The Lord Chancellor

"The Service of the Law," the address delivered by The Right Honorable the Viscount Kilmuir of Creich, Lord High Chancellor of Great Britain, at the dinner which followed the laying of the cornerstone of the new Law Buildings:

We have today witnessed a moving and important ceremony. The foundation of a new building, like laying the keel of a new ship, marks the point at which many hopes and many ambitions begin for the first time to be translated into reality.

This ceremony has had a special significance for me, by bringing together so many distinguished members of my own profession. It would be invidious to mention names, but may I say how pleased I am to see so many old friends and so many who became my friends when the American Bar Association came to London last July.

Since we are all, or nearly all, lawyers together, I am sure I shall carry my audience with me when I say that ours is a great profession. I am sure that it is a great profession, and that it can do great service to humanity. I should like, tonight, to say something of what that service can be, and what sort of man is needed to perform it.

This is a University celebration, and I shall start by giving my ideas of what a lawyer's University training should do for him. A University course cannot teach everything. It cannot teach the beginner how to cross-examine a witness or smooth down an angry Judge; it cannot teach him etiquette—how to behave as a lawyer should. But, at the end of his career, the student may be expected to have acquired certain facilities. He should have learned to think like a lawyer, to see the point of a case even if he does not know the particular rule of law applicable, and, he should know the leading authority on the principle involved, which will enable him to start his researches.

May I remind you that Sir Frederick Pollock, perhaps the greatest legal scholar of his day, said that the most important lesson he learnt was, "Law is neither a trade nor a solemn jugglery, but a science." The student should learn to approach it as a science; he should learn the principles illustrated by the results, not only the results themselves.

Learning principles is of surprisingly practical value. From the purely practical point of view, it saves endless waste of time spent in looking up the wrong books. Practise in front of the highest courts often throws the advocate back to points of pure principle which he argued at Law School. This has been my experience before the House of Lords, and I am sure it is the same before the Supreme Court. In fact, the higher a lawyer rises in his profession—whether as Judge,
Advocate, Professor or Legal Adviser to a great Department of State—and the more responsible the position he holds, the more often he is face to face with basic principles.

There is more to it than practical advantage. Those who hold the responsible positions I have just mentioned are the moulders of legal thought for their generation. In England I call to mind the names Atkin and Pollock; with them I would couple Holmes and Cardozo. It is by insisting on the true functions of early legal training in our Universities that we can ensure for future generations the leadership of minds like theirs.

May I turn now from the embryo to the finished article? I hope you will agree at once that the lawyer is an important person and has special responsibilities. He has a double duty to his client and the law, he must do his best for the one, but not at the expense of the other. It is by retaining his integrity that he retains the confidence of the state, and if the profession loses the confidence of the state, the public will lose the Rule of Law.

But what sort of man is the lawyer to be, if he is to play his part properly? He must have some intellectual ability; no amount of integrity will make up for not being capable of consecutive thought. He must know his law; it is not a subject which comes naturally. He must have integrity, and I do not mean merely that he must not take bribes. There is the far more subtle integrity of the intellect, which does not advance a dishonest argument, or shirk awkward facts because they raise difficult problems. The lawyer must not be blinded by his own prejudices. After all, he may have to argue against them, and a man who cannot see the other side's case will never put his own well. Finally, he must be courageous. Arguing for an unpopular cause is never easy, and may be dangerous; but if there is nobody to undertake it there can be no true liberty.

I have talked much about lawyers and their ways, and little about the law. Perhaps our peculiar virtues and defects are due in part to the tradition of the common law we have inherited. Be that as it may, the fact is that our common law has spread over much of the world, and I think the reason for this is to be found in its principles.

The first, to me, of these principles, is the pre-eminence of justice. To the common lawyer, justice is more important even than the truth. One need not go so far as the Irish defendant, who, asked whether he was guilty or not guilty, surprised the judge with the reply: "And how should I be knowing whether I am guilty or not until I have heard the evidence."

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But, the necessity that a crime should be proved, and a case established by admissible evidence, fairly obtained and adduced by the person charging or claiming, comes before everything else.

The second principle is, if I may use a well-worn expression, the acceptance of the Rule of Law. I need not try, tonight, to elaborate what Dicey meant by this classic phrase, but at least it means this: that everyone, official and private citizen, is answerable in the ordinary courts for the legality of his actions.

The third principle of the Common Law is that there must be, in a democratic state, a body of men whose opinion the ordinary citizen will willingly accept as a substitute for his own view of his own rights. If judges are to be so accepted the common law insists that they must have at least three qualities. First, they must be independent of the executive, and as far as possible removed from Parliamentary pressure. They must be judged (I repeat, judged) by public opinion as able to hold the scales of justice even, between the State as prosecutor and the accused, or between subject and subject. Second, they must have and display objectivity. The Common Law functions on the plan that justice can best be achieved if the Judge remains apart from the conflict and ensures a fair trial by his impartiality. He must free himself as far as is humanly possible of his own prejudices and preconceptions. Lastly, they must be capable of maintaining by their conduct and reputation the tradition that the office of judge carries an unparalleled trust and confidence. So long as this tradition endures, the words of brilliant men will derive an added weight from their office, and the office itself will continue to attract brilliant men.

The fourth principle of the Common Law is that it never forgets or neglects the ordinary citizen. Its standard is that of the reasonable man. Its working depends on the thousands of lay men and women who give their help to solve problems of facts as jurors, and the thousands of unpaid lay magistrates who in England, give up their time and take endless trouble to try over ninety-seven percent of the criminal cases. The citizen is essentially part of the administration of justice and therefore supports it.

If I have spoken too much in praise of my own profession and the law we serve, I ask your forgiveness. My reason for doing so has been that I most fervently believe that the service we can perform for democracy ought not to be underestimated.

What is more, we can contribute enormously to the understanding of our two countries. Again, I look back to the visit of the American Bar Association last year. I am sure that that visit did more to make us understand and respect each other more than any other single event of recent years. We have found a wide measure of common ground and a common approach to our problems. This moving ceremony has been another occasion for establishing that happy relationship. For that reason, I am proud to have taken part in your celebrations, and I would like to thank the University of Chicago, both for their abounding hospitality and for giving me an opportunity of playing a small part in the great project which is so dear to us all, the establishment of real lasting friendship and understanding within the whole English-speaking world.