

FREDRIC C. TAUSEND SIX YEARS OF A DEANSHIP: A TRIBUTE

*Eugene A. Wright**

INTRODUCTION

Just as law teachers and commentators provide the public and the profession with periodic reviews of court decisions, so too we judges and lawyers are free with our comments on legal education. It is time that there be a critique of the University of Puget Sound School of Law, the Norton Clapp Law Center, and the dean who has occupied the front office for more than six years.

Fredric C. Tausend came to the Tacoma school for a deanship of three years, but he overstayed. He had to. The university president, the board of trustees, the law faculty, and the students insisted that he do so. Besides that, he had some unfinished tasks that required more time. Most of those tasks have been accomplished or are well underway. Another few years must pass for a final appraisal of Tausend's deanship, but an interim report is indicated. He and the school deserve it.

Those who evaluate judicial performance consider how judges measure up in wisdom, knowledge, decisiveness, courtesy, educability, courage, integrity, and good work habits. Plainly, such qualities apply in measuring persons other than judges. Certainly they apply to teachers and administrators, and a dean is both. And there are additional parameters applicable to the measurement of deans, for they are special people. This critique will take account of the qualities and accomplishments believed to be the most significant to the university and to law teachers and lawyers (present and prospective), and to at least one judge, in the measurement of Dean Tausend and his works.

* Senior Circuit Judge, United States Court of Appeals for the Ninth Circuit; Member of Law School Board of Visitors, 1973-83; Chairman, 1979-83.

I acknowledge with thanks the substantial contribution to this article of my senior law clerk, Kim R. York, University of Puget Sound School of Law Class of 1983. She has brought the insight and appreciation of the school's alumni.

My appreciation goes also to Associate Dean David Boerner, Assistant Dean Joan Watt, Professors Richard L. Settle and Marilyn J. Berger, to Duane Thurman, a third-year student at the law school, and to John N. Rupp of the Seattle bar.

A SOLID BACKGROUND

Fred Tausend grew up near New York City. He was graduated from Harvard University and Harvard Law School. While earning a distinguished educational record, he also was active in community affairs, theater, and lyric writing. Under his nom de plume, "Sam Weller," he is the author of the lyrics to about ten published songs and a greater number of songs as yet unpublished. If you need a lyricist, get Sam Weller. He is good.

During law school he belonged to the Harvard Voluntary Defenders, which provided legal services to indigent criminal defendants. He and a fellow law student wrote a brief to the Massachusetts Supreme Judicial Court urging adoption of a novel court rule permitting third-year law students to represent indigent criminal defendants in court without the requirement that a supervising attorney be present.

Fred's rule was adopted in 1958. It has served as the model for similar rules in other jurisdictions, including Rule 9 in this state and Rule 27 of the Ninth Circuit.

In 1958, he joined the Seattle firm to which he is returning full-time at the end of July 1986, now Schweppe, Krug & Tausend, P.S. In the mid-1960's, he served for two years as a Washington State Assistant Attorney General in the Division of Antitrust and Consumer Protection. He returned to the Schweppe firm in 1965, made partner one year later, and served as managing partner from 1969 to 1979.

His practice has been concentrated on commercial litigation. He specializes in antitrust. In addition, he handles litigation in the fields of Uniform Commercial Code, securities, real estate, libel, products liability, and public contracting.

He is a Fellow of the American College of Trial Lawyers and of the American Bar Foundation, a member of the American Bar Association Antitrust and Litigation Sections, and past chairman of the Washington State Bar Association Antitrust Section.

On the personal side, he is warm, friendly and approachable, a favorite of students and faculty. He is deeply interested in helping others, the mark of a great lawyer and educator. This is not to say that he is all sweetness and light, for he has his acerbic side too. As was said of another great educator, Matthew Arnold, in paraphrase of St. Paul, he does not suffer fools gladly. Like the hero of Harry Leon Wilson's "Ruggles of Red Gap," he "can be pushed just so far." In the main, though, he is a kind and generous person.

