

## MEMORIAL CONVOCATION

OCTOBER 26, 1973

*Opening remarks by Dean James C. Kirby, Jr.\*:*

Good afternoon. Mrs. Callahan, other members of the Callahan family, fellow members of the College of Law community, and other friends of Charles Clifford Callahan, whose memory we honor by our presence and by these proceedings.

He was born March 23, 1910, in Jackson, the county seat of Jackson County in southern Ohio. He grew up in Jackson County and in 1928 graduated from Wellston High School. The same year he entered The Ohio State University. Here he received his Bachelor of Science degree in Business Administration in 1932, and in 1934 he received the Juris Doctor degree from the College of Law. The J.D. was then an honors degree and his was later converted to Juris Doctor *Summa cum Laude* under the retroactive J.D. degree program. He earned membership in Order of the Coif, the scholastic honorary society. I can assure you from examining his official records that Mr. Callahan was a very good student. Following graduation he was admitted to the Ohio bar and engaged in the private practice of law in Wellston for a year. He then won a coveted Sterling Fellowship at Yale and received his J.S.D. degree there in 1937. He taught at Yale as a lecturer and assistant professor from 1938 to 1943 when he heeded a call to return to alma mater, joining this College as Visiting Associate Professor in Autumn 1943. During his first quarter he taught Negotiable Instruments and Future Interests, two of the 19 different courses he was ultimately to teach over the next three decades. He became Associate Professor in 1945 and full Professor in 1948. Other speakers will dwell in more detail on the contributions of his 30 years service on our faculty.

He died of heart disease in a Columbus hospital June 18, 1973. He is survived by his widow Violet Bander Callahan, their son John of Hawaii, and two daughters, Judith (Mrs. Roger J.) Zelazny of Baltimore, Maryland, and Louesa (Mrs. Richard) Foster of Columbus.

I will now introduce the other speakers as a group and they will then proceed in order without further individual introductions.

The next speaker will be Ronald A. Lauderdale, of Columbus, a senior in the College of Law and thus a member of the Class of 1974, the 31st of the 32 classes of the College which were taught by Professor Callahan. He will be followed by Professor Robert J. Lynn, both a long-

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time colleague on this faculty and also a former student of Professor Callahan, as a member of our Class of 1948, the third entering class to be taught by Professor Callahan as freshmen. The next speaker will be George H. Chamblin, of Columbus, a member of the College of Law Class of 1932 and current President of the College of Law Alumni Association. He will be followed by a man who, like him whose memory we honor, is truly a giant in the history of this College and University. He is Dean and Professor Emeritus Frank R. Strong, a member of the faculty of the College for 28 years, from 1937 to 1965, and Dean of the College for the last 13 years of that period. He has come for this occasion from Chapel Hill, North Carolina where he is Cary C. Boshamer Distinguished Professor at the University of North Carolina School of Law. I will then adjourn the proceedings with some brief final remarks.

*Remarks by Ronald Lauderdale\*:*

My function here today is to speak to you about Professor Callahan from a student's point of view. After talking with my classmates to get their impressions and doing a lot of thinking I find that I can't do it. He was a man who meant so many things to so many different people.

Some of my colleagues indicated that the thing which they most appreciated about Mr. Callahan was his approachability. It was amazing to them that a man who had reached his stature in the profession was so willing to listen when a student had a problem. No matter what the problem, personal or academic, he was always there to give an understanding ear and advice if necessary.

Other students with whom I talked said that it was his sense of humor which they remembered most. I must agree that he had a tremendous sense of humor. Anyone who could take such "exciting" topics as the Rule in Shelley's case or the Rule against Perpetuities and break a whole class into uproarious laughter must have had a marvelous sense of humor.

The thing that I personally found to be most valuable about Professor Callahan is that he never gave a straight answer. If you asked him a question in class or out he made you use your mind. I can remember many times in class when I would ask questions that were perhaps not the most intelligent ever thought of, he would stop and take time to say "now Lauderdale, think."

His vision and inspiration will be sorely missed at Ohio State. My only hope is that I, and the other students whom he taught, can bring the

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spirit of dedication and excellence that he embodied to this, his chosen profession.

