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Commencement Address—1963

Cleveland-Marshall Law School

Vernon X. Miller*

I KNOW HOW HARD you have worked, and I know the inconveniences your families have suffered while you have studied law. I have been a night law school man for twenty-five years. I have shared your kinds of fatigues and enjoyed your kinds of satisfactions. Luckily I have not had to worry about examinations as you have worried. I think you have realized that law schools demand more from students now than a generation ago when the leaders of the bar were in school. You will discover that in 1963 the profession will demand more from you as young lawyers and the community will expect more.

You young graduates have studied law the hard way. I know how you have profited, and I suspect I know what some of you have missed. You have gained confidence as you have matured, and you have capitalized on your practical experiences in business and commerce. I hope all of you have seized time for academic growth, because that makes the difference between a good lawyer and a great one. That is why you are college graduates.

Great lawyers are practical men who thrive in the world of ideas. Practicalities are limited in time and place. Great lawyers know how to absorb change. They are scholars who have developed a perspective that makes scholarship meaningful.

We law school people have not really helped you to learn how to handle clients, and I am guessing that we have not shown you how to win cases, but we have failed you if we have not helped you to learn how to communicate with words and if we have not helped you to discover the world in which you live. We have failed you if we have not helped you to understand that law belongs to the community, not to lawmen.

Our law schools are the third house in the profession. We help to keep lawyers and judges from being too professional. We can afford sometimes to be iconoclasts, to cut logic and to destroy shibboleths. We hope some of that has rubbed off onto you so

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[*Editors' Note:* This article consists of extracts from the Commencement Address delivered by Dean Miller at the June 1963 Graduation Ceremonies of Cleveland-Marshall Law School.]

you will not be spoiled when you have to give so much time to client caretaking. Don't ever stop reading, and don't always read about the law. Read about people, the places where they live and what they see. Read about the things your grandfathers knew, the songs they sang and the stories they told. And remember that the law is the most all-embracing profession in the world. Everything a lawyer learns is related to his professional life.

I have labored much on this theme of learning as an introduction to what I want to say about the rule of law, what it means to the community, and how you young lawyers can help your neighbors to know it.

It is easy for lawyers to list key words which they think describe the rule of law—legislatures, courts, juries, sheriffs. Those are the concrete words. Other words seem more profound—institutions, philosophy, history. All of these words suggest ideas which help us lawyers to communicate what we mean by the rule of law. But the rule of law is bigger than the sum of these ideas. I am not sure I have captured its meaning, but I think it includes a feeling for the community, a touch of neighborliness and a willingness to adjust one's interests to the decisions of people in authority. Without that willingness the rule of law depends on force.

Sometimes we English-speaking people can be smug about our experiences under the rule of law. We seem to think we have it but that most other peoples do not. Maybe some of us think the Romans were like us, but when we talk about Rome we are describing the Romans' experiences in the days of the Republic when the state was paralyzed by constitutionalism and when there was no bureaucracy to carry on routine administration in the body politic. At least under the Empire there was the bureaucracy. I am reminded of my experiences with a young woman from a Latin American country who had studied law and who came to see me when I was in New Orleans. She was hoping to study law at Loyola. She said, "In my country we have good laws, but no justice." Perhaps I read too much into that comment. I hope what I shall say later will illustrate what I have in mind. Immediately I want to confess that I am not sure that Spanish-speaking people do not know as much about the rule of law as we do. There can be other social controls than those effected through political agencies. There is the family, the church, guilds and trade associations, all of which depend on the willingness of their members to accept decisions of persons in authority.

If the rule of law means what I think it does, with this feeling for community, this touch of neighborliness and the willingness to adjust interests to decisions of persons in authority, that presupposes that we are talking about people and societies. Men live among men, and in this day and age we are talking about societies with millions of men. All you and I have to do is to look around us to see our neighbors and to be aware of our interlocking interests. Every one of us is dependent on the activities of thousands of other people who live in the world with us, and every one of us is affected every day by what many of our unseen neighbors do. I do not have to spell out to you young lawyers what that means especially to us. It means that we shall have much legislation, many ground rules, lawmakers to plan them, administrators to adjust them, and judges and juries to sit in judgment over us when our interests clash with our neighbors.' It means more work for lawyers on all levels in the profession from client caretaking to statesmanship. Never before have lawyers meant so much to the community and never before has the rule of law become so concrete for so many people.