Professor Richard Settle, who has been on the University of Puget Sound School of Law faculty since the school opened, describes Fred Tausend as a person with uncommon, boundless energy. He is extremely productive because he directs that energy comprehensively to objectives that the school should meet.

Tausend is no pipe-smoking, swivel-chair dean who dreams and reflects, hoping for an increased budget, larger faculty, perquisites, and a multitude of loyal, wealthy alumni. He dreams and reflects, to be sure; any person of imagination does that. But he recognizes the challenges he faces and strides forth vigorously to meet them.

VISION AND INSPIRATION

Fred Tausend is an innovator. When I assumed the chairmanship of the law school's Board of Visitors, he was managing partner of his law firm. But I knew he was also an adjunct professor, so I asked for his overview of the law school and his recommendations for the future.

He responded at length in a letter which dealt with every aspect of the law school: its history, the curriculum, its relationship with the university and the community, the role of adjunct faculty, and some innovations which had not yet been explored.

Fred was not then a candidate for the deanship, and neither of us was thinking that there might be a vacancy and that he might fill it. His vision was prophetic. He recommended (1) that the evening program be retained and improved; (2) that admission standards remain flexible and innovative; (3) that experienced, enthusiastic practicing lawyers be recruited as adjunct faculty members; (4) that the school develop a national reputation for a contribution to the law by concentrating on a few areas for the development of special faculty expertise and scholarship; (5) that the law school draw on the resources of the university and give credit for courses taken on the upper campus; and (6) that the school continue its orientation toward training the future practicing lawyer.

He closed his letter with this message from a Chinese fortune cookie he had read the previous evening: "You stand at an important crossroads. Do not hesitate. Choose correctly, move ahead and the future is yours." He observed that the cookie belonged to the law school.

Dean Tausend's close relationship with students is due to

many things, one of which is his ability to inspire. As he welcomed students arriving or returning to the school in August 1981, he wrote:

Through teaching of high quality and through an efficient, imaginative and open administration, we shall strive to offer the best legal education that can be found. In return, the law school's success and your own require that you make an equal commitment of energy, time, and talent to the school. That means faithful class attendance, thorough preparation, participation in at least some law school and law school-related activities, respect for your personal health and well-being, keeping your sense of humor (or getting one quickly), and refining your sense of ethical and social values.

Associate Dean David Boerner reports that students react favorably to Dean Tausend. They sense his commitment to them, to the provision of a high quality of instruction, to good management of the law school, and to the importance of placement. Dean Boerner feels it is truly remarkable that under the leadership of one leader-type dean, with the force of his personality, the school has achieved a national reputation in just a few years.

On the national scene, some have asked "Are there too many lawyers?" Dean Tausend responded to that question in the Washington State Bar News. He spoke of expanding opportunities for new lawyers but asserted that lawyers must be imaginative, innovative, and sensitive to what society wants and expects of them.

Dean Tausend inspires faculty in their service to the school and recognizes faculty commitment. In February 1982, he established a tradition of presenting at the annual meeting of the Board of Visitors a Dean's Award to faculty members for outstanding service to the law school. Those presentations became a regular feature of succeeding meetings. His personal letters to each recipient recite at length the contributions each has made to teaching excellence, scholarship, and service to the law school and university. Those remarks mean even more than the gifts of selected books, carefully chosen by Dean Tausend, to add to the libraries of his professors.

His leadership of the administration has been equally as significant. Fred systematically has upgraded the quality of the staff serving students, and has challenged each member of the administration to develop new, more effective means of meeting

student needs. In the Financial Aid office, for example, the amount of work-study money available to students through the State of Washington has increased from \$115,000 to \$487,392 during his tenure. The Registrar's Office now provides course schedules for two full years so students can plan their coursework over time more effectively. The Admissions Office has met enrollment targets each year of his deanship, in the face of declining applicant pools nationwide.