*Remarks by Professor Robert J. Lynn\*:*

Dean Kirby suggested that my remarks include references to Charlie's academic contributions, and to his writings.

Charlie did, of course, contribute to professional legal literature. His book on *Adverse Possession* that originated in the Law Forum lecture series is a classic. He collaborated with Professor Barton Leach of the Harvard Law School in writing the chapters on powers of appointment in the *American Law of Property*. These two works alone are enduring parts of property law literature.

But without detracting from the substance of Charlie's writing, which was considerable, I emphasize that his contribution to professional excellence stemmed not so much from what he wrote, or what he taught, but from how he went about doing this professional work.

The principal characteristics of Charlie's writing are simplicity and clarity. Charlie wrote in the way that he thought and taught—economically and clearly. He taught the law of evidence off and on throughout his career, and he was a master of relevance in all that he undertook. That mastery showed up both in his writing and in his teaching.

It is not only possible, but it is also more probable than not, that many of Charlie's contemporaries had a greater fund of information than he had. If he had no interest in the subject, he ignored it. For example, as far as I could tell he considered all plant life in the same way—that is, as beneath contempt. Charlie's strength as a teacher and a writer did not rest on unlimited information; and with his customary detachment, he seemed to regard a person purporting to have unlimited information as some kind of a natural wonder—a geyser that periodically lets off steam and hot air, and then subsides into temporary silence.

Charlie's particular skill lay in knowing how to use to best advantage the information that he had or could readily acquire. As Professor Harry Reese once said, "It isn't that Charlie knows the answer, it's that he knows what's wrong with the question." The most devastating comment Charlie could make with respect to an inquiry was: "Are you sure that you want to know that?"—his clear implication being that no one with his head on straight would want to.

To a very considerable extent, Charlie was able to teach his students to use minimal information in the way that he himself did. He did so

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both by his own example, and by encouraging students to give the matter a try themselves.

In this connection, it is worth noting that in the twenty years that I knew Charlie as a colleague, I never heard him say that he pitched his teaching (as it is usually said) at any particular part of the class. As near as I myself could tell as one of his students, he was pitching at everyone. He never intimated in any way that he thought clear thinking should be confined to any particular part of the student body, and he taught all of his students, all of the time.

In short, to my way of thinking, Charlie's principal academic contribution consisted of his day-to-day teaching, both inside and outside the classroom. By chance he and I taught the same subjects during the last fifteen years of his life. An exception to our teaching subjects in common is the law in trust, which Charlie never taught. Although he never said so explicitly, Charlie clearly implied that he thought that a subject created by clergymen could hardly be on firm ground. He may have had something there. The law on fiduciary administration has never been able to make up its mind between, on the one hand, saving the soul of the trustee at the trifling cost of his professional and financial ruin, and, on the other hand, getting the highest possible return on an investment while maintaining absolute safety of principal. Charlie wisely avoided that bog.

In any event, because we taught subjects in common, I was luckier than most of Charlie's students in that he continued to teach me long after my own student days were over. Despite his decade of seniority over me here at this law school, to say nothing of his better command of subject matter, he never patronized me. For all his seeming easy-going manner, Charlie had firm views about what a teacher can accomplish, and what he cannot. Even when we taught a course together, as we did occasionally during summer sessions, he did not impose his views on teaching and examination on me, and for that, I am grateful. I do not imply that he favored me in this respect. He would have shown the same consideration to any colleague or student.

Some of you miss Charlie as family; some as friend; some as colleague. Like many of you out there, and Ron Lauderdale up here, I miss Charlie as my teacher. From now on, we're much more on our own.

*Remarks by Mr. George Chamblin\*:*

It is indeed a privilege for me to say a few words on behalf of the

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O.S.U. Law Alumni Association on this occasion in memory of Charles C. Callahan.

The term "Great Guy" could have been created for Charlie because I am sure everyone who knew him would agree that he fit that description perfectly.

I knew Charlie from the time he entered the law school here, I believe in 1930. He was popular during his law school days and that popularity never waned for a moment. It continued to grow over the years during his illustrious career and I believe I can safely say that he was respected and loved by everyone from the oldest alumnus to the youngest law school freshman.

