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DEAN WILLIAM TRICKETT

Address of Honorable Fred S. Reese* of Cumberland County, Carlisle, Pa., delivered at the Banquet of the Pennsylvania Bar Association, January 3, 1947, Hershey Hotel, Hershey, Pa.

Throughout the Commonwealth in years past, and just out of the memory and knowledge of most of us, have lived and labored in the legal profession those whose attainments and ability would have won them more lasting and widespread fame if they had chosen to practice in a great city. But they chose smaller communities which had advantages other than fame. The Vice-President of our Association, Mr. Justice Roberts, once wrote: "The country lawyer's intimate contacts with all sorts and conditions of men in the vicissitudes of life, great and small, afford him a knowledge of human nature, ordinarily denied to his professional brother of the metropolis; and the close relation he maintains with all the human instruments of justice—fellow lawyers, judges, and jurors—is alien to the practice in a great city. These form the raw materials from which the country lawyer constructs his philosophy of life. To them is added leisure for reflection and synthesis; leisure, also, for the amenities of culture. . . . Moreover the country lawyer enjoys an unrivaled opportunity for service, and not merely as guide,

*A. M., Dickinson College; LL. B., Cornell Law School, 1918; Judge of Courts of Cumberland County; Professor of Law, Dickinson School of Law.

counselor, and friend to his neighbors individually, but also as a civic leader in bettering the social and political conditions in his own community."

But too often, particularly in the smaller communities, the only record of the work and worth of men of real stature in our profession has been local tradition, revived by the occasional reminiscing of small groups; a temporary and tenuous record, at best, which is soon transformed into an uncertain obscurity and ultimately into oblivion. Hence, it seems entirely justifiable to make a more permanent record, particularly, when, measured by legal accomplishment, ability and character, a man has attained professional greatness, and, certainly, when measured by the breadth of his beneficent influence upon others, he has also been a great man.

Although the Cumberland Valley can boast of many such men, none more merits our brief but thoughtful consideration than William Trickett, preacher, philosopher, lawyer, author, teacher and for thirty eight years the Dean of the Dickinson School of Law at Carlisle.

He was born on June 9, 1840, in the city of Leicester, England. His boyhood was spent in and about Philadelphia, but of his early years little is known. He graduated at the age of seventeen from the Central High School of Philadelphia in the same class with John G. Johnson, later famous in the legal annals of Pennsylvania. Johnson stood second in the class and Trickett was first.

In March, 1859, the young Trickett, then nineteen, was admitted on trial as a preacher in the Philadelphia Conference of the Methodist Episcopal Church; he was ordained a Deacon in 1861 and an Elder in 1863. He served as pastor in six different churches in six different towns in Maryland, Delaware and Pennsylvania. In 1865 his active ministry ceased and in 1866 he entered Dickinson College from which he graduated in 1868, completing the regular course in two years with Phi Beta Kappa honors.

He then began his long career as a teacher, becoming principal of the old Dickinson Preparatory School in 1868. He served for a year and then when the school was discontinued he was for two years a member of the college faculty as Adjunct Professor of Philosophy. In 1871 and 1872 he studied in various universities in Europe, particularly in Germany. He returned to the College in the fall of 1872 as Professor of Modern Languages and taught German, French and Hebrew.

In June, 1874, he and another professor were summarily dismissed from the College because of some disagreement on college policy. Trickett became intensely interested in the legal aspects of the dismissals and discussed the matter with his closest friend, a lawyer, Wilbur Fisk Sadler, afterward President Judge of Cumberland county for two terms, 1885-1895 and 1905-1916. The close friendship between these two was to continue and grow more intimate as long as they both lived. Sadler recognized at once the facility with which Trickett grasped and

retained legal principles and to provide an ultimate source of income for him, persuaded Trickett to study law. With his usual capacity for work coupled with a superior mentality, he assumed the task and on August 26, 1875, was admitted to the bar.

His initial appearances in court were painful experiences. His innate shyness and a small, rather high pitched voice made him so nervously self-conscious that he rarely appeared in court. Nor did he find congenial the office work of drafting legal papers. More to his liking was research; and the leading active trial lawyers constantly retained him as a consultant. In this capacity his name regularly appears in the Supreme Court reports of that period.

