

My Greatest Benefactions

This occasion is a cause for me to relax the natural modesty that has otherwise restrained me from describing these accomplishments more widely. I am one of the greatest benefactors of the University of Puget Sound School of Law. I did not comment when the new Law Center Building was named after Mr. Norton Clapp, nor did I resent it. Mr. Clapp is a generous and dedicated man, and he well deserves each of the many honors that have been bestowed upon him. Nevertheless, as will soon be very evident, the appropriate name for the Center was a much closer question than has ever been publicly admitted.

I claim entire credit for introducing Fred Tausend to the University of Puget Sound School of Law. I was a mere Assistant Professor at the Law School at the time. I had been invited on leave to the University of Chicago Law School and, presumably, as a reward for my achievement, was instructed that if I wanted the leave, I would have to find a replacement for my Antitrust class.

Fred Tausend was the first person I interviewed, over dinner in a local Tacoma hotel. He was also the last person I interviewed. Indeed, my job of finding a replacement was accomplished about three-quarters of the way through the salad. Fred had clearly established by that point that he was fully the master of the various doctrinal arcanities of antitrust law. This I viewed as important because it had become clear to me after only two years of teaching that invoking some obscure issue just at the moment students seem to be grasping the essentials of the field is the most effective way for a professor to distinguish himself from a useful hornbook. The case for Fred, however, was not totally clear. That evening, Fred occasionally discussed even the most difficult conceptual issues with clarity and precision. I became certain, though, that he would be able to shake this unproductive pedagogical habit if he put his mind to it. Moreover, I was able to detect from that first evening that Fred Tausend seemed to have some interest in the teaching enterprise. I was to learn later that it was only the somber decor of the restaurant that made me mistake as potential interest what in fact was a deep passion for teaching.

Dean Sinclitico, on my recommendation, readily agreed to hire Fred. Both Fred and I thought it might aid his transition into the classroom if he were to audit the Antitrust course I was

to teach during the summer. Frankly, Fred learned a lot that summer. We had our differences. Often they derived from the fact that Fred, sitting in the back of the class, was never hesitant to add depth to the discussion of some particular case or problem. Frequently, his insights derived from his having read the full opinion, rather than the excerpt published in the casebook. But I indulged this peculiarity of his. It was also something of a distraction when I noticed, over the semester, that the students had been rearranging their desks to face Fred, rather than me. But I presumed that this was some local Washington custom to make a person, obviously in foreign waters, feel at home. So that too I let pass.

That fall, I went away to Chicago. Fred took over the Antitrust class, and it blossomed. My Antitrust classes had drawn about 15 students per semester, which I thought was about right given that each of the School's 400 students was required to choose six courses from among, then, seven or eight elective offerings. Fred's Antitrust class, however, boomed to 50, then 75, then over 100 students. Personally, I felt gratified that it was Fred, rather than myself, who was in position to reap the benefits of the interest in Antitrust which I had sown among the studentry in those first years. It is true that when my research appointment at Chicago terminated, and I was deciding where to resume teaching, I learned that there was not the hole in the Antitrust field at the University of Puget Sound that had been so apparent earlier. In addition, the rumors became more frequent that my Chicago appointment had originally been engineered by some officer at U.P.S. But these rumors were never confirmed.

As everyone knows, I decided not to return to the University of Puget Sound School of Law, but to teach at other schools, leading to the position I now hold at Yale. Few, however, appreciate the personal sacrifice involved in this career choice. My second major contribution to the University of Puget Sound School of Law was to sell Fred Tausend Dick Settle's house at a below market price. Virtually everyone who has met Fred, however briefly, has heard the details of the progression of ownership from Settle to Priest to Tausend. Indeed, Fred told the story to me four separate times at one cocktail party that I was able to attend for only about half an hour.

Behind the sale, however, was a desperate attempt to keep Tausend in the Tacoma area. In those days, Fred was practicing

full-time in Seattle and commuting to Tacoma to meet his classes. At his hourly rates, the commuting had already been reflected in a decline of the Gross National Product. My wife and I faced substantial pressure to turn over the house to him in the name of regional economic aid.

My last significant contribution to the University of Puget Sound School of Law was made after I arrived at Yale. In my first Antitrust offering here at Yale, Fred appeared as a guest lecturer in the class. He presented a fascinating discussion addressing economic evidence drawn from a major price-fixing case he had litigated. The student reception to his presentation was extraordinary. Students stayed after class over an hour talking with him. Some students in the class later corresponded with him. I was quite surprised by this reaction. My predecessor Bob Bork and I had never really been bothered by students after class. Undoubtedly, most of the students probably only wanted some interviewing practice with a litigator. But they certainly concealed their objectives well, and I know Fred was flattered by the attention.

The class was so successful that Fred agreed to return annually. Alas, his appointment as Dean prevented him from honoring that obligation. And, again, in the interests of the University of Puget Sound School of Law, I reluctantly released him. His service as Dean, however significant to Puget Sound, has imposed a severe loss on me and on my students.

On rereading this note, I am concerned that I have exaggerated somewhat my saint-like features in these dealings. On the other hand, there certainly is no room for false modesty: my contributions to the University of Puget Sound School of Law have been stupendous; we might as well face it. But I like Fred Tausend very much, and each of my associations with him has given me very great personal pleasure. Moreover, I would be very happy to forget sainthood if the agents of the Internal Revenue Service would be more sensitive to the actual worth of these multiple contributions than in fact they have been. I must confess, however, that I have not always had the interests of the University of Puget Sound in mind on these matters. As mentioned above, I once tried to make a contribution of Fred Tausend to Yale Law School. In addition, I would be happy to contribute Fred to any other law school able to lure him there. And it is space alone that prevents me from describing in much

greater detail the extraordinary contribution I am about to make to Schweppe, Krug.

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