I am sure all of us were familiar with his subtle humor and the quiet approach which he used to accomplish great things. His sudden passing grieved many people. He will be sorely missed.

*Remarks by Dean Frank R. Strong\*:*

Tragedy has again struck this College of Law, to take one of its irreplaceable Faculty members. As the present academic year proceeds without him we gather to honor the memory of this beloved colleague, teacher, friend. It is exactly thirty years since Charles Clifford Callahan returned, as a member of its faculty, to the law school from which he had graduated. During these three decades of service to this College, this University, and the State of his birth he created his own lasting memorial in the hearts and minds of the many fortunate enough to have crossed his path. To catch in words the essence of this remarkable man is almost beyond possibility for me. Yet this is the occasion for spoken remembrance of Charles Callahan, and my warm affection for him has led me to accept with deep appreciation the invitation to participate in this memorial convocation.

It was my good fortune to come to know Charlie immediately upon his arrival at this law school. He was assigned by Dean Martin the office in old Page Hall long occupied by Senator Alonzo Tuttle. My office, inherited from Clarence (Pete) Laylin, was next door. Only a wallboard partition divided us, affording the positive advantage of direct voice communication between us. We remained office mates nearly ten years, for me the richest period of comradeship in my professional life. Named to the deanship, I lost the degree of intimacy possible with adjoining offices, yet for another thirteen years our closeness continued despite physical separation in both the old building and the new. Even in

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these last eight years, when 500 miles lay between us, and our contacts were sporadic, Charlie was in spirit always close at hand. It will ever be so for me; his death cannot sever the bond of friendship that had been forged between us.

With others I gloried, although occasionally with a twinge of envy, in the endless talents of CCC. Many of us have experienced the forlorn hope that piano lessons would finally take, with us or with our children—or both. Yet with not that first lesson, Charlie could play to the delight of few or many friends. At the piano perhaps he was only an amateur, but his musicianship ran deeper. When Columbus boasted a little symphony, his professional talent with the bass viol met the stringent standards of Director Isler Solomon and his playing was acclaimed for its high quality.

Possibly unknown to many was Charlie's mastery of the art of book-binding. His work was exquisite, easily of professional caliber according to those who know the difference between ordinary skill in the trade and the extraordinary touch of the master craftsman. This superb craftsmanship was a reflection of Charlie's love of books, not only for their physical beauty when richly bound but for their cultural function as "time binders"—to employ Korzybski's phrase. Charles Callahan must be included with George Rightmire and William (Bud) Rose as one who gave strong encouragement to the collection of unusual law volumes for this College, a collection to which Professor Pollack made such major additions and which is housed so impressively in this law school building.

The Callahan sense of humor was a joy to experience. His humorous observations, however, lose their pungency in direct retelling; and there is no way to communicate the indescribable twinkle in his eyes and the play on his lips that accompanied his endless witticisms. It is possible only to relate episodes that remain indelible in my memory. One has to do with the name he gave this structure. The auditorium in which we meet to remember him was a part of the second phase of construction of the new law building. The classroom section had been constructed from the initial appropriation, and for three academic years classes were held at this location while the library and offices remained in Page Hall. Early in this transitional period Charlie dubbed the uncompleted new building Page Two, a characterization that immediately took among students and faculty and remained until old Page Hall receded into history with the completed move to Eleventh and High.

A second instance of Callahan humor comes to mind from the period when his daughters, Judy and Louesa, and my son and daughter were all students at University School. This provided Charlie and me with a com-

mon interest in the School's athletic events. In those days the Uni-High football team met opponents on a field immediately adjacent to the School's building at Woodruff and High. For the two of us it was therefore but a short walk from Page Hall on the Oval. The few bleachers abutted the playing field, locating spectators close to player action. Charlie enjoyed the intimate psychological contact this made possible, especially when officiating was in the hands of a law student who moonlighted as referee of high school contests. Charlie's pointed comments, made in good fun, were for those within earshot the highlight of many a game.

