

SOME LETTERS FROM THE DEANS' FILES

Over the years, especially at the time of Duke University's award of an honorary degree to Professor Cavers and again after his death, a number of epistolary tributes have been collected in the Law School files. The following four excerpts capture the flavor of Cavers the teacher and Cavers the man.

On March 30, 1988, former President Richard Nixon ('37) wrote:

I remember David Cavers as a brilliant, thoughtful, and extraordinarily kind man.

He demonstrated his abilities as a great teacher in his course on conflicts of law. I was particularly privileged to benefit from his wise counsel when he was my editor for an article I wrote for *Law and Contemporary Problems*. A genius is supposed to be someone who can do two things at the same time; Cavers could do three things at the same time. I can see him now—grading papers, critiquing the latest drafts of my article, and blowing the most elegant smoke-rings I have ever seen.

Since I lived in California, I was unable to go home for Christmas. I shall never forget the kindness of Cavers and his wife who had me and two other law school students for Christmas dinner. Even now, 50 years later, I can recall the menu. It was roast goose, with chestnut dressing and tiny creamed onions. The food in those depressing years in the student union was very good. But I will have to admit that the Christmas dinner at the Cavers' home in 1934 at the Duke Law School was the best meal I had had in three years.

In November, 1941, I received a letter which changed my life. It was from Tom Emmerson, the Associate General Council of the OPA, informing me that David Cavers had recommended me for the legal staff of the OPA. That was my first tour of duty in Washington which later included a brief stint in the Navy Department in 1945 after returning from the South Pacific and service in the House, Senate, as Vice President and as President.

I am sure his helping me get started in my career is only one example of his thoughtfulness in remembering his students years after they graduated.

In thinking of a fitting tribute to him, I would paraphrase Winston Churchill's epitaph for Prime Minister Asquith, "His students are his best memorial."

Then Ambassador to London, Kingman Brewster, wrote on January 2, 1979:

Dave deserves the credit for both the innovations during his Associate Deanship at Harvard and for the host of your spirits who remained free and sprightly because of his inspiration and encouragement.

He had a rare combination of rigor and light-handedness. It is a great but dwindling tradition of academic law, I fear. Also, without being a fadist, he was extraordinary in his ability to spot and to encourage fresh approaches to old problems or attacks on genuinely new problems. Finally, he had a rare sense of the balance between teaching and research and the many ways in which each could enrich the other.

All-in-all I know few who were his peer, none who were more deserving than he for lasting contribution to legal learning in the post-war years.

In a memorandum dated February 2, 1979, former Dean Elvin R. Latty was more specific in itemizing Cavers' unique contributions and characteristics:

In my thirty years on law school faculties, I have met few his equal, none his superior. Here are some of my reasons:

1. *A Cavers breakthrough*: Law and Contemporary Problems. This world-known quarterly, first published by Duke Law School in 1933, made a complete break with the tradition set in 1887 for law school journals by the *Harvard Law Review*. Professor Cavers saw that a legal problem does not arise in a "legal vacuum" and that judges, lawyers, and law students are not the only ones who can contribute to the understanding and possible solutions of legal problems—that "economic, political or even technological experts" can make valuable contribution[s]. The list of helpful "outsiders" is long, indeed, among the contributors over the forty-five years of the [j]ournal's publication. Professor Cavers' success in planning symposia and in his choice of authors set the pattern of excellence for *Law and Contemporary Problems* that has continued to enhance the prestige of Duke University and especially its Law School.

2. *A different type of breakthrough*: "Caverizing." As Professor Hyman stated in his letter, Cavers was asked by the general counsel of the Office of Price Administration early in World War II to take charge of the task of putting the OPA price regulations into understandable English. Cavers, on leave from Duke, did a superb job, as always. Soon, around the bureaus in wartime Washington, a new word appeared: "Caverize" or "Caverizing", to put bureaucratic gobbledegook into understandable English. (I heard it even in the State Department). Cavers' clean-up accomplishment may have surpassed that of Hercules, who did not have to rely on tact and persuasion.