In our world of interdependence among millions of people, social problems are in our laps whether we want them or not. We have to be our brothers' keepers. We have to be ready to change and readjust ground rules. Many of us have never adjusted to the environment of the 1960's because so much of our history and so much of our political philosophy stem from the world of Thomas Jefferson. To some of us the classical world we read about seems more real than the world we live in. Not long ago I heard a prominent member of the United States Senate say that the national administration wants to take us back to the thirties and that we must move forward to the sixties. That statement could be meaningful were it not that the Senator was thinking rather of the Founding Fathers and their community than of a world which has accelerated unbelievably even since the 1930's. Politicians who are lost in history and who would restrict their statesmanship to a community that never existed cannot help us move forward in a world with millions of neighbors who generate social problems and social action. Most of you young people never saw the thirties, but your fathers know how much we learned during that decade in building patterns for political action. We can never discard those patterns until the world is depopulated, and let us hope that will never happen.

On the whole we people in the United States have behaved

well politically during this generation of ferment. With all the new patterns we have devised, we have preserved democracy and a critical electorate. Many people have shared in our legislating, our administering and our judging. We have changed teams often in most of our communities during these last thirty years.

I do not have to spell out to you young law graduates that with all of this governing, we as individuals have lost much freedom of action. We all know about parking lots and television channels, and we know that with all the ground rules we are bound to have much policing. You young people must suspect that your curriculum has been different from ours in the 1920's. You have soaked up a lot of administrative law and civil liberties case law. The two areas complement each other. In a world with much policing and many social controls, freedom demands a sharing in community life. As individuals we have to be free to participate, to vote, to speak, to write, to meet and to carry signs, and we must be protected against excessive police action.

With all the differences of opinion that excited us, we Americans have reacted well. Never in history nor in any other part of the world has any people reacted so well, if we measure that reaction by the tests of the rule of law, that touch of neighborliness and the willingness to adjust. But there are danger signs, juvenile delinquency and street violence, for example. It is a mistake to charge these irritants to racial disorders. They stem rather from lack of privilege and poverty. What is the answer? more ground rules, yes—more ground rules about policing, but more planning about housing, automation and unemployment, and discrimination.

More serious to the community in its effects on the rule of law is the open planning by some persons to resist decisions from those in authority. I am not talking about people who participate in boycotts and picketing and counter sit-ins, but I am talking about the Barnetts and the Wallaces and the Malcolm X's. There are no absolutes in the area of states' rights, and I hope you young graduates have learned, as I think I have, that there are no absolutes in the field of civil liberties. Each conflict among people demands an adjustment based on wisdom, understanding and tradition through established institutions. Some decisions are final. They must be accepted or the rule of law will depend only on the kind of force that supported the Roman Empire.

What can we do about all this! How can we live in this world with understanding and regard for the law? What can we

do with people from other countries to build some kind of world-wide understanding and respect for the rule of law? I am thinking of us now as citizens, not as lawyers, as residents of the community who may just happen to be lawyers. I can only offer advice. I can detect no pattern, nor do I think it is possible to offer a remedy. Many people are uneducable in some degree. You and I may be in the areas of mathematics or language. Many of us are uneducable in the world of ideas. That does not mean that we should not vote, serve on juries or pay taxes, but it does mean that we must demand much from people who would be leaders. Some of you young people will be leaders. Your neighbors will demand much from you. They will expect you to create a climate that will reduce demagoguery. They will expect you to be generous.

What can we do to extend the rule of law to other lands? I think we must realize first that we are not talking about it as if the rule of law is ours, and that some day the Russians or the Latin Americans will understand it. We must be ready to build a little bit on the political experiences we have learned in these United States. Certainly we should not be afraid of federation. Perhaps we can do our building with other peoples by treaty making, but we should know right now that we will have to create international agencies to make the treaties work. Even with the United Nations we have scarcely begun.

What are our prospects as citizens for living together in our own communities under the rule of law as I have tried to describe it? We have done well in the United States. We have made a beginning for an international program. But we have so many problems in every community that sometimes they may seem insuperable. Does the future look hopeless? Does our success depend on chance? Most of us are religious-minded people. Most of us would declare that wisdom depends on grace and our willingness to be dependent on the Almighty. Many of us pray to Him, and many of us think that, in spite of everything, the world is getting better and that God did not create men to destroy themselves.

The world of 1963 is crying for lawyers. Will all the leaders in the next generations be lawyers, and will all lawyers be leaders? Of course not, but your neighbors will demand from you lawyers a sophisticated understanding of the community's prospects. Be learned men, be gentle people, be humble—you will exemplify the rule of law.