side by side, providing depth and substance to the law. It is only by such combination that the law can meet the needs of society and provide a true balance between change and stability.

And so, in laying this cornerstone today, we express the hope that upon it will stand an institution devoted to excellence in legal training, enriched by the historical heritage of the past, and dedicated to the service of both present and future. Upon that institution, and others like it, rests the responsibility of preparing and directing our profession in its efforts to realize the highest aspirations of mankind. Strategically located in the heart of our country, in close proximity to the workings of her organized Bar, and within the spiritual atmosphere of one of her great courts, the Law School of the University of Chicago will, I am sure discharge a special responsibility to the legal institutions by which it has been so favored.

Upon its cornerstone rests a portion of our hope that the legal profession can preserve and perfect a system of justice where “equal justice under law” is a reality as well as a precept.

It is a great challenge— one that will test the mettle of all; one that is worthy of the best that is in us, in our determination to keep this a government of laws and not of men.