3. *A Cavers "first", possibly*. Fully recognizing that Walter Wheeler Cook's article, *The Logical and Legal Bases of the Conflict of Laws*, 33 YALE L.J. 457 (1924), may have been the first to unhorse the Bealian system, I cautiously submit that Cavers, nine years later and then in his second year on the Duke Law Faculty, was really the first to "open up" the diverse choices of law available to a court facing a "conflicts" problem. See his *A Critique of the Choice of Law Problem*, 47 HARV. L. REV. 173 (1933). Perhaps Cavers deserves to share honors with Duke Law School's famed Professor Brainerd Currie in the "conflicts" revolution.

An added note. Professor Lon Fuller anticipated Cavers by a few years in leaving Duke Law School for Harvard. Years later, Fuller confided to me that he did his most constructive writing in both Contracts and Legal Philosophy during his years at Duke Law School (1931-40). The setting made this possible, as he found there many associates intellectually capable, always willing to test his ideas, generous in helpful criticism, often contributing original ideas—and, especially, he emphasized, he owed a great debt to Cavers, who contributed many ideas that found their way into Fuller's works.

I need hardly add that Professor Cavers had a tremendous influence on not only the Law School, but also the University. No one on the campus, I venture, was his equal as an "idea man." Many—if not most—of the most significant changes in the law curriculum from 1931-32 into the early forties can, to greater or less degree, be traced to him. In fact, the enviable status that the Duke Law School now enjoys in the legal educational world, any knowledgeable observer would have to conclude, is in no small measure attributable to Cavers' profound influence and important contributions during this formative period.

When he was still professor on the faculty of law and jurisprudence at the University of New York at Buffalo, Joseph Laufer ('40) remembered Cavers in 1978:

I met David in 1937 after one of his colleagues . . . had persuaded me to enter Duke Law School. But it was not until my later years at the Law School that I began to grasp David's eminence as a teacher and scholar. In my third year, I was permitted to contribute an article to the sixth volume of *Law and Contemporary Problems*. The occasion provided me with my first glimpse of his extraordinary gifts as a writer and editor. His lucid, penetrating mind quickly exposed the inadequacy of thought and organization of my product. His deft deletions and additions turned a clumsy

paragraph, and eventually the whole piece, into something readable. Later, I saw him practice the same craftsmanship for the benefit of other contributors. Even when he had to perform major surgery on one manuscript or another, the authors never balked: they could not challenge the skill and power of the editor's pen that brought shape and clarity to their ideas. Throughout his distinguished career, David lavished the same intellectual generosity on the written work of others. His literary and intellectual gifts seemed to make the chores of writing and editing, so burdensome to most, almost effortless [His] uncanny perception of the felt needs of his times led him to create in 1932 what quickly became Duke Law School's and perhaps Duke University's most prestigious publication, *Law and Contemporary Problems*. Since its first issue, dozens and dozens of new law reviews have made their appearance. It is fair to say that most of them simply added to the existing plethora of legal publications in anxious search of authors and readers. None has been able to match the power and depth of his periodical. What made the profound difference was not just David's method of meticulously planning symposia on topics of current urgency and finding the authors to canvass them. Since Holmes' obiter dicta on the subject, the idea of bringing insights of other social disciplines to bear on solving legal problems had remained an elusive goal. As David put it in his planning memorandum of 1932, "that correlation [is one] concerning which so much is being said everywhere and so little is done anywhere." He did not care to await the end of interdisciplinary disputes or marginal experiments before practicing this "correlation" on the real problems of the day. In the pragmatic spirit of the common law, he and the editors succeeding him summoned academics of all social disciplines, legal and other professionals in many fields to probe . . . various aspects of a single pressing legal or social issue. Today, the 41 volumes of *Law and Contemporary Problems* are a veritable encyclopedia of public policy for the legal, economic and social issues of our times. By this accomplishment, David also inaugurated—as he had explicitly planned—the coming rise of Duke Law School . . . to one of the ranking schools in this country.