He found a more congenial field of effort in legal authorship. In 1881 appeared his book on the perplexing subject of the "Law of Liens" in two volumes, supplemented in 1891 by a third volume; in 1884 the "Law of Limitations" and the "Law of Assignments;" in 1893, the "Law of Boroughs" with a supplemental volume in 1898; in 1894 the "Law of Highways"; in 1900 the "Law of Guardians" and the "Law of Partition"; in 1901 the "Law of Witnesses"; in 1904 the "Law of Landlord and Tenant"; and in 1908 "Pennsylvania Criminal Law" in two volumes.

During the thirty-eight years he served as Dean of the Law School he wrote many articles on various legal subjects in various legal periodicals. Probably the best appraisals of his writings have come from an eminent authority. In 1929, several months after Dr. Trickett's death, Prof. John H. Wigmore wrote in a letter: "In shrewdness of insight, keenness of discrimination, and pungent clarity of expression, Dean Trickett's writings would have commanded general attention as unique in American legal literature. But his modest contentment in his particular niche of usefulness prevented his writings from receiving broad recognition outside of his own state."

Five years later Prof. Wigmore wrote:¹ "It was in the law of Evidence that he showed pre-eminently his powers of reasoning,—his inexorable logic,—his repugnance for fictions, shams and hollow verbiage. Shrewd sallies of satire enlivened his demonstrations. No fine-sounding formula, however, ensconced in popular acceptance, was safe from the piercing shafts of his logic."

But the full fruition of William Trickett's hopes, his aspirations and his efforts did not come to him as preacher, professor, lawyer or author. It was to his work as teacher and dean of a law school that he devoted his most effective powers and activities.

There had been a law school in Carlisle, established and conducted as a department of Dickinson College from 1834 to 1850 by Hon. John Reed, President Judge of Cumberland County for nineteen years. From 1850 to 1862 the

¹38 Dick. LR 166.

school was discontinued but was re-established in 1862 and conducted, until his death in 1882, by Hon. James H. Graham, President Judge of the county from 1851 to 1871.

Later, midway of his first term on the bench, Judge Sadler, perhaps out of a desire to emulate his predecessors and certainly as a means of again aiding his old friend, succeeded in re-establishing the law school, but this time as an entirely independent institution. As such it was chartered in 1890, and Judge Sadler as president had no difficulty in having his friend, Trickett, appointed as Dean. Judge Sadler taught Criminal Law for a few years and remained as President and an active friend of the school until his death in 1920.

To the new school which opened with seventeen students Dean Trickett gave his very extensive personal law library; to it he gave his services for long periods without compensation and to it he gave all his efforts, all his thoughts, all his powers and abilities for thirty-eight years.

He taught many different subjects from time to time but Evidence and Constitutional Law were his forte. As an effective and inspiring teacher he had few equals. Not only did he have an exhaustive knowledge of his subject but he had an unusual ability to transmit knowledge to others and to stimulate them in its pursuit. But he taught more than law. From association with him in his class room and in his office his students, unconsciously it seems, learned the value of diligence and industry and the necessity of purpose and character. To hundreds of young men he was an inspiration, not only during their student days, but throughout their professional careers. George Wharton Pepper once paid this tribute to him as a teacher: "Our whole legal system has been profoundly influenced by great teachers of law. Minor and Langdell and Dwight and Ames are among the many who have helped to develop in the class room qualities which their students afterward placed at the disposal of their fellow citizens in court room and office. To have earned the right to be named with these men as teachers of youth and pillars of justice, means that a man has been endowed with great natural gifts, and that by patient devotion he has consecrated them to the highest uses. This can be said without reserve of William Trickett."

Dr. Trickett, though extremely kindly and gentle, was a firm disciplinarian in the class room, particularly in the matter of punctuality. After he had entered the room and closed the door, anyone who dared enter thereafter was quickly and effectively ejected by the Dean's terse "Too late, too late!" Perhaps, after all, it was his way of teaching the prompt performance of appointed tasks.