DISTINGUISHED VISITORS AND SPECIAL PROGRAMS

Dean Tausend's dedication and respect for broadening the horizons of the law school community are evident in the distinguished visitors that he has attracted to the school. While the dedication of the Norton Clapp Law Center took place four months before he arrived as dean, he was instrumental in making some of the arrangements and in scheduling Chief Justice Warren E. Burger as special guest and principal speaker. The late Senator Henry M. Jackson, a close friend of the Chief Justice and a member of the Board of Visitors from the opening of the school until his death, helped Fred to induce the Chief Justice to come to Tacoma for the dedication.

In the magazine *Case and Comment* for July-August 1980, Chief Justice Burger is quoted as saying, "The modern law school is failing in its basic duty to provide society with people-oriented and problem-oriented counselors and advocates to meet these broad social needs." At the dedication, the Chief Justice said: "This has been a remarkable experiment in legal education. There is no school in the nation that can do what you are doing here, as you draw together the three branches of the legal profession— teaching, practice, and judgment."

The university describes its Law Center as follows:

What distinguishes a law center from a law school is this: A law center combines the resources of a comprehensive legal studies program with on-site opportunities for practical experience and public service. Housed with the law school at the center are the Consumer and Antitrust Division of the Washington State Attorney General, the Board of Industrial Appeals, the Center for Child Abuse Prevention Service, Division II of the Washington State Court of Appeals, the Pierce County Office of Assigned Counsel, the Federal Public Defender, Groshong Court Reporters, Washington Women's Employment Education, a number of law firms, and other law

related enterprises.

The Law Center is two blocks from state and federal courts and within walking distance of key government agencies, the county bar association, and major Pierce County law firms. In this state it is unique, and it has few counterparts elsewhere.

In January 1982, Dean Tausend initiated the Honors Banquet at which scholarship awards were presented by the University President to outstanding students. The guest speaker was Circuit Judge Alfred T. Goodwin, who spoke on "Checks, Balances, and the Jurisdiction of the Federal Courts."

The school offers a summer CLE Institute which has attracted leading teachers and innovative thinkers in the fields of antitrust, family law, and dispute resolution. They come because Fred Tausend invites them.

Dean Tausend has brought other important persons to the law school. One was United Nations Ambassador Jeane J. Kirkpatrick, who addressed a capacity audience in February 1983, to celebrate the school's tenth anniversary. Another was Ninth Circuit Judge Joseph T. Sneed, who addressed the Board of Visitors, faculty, and students in February 1982. Sneed, a former law teacher and dean, gave high marks to the law school for its unusual success in its first ten years.

In March 1983, a panel of the United States Court of Appeals for the Ninth Circuit convened in the Law Center in the courtroom of the Washington Court of Appeals. It was the first time that the federal appeals court had ever sat in Tacoma. Dean Tausend and his staff strongly supported the effort to bring live cases to law students. They employed closed-circuit television from courtroom to classroom to accommodate students and faculty members interested in hearing the arguments. The Ninth Circuit has since held court sessions at the Law Center on several occasions.

Dean Tausend's interest in antitrust law caused him to bring two distinguished academicians, Professor Phillip Areeda from Harvard Law School and Dean Ernest Gellhorn from Case Western Reserve Law School, to the school for seminars.

REVISION OF THE CURRICULUM

Dean Tausend will be remembered for his major contribution to the creation of an excellent legal writing program. Soon after he moved into the law school front office, he sought fund-

ing for an expanded legal writing program. First, he obtained a grant of \$25,000 from the Cheney Foundation. To that he added \$15,000 from the school's general revenues. Thus began his intensive writing program.

The University of Puget Sound publication in September 1984 reported that "the Fund for the Improvement of Post-Secondary Education made an award of \$78,000 for further development of the UPS Law School's legal writing program." The University of Puget Sound is one of only 100 schools out of the 2,300 which applied to receive a cash award.

That article also told of a conference at the law school that attracted representatives from fifty-two law schools. The subject was "teaching legal writing," a two-day event supported by a grant from the National Endowment for the Humanities.

The law school's Board of Visitors had recommended at its first meeting in 1973 that students should be given more training in oral and written expression. At the annual meeting ten years later, we reported that Dean Tausend had just obtained a financial grant to develop an even stronger writing program. He had hired more instructors and had obtained the help of a professor of English from the upper campus.