But we shared as well serious interest in the academic program at University School. Of especial concern to us was the reported practice of some teachers in seemingly allowing the students to choose by class vote among alternative study topics, only to dissuade them from the result thereby reached when the vote did not coincide with teacher preference. Sincerely disturbed over the possible impact on student minds of such a practice in an educational institution stressing democratic values, we at last determined that the matter should be ventilated. At a subsequent parent-teacher meeting Charlie made our point in his calm, kindly way but with devastating logic. We were *persona non grata* for a time, but our children reported a cessation of this questionable practice.

In his later years Charlie took up the study of genealogy. This may have been a throwback to his own childhood days. Those days had been marked by regular Sunday afternoon trips with his parents to the local cemetery to visit the grave of his sister, whose death when very young left Charlie an only, and a lonely, child. Whatever the motivation, John Callahan and his father would spend endless hours in tracing the family tree. Whether Charlie could be said to have reached professional expertise in genealogy I cannot judge, but there is no doubt in my mind that he displayed at this the same characteristics that were the hallmark of his many other talents. Quality was the only level of accomplishment tolerated by the one whose many-splendored life we memorialize today.

Nearly all of the nine years that lay between Charles Callahan's graduation from this College of Law and his return as a member of its Faculty were spent by him at Yale Law School. During much of that time, after earning the J.S.D., which marks the full doctorate in Law, he was associated with Professor Underhill Moore in what in retrospect constituted major pioneering in empirical study *about* law. In later years Underhill Moore was to say that Charles Callahan was the ablest associate he had ever had. This was highest praise, coming from one who had only very able associates and who himself possessed a most brilliant mind.

The keen intellect and kindly manner of Professor Callahan were soon apparent to students and faculty here at Ohio State. During the difficult war years he taught nearly every private-law subject in the curriculum as his contribution to the decision to keep the law school in operation. No matter what the teaching assignment given him, the new member of the faculty displayed thoroughness in grasp of fundamentals and an uncanny way of generating effective learning in his students.

Some have ascribed Charlie's teaching greatness to his capacity to *unwind* the seeming snarls in any segment of the law. What was meant was his amazing ability, by brushing away overworked clichés and cutting through superficial analysis, to lay bare the fundamental concepts and structure of the law. My personal appreciation of this rare brilliance of mind came about most fully through the immeasurable assistance he gave me, during the years we officed side by side, in comprehending the functional roles played by courts in delimiting the thrust of governmental power. Intellectually stuck many times in formulating theories consistent with the history and operation of the judiciary, I would seek Charlie's assistance. I must have been a great bother to him, yet not once did he turn down my appeal for help and never did he fail to be of assistance. His contact with the field of Constitutional Law had been only the law school course taken a dozen or more years before. Despite this, his mind could in short order put aside unsatisfactory conventional approaches to reach levels of insight that made it possible to proceed with more effective analysis. It would not have been possible for me to have succeeded alone in the endeavor that for these last twenty-five years has grounded my teaching and writing in Constitutional Law. He is not to be held accountable for the resulting theories, but I treasure the opportunity afforded by this convocation once again to express my indebtedness to the facile and penetrating mind that was his.

Public tributes to Professor Callahan quite properly include reference to the distinction accorded in the invitation extended him to be, for 1960, the first Law Forum Lecturer in the College's major Lecture Series. Yet this does not do him full justice in the absence of background known only to students and faculty of the latter part of the 1950's. Actually, initiation of a Lecture Series was first attempted prior to 1960. A major government lawyer accepted the invitation to launch the endeavor, thus supposedly guaranteeing an auspicious opening. Student interest ran high and when the appointed evening arrived a capacity audience was on hand at the auditorium of the Ohio State Museum. Alas, it was soon apparent that the Lecturer had not acquainted himself with his manuscript, obviously ghost-written for him, even on the flight from Washington. Nec-

essarily, therefore, he stumbled along in a pedestrian reading of it. At the end of some fifty minutes only the year 1890 had been reached in what promised to be an analysis extending to the present. An attempted speed-up worsened the situation by the minute. By the end of an hour the audience was commencing to leave. The ordeal was at long last finally over approximately twenty-five minutes later, and so was any lingering interest in a Lecture Series for the College. Decision was wisely made to lie low with any such project until all students then in law school had graduated. When that period had run, and with great trepidation, another launching of a Lecture Series came under serious consideration. It was quickly agreed that this second time it was essential to turn to a sure winner. And as quickly all thoughts turned to Professor Callahan. As unexciting as the topic of "Adverse Possession" would appear to be, his Lectures were such a delightful combination of understandable scholarship and subtle humor that on second try the Series was off to a propitious start.

