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Winter 2001

Reflecting on the Presidency of Herman B. Wells

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Recommended Citation

Aman, Alfred C. Jr., "Reflecting on the Presidency of Herman B. Wells" (2001). *Alfred Aman Jr. (1991-2002)*. 36.

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Japanese. The court merely observed that the political authorities had concluded that the steps taken were necessary. And, as I said earlier, the court's opinions contained the seed that racial discrimination was almost always unconstitutional. The growth of this seed was the most important advance in American law after the war.

What shall we make of this? On the one hand, it seems little enough. Had these lawyers told the Supreme Court "the whole truth," the court might well have found the entire program unconstitutional. Reflecting after the war, one of these lawyers said "when I look back on it now I don't know why I didn't resign." I suspect, on reflection, he didn't resign because he understood that the president, too, was entitled to a lawyer. Even when a good president makes bad judgments, and this was one, he is entitled to present his best truthful case to the court.

On the other hand, these small acts of truthfulness were a significant step toward the future. Without the compromised statement, that is, with General DeWitt's falsehoods, the Supreme Court might have said that the American-Japanese had been found to be disloyal as a group. This would have been a burden for them even today. It would also not have given the Supreme Court a foundation for its later decisions overturning the idea of racial guilt by association. I do not pretend that this small bit of law office work is a moment of heroism. It is just a small step. But I mean for it to illustrate that the rule of law is no more than a series of small steps and that it is lawyers who must take them.

And it is we, the teachers of law students, who must show them how much each step may come to mean. ■

Reflecting on the presidency of Herman B Wells

by *Afred C. Aman, Dean and Roscoe O'Byrne Professor of Law*

Last spring we witnessed the passing of a very great man whose story was also Indiana University's story — Chancellor Herman B Wells. He said of himself that he was "just lucky," but his kind of luck took creativity and a spirit of innovation. He had the courage to take chances and the wisdom to know which chances to take. His long life was remarkable indeed. We can marvel gratefully, not only at his many accomplishments, but also at the optimism, imagination, and wisdom that make Herman Wells's story such a good one to tell.

When I first came to Indiana University as dean of this law school in 1991, I heard many of these stories, many of them first-hand accounts by people who knew and worked with him. Herman Wells was and remains a hero to many colleagues at this university. As a new dean, I listened closely to these stories. They taught me a great deal about an inspirational leader, the history of IU, and the fundamental values of a research university — this university in particular. Three themes emerged: vision, courage, and humanity.

The stories about Herman Wells's vision are legion. His large, long vision yielded many accomplishments — from the eminence of the music school to the establishment of the importance of international studies on this campus, making IU a national leader in this regard and many other academic initiatives as well. They speak to his ability to imagine exciting futures for IU and then marshal the resources — economic, political, and intellectual — to make his vision concrete, and there, too, his record is remarkable. But my sense is that all of his many accomplishments at this university were premised on a vision that went beyond any particular school or program. He had a deep understanding of the role of the university in society, and the importance of universities in humanizing modernity. An example from his own book, *Being Lucky*, is illustrative and inspiring even today. Early in his presidency, Dr. Wells addressed the American Association of University Professors. It was



Herman B Wells

1939, and Nazi Germany was on the move. Wells took the occasion that evening to speak about academic freedom:

“For more than a century, the university has actively worked for the preservation and advancement of American democracy by the method that is peculiarly the university’s own, namely, fearless inquiry into every subject in search of the truth — fearless inquiry, not only in the ‘safe’ realm of the physical sciences, but in the social sciences as well, even though they deal with the stuff of which human emotions and passions are made.”

Linking democracy and freedom of inquiry, Wells’s vision of the university was essentially a vision of a free democratic society. To flourish, democracy and universities alike are dedicated to the discovery of new knowledge, no matter how controversial that knowledge might be. The environment necessary for this kind of creativity must be nourished and encouraged. It requires the freedom to think beyond current limits and controversies, as well as the resources to do so. Indeed, as Wells so clearly understood, a strong research mission often involves critique and controversy — “the stuff of which human emotions and passions are made.”

In listening to the stories about Wells and reading his own words, I was especially impressed by his ingenuity and commitment to drawing a line of defense against anti-intellectualism on this campus. For example, as Alfred Kinsey began to develop what turned out to be a highly controversial research field — human sexuality — Wells steadfastly deflected the pressure to curtail such work. Interest group politics had no place in determining how a faculty member should pursue work, as Wells’s explanation for rejecting the views of Kinsey’s critics made clear: “I had early made up my mind that a university that bows to the wishes of a person, group, or segment of society is not free and that a state university in particular cannot expect to command the support of the public

if it is the captive of any group.”

Implicit in this vision of a university is the understanding that such an enterprise leaves no room for intolerance or discrimination. Moreover, a great university is not only open to new ideas, it is open to all who are able and who wish to learn. Wells stood forthrightly against segregation at IU, long before the Supreme Court decided *Brown v. Board of Education*. In this passage, he recalls his early presidency:

“Seemingly with the coming of the Ku Klux Klan and its activity in the local community following World War I, absurd barriers of segregation were erected by the university. For example, when I became president, black students had been barred from the use of the university swimming pools. Also, the university physician, using the device of a medically certified handicap to exclude them, automatically exempted black male students from the compulsory ROTC program on the pretext that they all had flat feet. There were segregated tables for black students in the Commons dining room of the Memorial Union Building. Black students were not admitted to university residence halls.”

Wells’s approach to integrating the university was low-key, but effective: “In taking the steps required to remove those reprehensible, discriminatory rules, we tried to make a move if possible when the issue was not being violently discussed pro and con on the campus. I felt that making the moves in this manner would, and in fact it did, prevent backlash that might set the whole program back. For example, one of the earliest steps we took was to remove the reserved signs from certain tables in the Commons. Everyone knew that these reserved signs on the tables meant that the black students were to sit there. One afternoon when the place was deserted, James Patrick, then-manager of the Union Building, went with me to the Commons to look the situation over. I turned to him and said, ‘Pat, I want you to remove all those signs. Do it unobtrusively and

make no mention of what you’ve done.’ He followed my instructions explicitly. It was two weeks before anyone discovered the fact that the signs were gone and then, of course, the absurdity of the previous situation was apparent.”

It is easy to underestimate Wells’s courage because, in retrospect, such decisions now seem so obviously correct. At the time, however, such actions are seldom clear. Someone has to have the courage to speak out first and take effective action. When you look at Wells’s actions, the success of the causes he supported was not inevitable. He seems to have chosen his own path from a deep, personal understanding of the research university’s role in a just society — and so we come full circle. The thread that pulls Wells’s stories together is his commitment to discovery, to the production of new knowledge, and to sharing this knowledge with “new knowers.” He did this with imagination, courage, and humanity.

I came to know Herman Wells late in his life, when he was confined to a wheelchair and was hard of hearing. I did not know him well, but well enough to believe in this man’s legend. Despite his age and disabilities, his interest in people, ideas, and the celebration of the ideals of research and Indiana University were apparent. His sparkle and humor were always in evidence as was his zest for the kinds of gatherings that the law school organizes (like all the schools on campus) to celebrate our alumni and our hopes and goals as an institution. Herman Wells seldom missed an important event at our school — be it our sesquicentennial celebration, an endowed lecture by a distinguished faculty member, or an alumni gathering. His ability to connect on a human level no doubt gave many people a personal experience of a profound truth: Democracy depends on liberal universities’ commitment to the quest for and the production of new knowledge, through research, teaching, and a diverse campus community. ■