The writing requirement was changed from one year to two. In the first year, students learn traditional and computerized research, basic writing skills, and how to prepare client letters and objective memoranda. In their second year, students take a course in persuasive writing and oral advocacy, following a case from initial client interview through the final appeal. This new program has been described as "the strongest writing program of any law school in the West."

Dean Tausend also created a legal writing program for a two-week presentation to representatives from law firms of the Puget Sound area. The program was over-subscribed and was repeated again the following year.

He has made other changes to the curriculum, too. Alert to the needs of a changing profession, Dean Tausend has recognized that law school teaching must reconsider the curriculum, teaching methods, and overall program if students are to be equipped to practice in the profession as it has developed in the past quarter century. He believes strongly that law students must be educated broadly in liberal arts, history, and great literature.

Judges and practitioners applaud the new requirement that

law students take at least one course in the historical, philosophical, and theoretical foundations of the law. All are taught by regular members of the faculty. The Dean is practical and, being so, he remembers the fundamentals.

Under the Dean's leadership, the ambitious comprehensive Trial Advocacy course was developed by Associate Professor Marilyn Berger, Adjunct Professor John Mitchell, and Clinical Professor Jenifer Schramm. It is a year-long course providing comprehensive theoretical and practical treatment of both pre-trial case preparation and trial. The first semester of the year-long course, pretrial, surveys the same subjects as the one semester pretrial advocacy course.

The second semester of the course concentrates on the trial phase of a civil case. Subject matter includes professional ethics and responsibility, jury selection, opening statement, direct and cross-examination, jury instructions, closing argument, and trial and post-trial motions. Students in the year-long course prepare and perform a pretrial motion and a mock jury trial. Mock jury trial preparation includes all phases of trial preparation. The mock trial is performed by students at the end of the year.

I see Fred Tausend's influence in the law school's latest bulletin which shows other new courses. They include law of the sea, mediation, corporation legal accounting, and seminars in criminal procedure and evidence. The profession applauds all of them.

We must not overlook the growth and modernization of the school's library under his direction. He built it up, then negotiated for access by members of the bar. By fall 1986, the University of Puget Sound School of Law library will be the second largest in the Northwest.

PLACEMENT OF GRADUATES

Dean Tausend has put special emphasis on placement of graduates in judicial clerkships and law firms. In his first annual report to the faculty in September 1981, he said:

I believe that a new law school, in its own self-interest, has a special obligation to assist its graduates as they begin their professional careers. A carefully thought out placement program is one of the most effective ways for a school to assure its own continued health and growth.

Placement should mean much more than merely helping graduates get jobs or being able to state accurately that over

90% of our graduates who have passed the bar are employed in the legal profession. One important objective . . . should be to encourage our graduates to obtain employment in metropolitan areas distant from the Norton Clapp Law Center.

Another important aspect of a placement program is through judicial clerkships immediately following graduation. Working closely with a number of appellate judges and several students, I have this year begun to coordinate the program of judicial clerkships so that the law school can play a role in assisting interested judges in finding the right clerk and vice versa.

By clerking for distinguished judges, our graduates can serve the law school in many ways, including the objective of establishing out reputation through the region and the country. As our increased emphasis in writing skills begins to show results, we can hope that judicial clerkships will be an effective way of spreading the word that the University of Puget Sound graduates lawyers who write well.

His attention to placement has met with spectacular success, particularly in the area of judicial clerkships. The school has placed law clerks with a justice of the Supreme Court of the United States, United States circuit and district judges, and appellate and trial judges in state courts.

A credit to prior administrations, the classes of 1974 through 1980 had 38 graduates in judicial clerkship positions. Under Dean Tausend's leadership, however, the classes of 1981 through 1985 had 95 graduates in judicial clerkships. A record high ten percent of the members of the May 1985 graduating class were given such appointments. Judicial externship placement, where students earn school credit for a semester of study in a judge's chambers, is on the rise, too.