Still another talent of Charles Callahan that endeared him to all was his gift for wise counseling. Characteristics of his personality, among them his quiet and compassionate manner, somehow beckoned one to seek him out. His mind was as agile and penetrating in untangling the complexities of other difficulties as it was in untying a knotty legal problem. In my years of deaning I often sought the counsel of Charlie in facing problems of law-school administration. Never did he fail to provide me with deep insight and sound judgment. Many were the others who across the years mightily profited in the same way. It was, therefore, with delight but not surprise that I learned he had been voted the Distinguished Alumnus Award of the College of Law for 1971. The warm affection for this remarkable person ranged far and wide; he leaves in many a heart a rich legacy of fond memories. My own years of association with Charlie Callahan will remain unique among my life's experiences.

To adapt a description that should be reserved for those of true distinction, Charles Callahan was a man for all occasions. The common thread to be found in his many talents was a rare compound of keenness of mind, integrity of character, gentility of personality, and nobility of spirit. Therein lies the full measure of the genius of him we remember today. To have had his friendship for thirty years is to have possessed riches beyond measure. A passage from Gibran's masterpiece, *The Prophet*, sums up the fullness of such a relationship.

And a youth said, Speak to us of Friendship.  
And he answered, saying:  
Your friend is your needs answered.

He is your field which you sow with love and reap with thanksgiving.

And he is your board and your fireside.

For you come to him with your hunger, and you seek him for peace.

When your friend speaks his mind you fear not the "nay" in your own mind, nor do you withhold the "ay."

And when he is silent your heart ceases not to listen to his heart;

For without words, in friendship, all thoughts, all desires, all expectations are born and shared, with joy that is unclaimed.

When you part from your friend, you grieve not;

For that which you love most in him may be clearer in his absence, as the mountain to the climber is clearer from the plain.

*Concluding remarks by Dean Kirby:*

Our thanks to you gentlemen for your eloquent and moving remarks.

There are many memorials to the life and work of Charles Clifford Callahan. One is the Charles C. Callahan Memorial Scholarship Fund. More than 100 contributors have already donated over \$2300 to this fund and we are hopeful that it will become one of our most significant sources of student financial assistance.

As you can see, another lasting memorial to Charles Callahan is now placed on the stage to my right, the excellent portrait of him painted by Columbus artist David Philip Wilson. It will hang in our Distinguished Alumnus Lounge with those of Senator John W. Bricker, Chief Justice C. William O'Neill, Thomas F. Patton, Isadore Topper, Clarence Laylin, and others, because in 1971 he received the Distinguished Alumnus Award of the College of Law, the highest honor it can bestow upon one of its graduates.

It was my great personal pleasure to present the plaque containing the citation for the Distinguished Alumnus Award at the Annual Alumni Reunion in 1971 and to read aloud that citation, as it appears in your printed program.<sup>1</sup> I will not quote it now but needless to say the language is lofty and laudatory, perhaps even hyperbolic. Charlie's brief response was indeed memorable. It was characteristically warm, modest and appreciative and marked by his usual wit and humility. He glanced at the citation and then said of it: "It is an old maxim of equity that paper will let you put anything on it."

These wise words are not completely accurate—in one sense. Paper

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<sup>1</sup> The citation is reprinted at page 545, immediately following these proceedings.

is not capable of receiving a full and accurate account of this man's contributions and our feelings for him. Neither the spoken nor the written word is quite adequate to such a task. Nonetheless, it is important to us that we try. Accordingly, these proceedings will be published in a forthcoming memorial issue of the *Ohio State Law Journal*. Perhaps our enormous sense of loss may be eased a bit. Certainly, the historical record of this College is being enriched by our efforts.

Now, let us please stand for a moment of silence, at the conclusion of which these proceedings will be adjourned.