One of the remarkable characteristics of the relationship between him and his students was their mutual deep and lasting affection. Those who sat at his feet never ceased to regard him with grateful memories and loving hearts. One of his students once said that his backbone tingled at the mere mention of the Dean's name. He, in turn, had a real affection for and interest in all of his

students. He welcomed them to his office which he maintained, not at the Law School, but in his former law offices in the business section of the town. He delighted to talk with them and to listen to their problems. He often dispelled discouragement with words of cheer and comfort. Many men, who were later called to high places, were dissuaded by him from leaving law school, sometimes by wise counsel and many times by generous personal financial assistance.

When his students graduated he gave each of them his photograph, chiefly because he hoped that thereby he would get theirs in return. After his death, there were found in his office hundreds of pictures of former students. Nor did his affectionate interest cease when they graduated. He corresponded with all who showed any desire to do so. He followed the careers of all of them with sincere interest and when one passed his bar examinations or attained any professional or political success, the Dean's pride and satisfaction were genuinely paternal.

In his administrative duties as Dean he was not at all concerned with what he regarded as the frills and fripperies of running a business. To him the function of a law school was to train young men to be able, honest and industrious lawyers and he felt it could be done without the aid of red tape, forms and paper work. For over thirty years, matriculation was accomplished by the prospective student signing his name in a large book kept for that purpose and no records of grades or scholastic progress were kept. After 1920 he finally consented to the appointment of a faculty secretary to have charge of such matters, but to the simple but satisfactory system of scholastic records that was established, he never contributed a single grade. He merely reported a student as having "passed" or "failed."

He was treasurer as well as Dean and his book-keeping was of the simplest sort. He was most generous in allowing the students ample time to pay tuition and was not adverse to accepting it in small installments. After his death many of his books disgorged five and ten dollar bills, mute evidence that when some student had made a small payment, the money had been placed between the pages of the book in which he was then engrossed.

He also felt that good lawyers could be trained without a preliminary college education. Indeed, in many cases he regarded time spent in college a handicap because he contended that it often developed indolent habits of study. Nor could he countenance any outside interference. The School for some time was not accredited by the American Association of Law Schools and the American Bar Association, because he firmly rebuffed their demands that certain requirements be met and that the School be inspected by their representatives. All these efforts he regarded as "impertinent intrusions."

He made few rules for the deportment of the students. They were merely expected to act as gentlemen. Once one of his classes was interrupted by a high

official of the College who desired to report the names of law students who had been seen drinking beer. He was summarily dismissed by the Dean's curt rejoinder: "We are operating a law school, not a Sunday school. Good day, sir!"

His attributes and characteristics as a man and as an individual must not be overlooked. His appearance was unforgettable,—of medium height, straight and slender, always neatly dressed and always in a black suit and hat and always with a black string bow tie and always with a white stiff-bosomed shirt. He must have been susceptible to some enterprising shirt salesman for after his death there were found in his rooms dozens of white, stiff-bosomed shirts still in their original boxes. He had a closely cropped moustache and Van Dyke beard, his face was always calm and impassive, his eyes being his most expressive features, twinkling and scintillating in moments of humor and snapping and penetrating in moments of sternness.

He was, above all, gentle and kindly, but he could be firm when the occasion demanded. He had dignity without condescension; impartiality which knew no favoritism. Despite his great ability and accomplishments he was extremely modest. What was often mistakenly regarded as austerity was actually shyness and diffidence for he gratefully welcomed the friendly approaches of others.

He had a keen sense of humor and many instances might be given. But a few will suffice. He once wondered why men, whenever they desire to exercise or show their authority, "always don the raiment of a woman" and pointed out as examples judges' robes, ecclesiastical vestments and the costumes prevalent in fraternal organizations. College students electing courses at the law school were repeatedly late for his classes because of compulsory attendance at college chapel. The President of the College visited the Dean to adjust the matter, pointing out the desirability of chapel prayers, an argument rebutted by the Dean's assertion: "No man should stop to pray when there's work to be done." With a visitor to his office he was discussing heaven, which the former observed might be so pleasant that existence there would become tiresome and the Dean was sure it would after the first thousand years.