In law firms, UPS graduates are gaining respect and are ascending rapidly to positions of hiring authority. I told the trustees of the University that Dean Tausend suggested that we hold a luncheon for hiring partners of ten Seattle law firms, offices which had not previously hired UPS law graduates. It was done, and thereafter several of those firms hired their first UPS graduates while others have been in regular contact with the placement office.

Overall, the number of law firms, agencies, and businesses interviewing students at the law school for summer associate and permanent positions has increased some 50% during Fred's deanship.

LEADERSHIP OF FACULTY AND STAFF

Dean Tausend has recruited outstanding faculty members during his tenure. He has a social conscience. He wants to bring new persons into the profession.

He has given great leadership to the diverse group of law professors. While there are inevitable philosophical differences among the faculty, its members are unanimous in following Tausend's leadership. They recognize it as superior and as not doing violence to their philosophies but complementing them.

Some faculty candidates say they can't do everything that Dean Tausend demands. He refuses to believe that. He insists that new teachers combine teaching with scholarship and he uses his great enthusiasm to convince newcomers that they can do it.

He has done more to encourage faculty scholarship than any previous dean. He has stressed that, to obtain recognition for themselves and the school, faculty members must publish articles.

He scheduled a two-day meeting in July 1983, at which the faculty, visiting professors, adjunct faculty, students, and representatives from the Board of Visitors shared ideas about teaching methods, class size, judicial externships, the value of clinical education, the development of student discipline, the causes of student discontent, and the best use of adjunct professors.

In his report to the President of the University and the Board of Visitors in February 1984, Dean Tausend presented an impressive list of recent publications, articles, and books in process and other significant accomplishments of the faculty at the law school. Most of the tenured faculty had written one or more scholarly articles within the prior year. Others had participated as seminar leaders and panelists at bar association meetings and seminars. The Supreme Courts of Washington and Alaska consistently seek UPS law school faculty members to give CLE seminars to their judges.

Professor Marilyn Berger reports that Dean Tausend has done a remarkable job in reorganizing the administration of the law school. For example, the Registrar's Office, Financial Aid, and Admissions have been computerized. The efficiency created by these changes translates into better service to students. Additionally, Dean Tausend's superior leadership motivates the staff to new levels of excellence and loyalty to the school.

He leads by example. He was a principal speaker at a semi-

nar on civil practice and procedure sponsored by the Seattle-King County Bar Association. He was a main speaker at the 1983 annual fall judicial conference of Washington State Judges and Commissioners. He was a debater at the State Bar Association's annual meeting on the subject of constitutional issues.

In the summer of 1985, the National Association of Attorneys General had its antitrust section meeting in Seattle. Dean Tausend participated in a demonstration in District Judge Rothstein's court by critiquing a mock trial.

TEACHING AND PRACTICING LAW

Some academicians have said that law professors and especially law deans should not attempt to practice law. Fred Tausend disagrees. He disagrees particularly in so far as he is concerned.

Before becoming dean, he had represented some Everett citizens in a successful court challenge of a state redistricting plan. When a new plan was proposed by the legislature, Fredric C. Tausend, the attorney, was asked again to represent those citizens and institute legal action if necessary.

Time permitting, when he could get away from his responsibilities at the law school, he took on other challenges. One assignment took him to Alaska where he served as Special Prosecutor to investigate problems associated with the Governor's campaign debt. An outside lawyer was needed, and the Alaska Attorney General chose Fred. He took Associate Dean David Boerner to assist him. Fred also represented the Seattle Mariners baseball team's management in the litigation aspects of the controversy over the lease of the county's domed stadium.

He firmly believes that a dean should teach in the classroom — or at least that Dean Tausend should do so. Before becoming dean, he was a member of the adjunct faculty for five years. As dean, he maintained his commitment to teaching one course each semester in such areas as antitrust, trade regulations and practices, intellectual properties, and civil procedure.

