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FRANK ALLEN: AN APPRECIATION

Richard Lempert*

Francis Allen was the Dean who hired me. First deans are, in their own way, as memorable as first kisses; they set expectations for all that follows. The expectations that Frank Allen set were high indeed. In this young professor's mind (I was 24 when I received my offer; 25 when I joined the faculty) he embodied what I still regard as the two most important academic virtues: scholarship and decency. These virtues combined to make him, at the time he accepted the Michigan deanship, perhaps the nation's most powerful voice for criminal justice reform and the country's leading scholar of criminal procedure, or so I was told in my first year by a visiting specialist in this area. Later, when he left the deanship, generations of students would directly benefit from Frank's virtues, as he not only stepped gracefully into a teaching role but also became, almost immediately, one of those professors whom students universally acclaim as "special."

I was 25 years old, smart enough perhaps, but knowing little (as I now realize) about how the world operated and even less about the norms and inner workings of the academic world. Yet Frank listened to, and sometimes even sought out, my opinions. There was no higher form of flattery and no better way to give a young faculty member confidence in his chosen career or make him feel more at home in his chosen academic institution. But Frank did more. He facilitated my efforts to finish a Ph.D. in sociology while teaching in the law school, allowed me to teach the courses that most interested me, and encouraged my scholarship without ever making me feel stressed by pressures to produce. I never talked to him about salary issues. I didn't dare, for he always gave me raises that were far more than I thought I deserved—yet another way to make a young teacher feel confidence in himself.

There was also the social side to Frank's deanship—the parties he gave, and not just the large ones to welcome the school year or celebrate its ending, but smaller gatherings, with only a few couples, where one could really talk. These were occasions to pick up personal tidbits, like the fact that Frank was a mystery fan, who often read late into the evening. (I didn't have to feel guilty about my own frivolous reading!) Frank's wife, June, was as important to

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these gatherings as Frank. Her grace and warmth were much of what made these evenings special. She and Frank made sure that not only I, but also my wife Cynthia, felt welcomed into and, indeed, an integral part of a warm law school community.

Frank and June and Cynthia and I had one special connection. Their first grand daughter was born not too long before my daughter Leah was born, revealing that we four had yet another interest in common. We all loved little girls. I can still see Frank taking Leah on his knee and reciting, as I had seen him do with his own granddaughter:

This is the way the ladies ride.

Trot, trot, trot, trot. (Gentle raising and lowering his knees.)

This is the way the gentlemen ride.

Trim, trim, trim, trim. (Slightly faster raising and lowering of the knees.)

This is the way the farmers ride.

Hobbeleygee, hobbeleygee. (Lowering and raising first one knee and then the other, suggesting the uneven feeling of riding in a farm wagon.)

This is the way the clowns ride, clowns ride . . .

Whoooooooooooooooooooo! (More rapid raising and lowering of the knees followed by dipping the child—all the while carefully holding her head—toward the ground and then lifting her up again, followed by a child's laughter and squeaks of "more, more.")

* * *

I think all Deans are confronted, at least once in their terms, by a nightmare problem, not necessarily the worst thing that can happen but one which could hardly be better designed to cause them more personal anguish. For Frank this was student radicalism: for affirmative action and against the Viet Nam war. Frank, so far as I could tell, was completely sympathetic to the values the students were espousing and deeply opposed to the disruptive tactics that some students used to espouse them. These tactics violated Frank's core commitments to the kind of open discourse that an academic community had to be about, and his anguish, I expect, was exacerbated by the fact that, wiser than the students, Frank knew these tactics wouldn't help. Perhaps because I was of this generation and

shared these “radical” values, Frank often consulted me about how he might best respond to particular confrontations, and he let me know his thinking, seeking feedback. My recollection is that almost always Frank’s instinctive response—the statement that in his gut he wanted to make—would be a mistake; his proposed actions or statements would have fanned rather than put out flames. The actions and statements that Frank eventually made were, however, always the right ones. I was always pleased with his final decisions, but I have never been able to escape the feeling that the inner conflicts that Frank had to resolve in making them took a great deal out of him. Frank aged noticeably during the period of his deanship, and stopped aging for a long while after it ended, or so it seemed.

The most difficult of the matters Frank confronted was the Black Action Movement strike in, if I recall correctly, 1970. Many black students on campus and some whites thought the University’s commitment to increase minority enrollment was too feeble and that without pressure nothing would be achieved. They sought a University commitment to ten percent black enrollment and believed that demonstrating, sometimes in ways that involved physical threats or otherwise crossed the lines between legal and illegal, was a way to achieve it. Several of the leaders of this movement were law students, and the law school was a particular target, not only of picketing and protest but, on at least one occasion, of classroom invasion and disruption.

Part of the resolution of this conflict was agreement by the University to set a *goal* of ten percent black enrollment, and each of the University’s schools was asked to endorse this goal. For the law school, endorsement should have been easy, because the law school already had this goal—the faculty under no pressure from its students but believing in the need to produce minority lawyers—had established an affirmative action program and a goal of ten percent black enrollment a year or two earlier. However, the law faculty was deeply principled, and many faculty who had voted for the school’s minority enrollment goals believed that the student conduct that had led to the University’s agreement so violated core principles of academic discourse that it should not appear to be rewarded. They refused to approve a goal, even one they had already shown they believed in, in apparent response to coercion. Frank might well have been of this number were he an ordinary faculty member, and he clearly understood and respected this position. However, he also had a larger vision of what was needed for the University to move on, and his views of the student’s conduct

did not blind him to the ethical and pragmatic virtues of the goal the law school was being asked to (re)commit to. Under his leadership, and I think only because of his leadership, the law school gave the University the endorsement it had requested. The University was able to move on. And although internally wounds were slow to heal, the events of the day were soon forgotten except by those who lived through them. The school's commitment, however, endured, and its efforts begun under Frank Allen have borne fruit. Not only did the United States Supreme Court endorse the law school's affirmative action plan in *Grutter v. Bollinger*, but, more importantly, the law school can look back to Frank Allen's deanship as its starting point in training large numbers of successful minority lawyers and so contributing to the break down of barriers of race in society. No legacy would have made Frank more proud.

I still remember my first kiss, with a girl far more experienced than I in the art. I learned a lot. I learned much more from Francis Allen. I could not have asked for a better first dean. I shall always be grateful.