In the presence of the opposite sex he appeared actually ill at ease—the probable explanation of his persistent policy in the classroom to refrain from calling on the young women students. At one time he was ill in his small apartment on the floor over his offices and, against his will, a woman was engaged as his nurse. A friend who visited him found him highly agitated and clutching the bed clothing tightly under his chin. He seemed to be in actual terror and disclosed that the nurse proposed to give him a bath. A man quickly replaced the woman as nurse. Then the Dean announced with relief that he could now undress. He had been in bed, clad in trousers and the ever-present white, stiff bosomed shirt.

Judged objectively by usual standards he was a lonely man. He never married and had no home in the typical sense. He seemed wedded to his work and lavished all his affection on his few close friends and his students. He never indulged in the habits, diversions or pleasures of the ordinary man. Subjectively, however, he led a very full, happy life and for him diversion, pleasure and contentment were found in his work, in his books, in his friends, particularly Judge Sadler and his sons, and most of all in his students.

Dr. Trickett was an exceptionally well educated man and he had an inexhaustible supply of information on many and varied subjects. He was learned in history and the science of government. He read French and German with ease and knew Latin, Greek and Hebrew. Toward the close of his life he studied the Japanese language, as he said, for mental relaxation and to consume spare time.

He was a religious man. He contributed liberally to his church and until his latter years attended its services regularly. Certainly no man could have more scrupulously lived the principles and obeyed the prescriptions of the Christian religion. Yet toward the end of his life, despite what must have been his earlier professions as a preacher, he had doubts. He once remarked that perhaps Christianity was the organized worship of a famous Hebrew. On another occasion he said he was inclining toward the belief that there was no life hereafter; that for a man death was as final as for a tree. He disliked any ceremonial at a church service. He attended a ritualistic funeral service in another church and later wondered whether the man who conducted the service thought he was deceiving the Almighty by his "gesticulations."

Much could be said about his thinking on various subjects as revealed in his writings. As Prof. Wigmore said, Dr. Trickett abhorred fictions and shams and hollow verbiage. He thought that members of the legal profession were too prone to form themselves into a caste and that it was hypocrisy for lawyers to assert they were not in a money-making profession. He thought that some of the requirements for admission to the bar were arbitrary and unreasonable efforts to exclude young men and that the zeal of lawyers, long since admitted to the bar, for higher learning might be suspected of being tinged with self-interest.

He disagreed with the doctrine that a court may declare legislation to be unconstitutional,—a doctrine that in effect, he contended, makes the courts a fourth house of legislation, often by a bare majority of one, and, unfortunately, long after the publication of a law as law.

An entire address could be devoted to his profound and fearless thinking on law, education, religion, government and other fields of human activity. In fact it was admirably done by the present Dean of the School, Dr. Hitchler, in an address before the Hamilton Library Association at Carlisle and a reading of a reprint is recommended.²

²39 Dick. LR 201.

Dr. Trickett expressed his thoughts not only in the articles which he wrote for legal periodicals but in his carefully prepared opinions as the court of last resort in the moot court conducted by him at the Law School. Many of the moot court cases were reported in the school's legal periodical, the report containing the opinion of the student judge and that of the Dean. One that is typical of his thinking and distinctive diction may be quoted at length. The question for decision was the constitutionality of a statute fixing minimum hours for women employees in laundries. The Dean wrote:⁸

"To limit the hours of work may be justified by hygienic considerations. The State, which is our father and mother, may tell us what is good for us, what we shall not drink, e.g., whiskey; what we shall not smoke, e.g., cigarettes; what we shall not eat (by making it a penal offense to supply us), e.g., oleomargarine; what we shall not swallow, e.g., cocaine, opium, and the other narcotics. It may, to a degree, oblige us to attend to our soul's salvation, by refraining from offending the Almighty, e.g., in doing secular work on Sunday, or in uttering sounds regarded with abhorrence by Him. It can compel us to be patriotic, by making it difficult to buy the products of foreign skill and industry, and obliging us, though at a higher price, to purchase things of inferior quality, because made at home.

If the State cares to do so, it can say that a boy under 14 shall not work, although, unless he does, he will starve; just as it has said, in the case before us, that the women shall not be employed for more than twelve hours per day, although unless they are, they, their helpless children and other dependent relatives, may be driven to the poor house.