In 1983, he teamed up with Professor Marilyn Berger to teach first-year civil procedure. She reports that he electrified the class with his love of the law. He emphasized ethics and role-playing, while continuing to use the Socratic method. Students responded enthusiastically. When Professor David Roberts died suddenly in 1984, the dean took over the civil procedure course for first-year students which Professor Roberts had begun.

DEVELOPMENT OF ALUMNI SUPPORT

Fred Tausend has great strength in public information. In his first year as dean, he embarked on the improvement of alumni relations. With the President of the Law Alumni Association, he established an Alumni Day at the law school. The response was enthusiastic and that event has spurred the school's efforts to develop loyalty, appreciation, and support of its graduates.

Well over ten percent of alumni each year assist the school as volunteers in areas ranging from admissions to placement. They host regional recruiting gatherings in their homes and offices, provide individual counsel to prospective and enrolled students, participate as guest speakers in the school's major placement programs, and more. In addition, financial support from alumni is on the rise. An Annual Fund campaign, launched for the first time in 1983, is now well in place. Gifts from graduates increased 267% from 1983 to 1984 alone, and indications are that alumni contributions will double the 1984 figure when the 1985-86 drive is completed.

The dean recognizes that his constituency includes the bench and bar to which he must make regular reports. In the *Bulletin of the Seattle-King County Bar Association*, he reported on the clinical program at UPS:

If it isn't the proper function of a law school to teach its students how to find their way to the courthouse, it is appropriate, indeed necessary, that future lawyers learn why and when to go to court and why good lawyers do what they do when they get there. Teaching law students the so-called skills of application gives added significance to the theoretical and analytical aspects of their legal education. It should also enable them to enter practice with a better grasp not only of techniques, but of the reasons behind the techniques, tactics and strategies involved in the practice of law. This philosophy guides the clinical program at the University of Puget Sound School of Law.

The student participants in the Civil Law Clinic, an optional course, have been enthusiastic about the course offering. In their evaluation of the course, they have consistently given it top marks.

In June 1983, the dean proudly presented a number of his law graduates for admission to the Supreme Court of the United States.

Over 100 persons attended the school's first Alumni Breakfast held in September 1985 in conjunction with the State Bar Convention in Seattle. Dean Tausend presided and told an enthusiastic group of alumni and faculty about the school's progress and successes. He outlined fund-raising goals. He also reported on his "pet" project to recognize the school's fine constitutional law faculty in a series of seminars and "summer institutes" honoring the anniversaries of the federal and state constitutions.

Dean Tausend has built institutions for money raising. After leaving his deanship, he will continue to be involved in the fund-raising that is necessary to a private school wishing to embark on programs other than traditional ones.

CONCLUSION: A SUCCESSFUL DEANSHIP

Fred made the university, the legal profession, and law teachers, locally and nationally, aware of the UPS Law School. Following two fine deans, he built on their foundations, strengthened and cherished them, and produced a school of national reputation. One of his greatest accomplishments has been to attract young faculty of ability and scholars of established reputation. That work has assured the school's future.

He has aimed to develop pride among his faculty—pride in their calling to teach young men and women, and pride in the institution which they serve. His students noted that effort and they, too, have reflected pride in the school, in the university, and in the high standards expected of them. Early on, Fred convinced his graduates that no goal was beyond their reach and no challenge was more than they could meet.

We who observed all this have noted the effect on the university's trustees. They became very much aware of what was happening in the Norton Clapp Law Center under Fred's leadership and concluded that they were right all along in finding and funding the means to establish a law school. Fred Tausend and the law school have made their mark on legal education in the past six years. There is no doubt about that.

This record could not have been made but for the loyalty and understanding heart of Marilyn Tausend. She put up with Fred's late hours in the classroom, at his desk, and in the corridors, talking to students. She did it in the good spirit and patience so often seen in spouses of professional persons. But she went beyond mere cheerful resignation. She is a lady of

imagination and wisdom and she contributed much original thought and energy to developing the concepts which have made the school successful.

The bench and bar will welcome Fred Tausend back with enthusiasm as his deanship ends. The warmth of that greeting will be enhanced by the firm expectation that he will continue his interest in legal education and in helping others to become better lawyers.