The fault of the benevolent State is, very often, that it is benevolent at the expense of some one else. If women should not work 14 hours daily, neither should they and their children starve. Why kindly prohibit the work without kindly procuring the food and clothing which can be won only by the work or by begging?"

The necessary complement to the State's prohibition of non-attendance at school, e.g., is its securing the food needed by the growing boy, in order to assimilate his instruction. But while it has menaced parents who don't send their boys to school, it has not secured a good breakfast and decent clothing to the boys whom it thus step-fatherly requires to learn. It smiles benignantly on the poor women, and scowls on their employer, but it does not compel the latter to employ them for moderate hours of labor and at fair remuneration nor employ them itself. Its kindness to the poor means their distress, rags, filth, poverty. The State is fond of practicing a little socialism, but only so much as it can practice without being obliged to put its hands into the pockets of the classes who pay the taxes.

Yet, we know no reason for saying that the State cannot be kind in its own partial and peculiar sort of kindness, nor that the legislature, its agents, cannot, if it will, prevent some ills, the prevention of which

⁸ Forum, 227, 229.

must cause greater ills, when, in so doing, it can plausibly pretend to be moved by loving kindness for its subjects. We see no reason for making the courts the guardian of the welfare of the people, instead of the legislature. In the long run, we opine that the latter will care as well for them as would the former. The case ought to be clear and strong, that will justify the submission of the policies of the so-called law makers, to the discretion of those who, modestly calling themselves but law interpreters and executors, have managed, nevertheless, to do a large amount of legislating. When sessions of parliament were rare and brief, and their legislative activity hemmed in by executive restraints, it was well that the courts, constantly sitting, made laws for the people. The need of this has been greatly lessened by the frequency and the fecundity of parliamentary legislation. There is no need of denouncing the Act of 1897 as unconstitutional.

Judgment affirmed."

His opinions were replete with instances of an unusual vocabulary. In a contract case, he was writing of what he called "that hoary but deceptive shibboleth, 'meeting of the minds'." He said, "We do not understand the law as seeking to fathom the cerebrations of contracting parties, but as contenting itself with the externalities resulting from such mental processes."

In another, a student judge had held a court's charge misleading. In reversing, the Dean said, "If the jurors were dolts, they were probably obfuscated by the court's charge, but if they had that modest modicum of good sense and intelligence that often characterizes jurors, they probably understood."

He used these opinions as a medium for urging his students to more careful, more diligent effort. In one he mentioned that a brief was wholly inadequate. He said, "The citation of one case and a short quotation from the Evidence Act of 1887 constitute the whole store of erudition of its author. Such palpable indifference to duty cannot be too severely censured." In another appeared: "The inadequacy of the assistance furnished by counsel to the court below was gross. The gentlemen seem to have thought that they owed no duty to investigate, either to the court or to themselves. Such remissness is highly censurable." In another, the student judge referred to a case as "perhaps the leading Pennsylvania case on this subject." The Dean retorted, "So far as we have been able to discover, it is the solitary Pennsylvania case on the subject. If it is the leader, we have not found the followers."

Dr. Trickett lived to reach an advanced age, although he probably had no hope or desire to do so. When he was felicitated on his eightieth birthday and the hope was expressed that the well-wisher could do so for many years to come, the Dean replied: "That involves an appalling prospect." Death came to him after a short illness on August 1, 1928, shortly after his eighty-eighth birthday. His mental vigor and intellectual power remained unimpaired to the end. After

his death, when his office was first visited, there was found on his desk an unfinished article for a law periodical and its strangely appropriate title was, "Dying Declarations."

So passed one who had made a rich contribution to Pennsylvania's legal history, not only by his writing and teaching, but by influencing and inspiring scores of those who followed their profession with credit and distinction. Few will dissent from the judgment expressed by his colleague for twenty-five years and later his successor as Dean, "He was the most learned and brilliant, the kindest and best man it was ever my privilege to know." Few will deny the aptness of these words of Thomas Carlyle, "It is great, and there is no other greatness—to make one nook of God's creation more fruitful, better, more worthy; to make some human heart a little wiser, manlier, happier,—more blessed, less accursed."