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Bayless Manning

Thomas Ehrlich

Indiana University School of Law

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Bayless Manning

Dean Manning was my law clerk for the 1949-50 Term of the Supreme Court. I had been on the Court since 1938 and thereby had some experience with law clerks. During the years since his service with me, I have watched his career with pride.

Bayless has had a wide experience beyond those ordinarily lived through by a professor. He has been in touch with business and with public service in some of the most difficult problems that come to statesmanship, particularly our Latin-American relations.

During the time that he was a member of the faculty at Yale Law School, he made full use of the opportunity to interest his students in Latin-American problems. I am quite sure that one important reason for his becoming Dean of the Stanford University School of Law was that California has such close connections with our Spanish-speaking neighbors to the south.

Our association since his assisting me in my work has remained as close as can be possible between people as far apart as Washington is from Stanford. Several times he has joined with my other former law clerks in an annual meeting we have to discuss the interesting legal problems of the moment and to exchange experiences with one another. His contribution is always brilliant and his enthusiasm great. Intellectually brilliant, as all of my law clerks have been throughout my more than 30 years of service, Dean Manning ranks among the more exceptional.

Although it has been some twenty years, the frequent contacts that we have had proved to me that he was one of the most able men with whom I have had close contact. He was a hard worker: interested, but with a sense of proportion; sociable, but not a waster of time.

From every point of view and every undertaking he has had, his experience and abilities have prepared him to render great services to the nation as President of the Council on Foreign Relations. Particularly is this true when we think of the complexities of the problems that are besetting the Americas at this time. His whole life has been a preparation for the work he is now undertaking. All who know him feel that no better choice could have been made for his future activities.

STANLEY F. REED*

* * *

The first student voice I remember hearing at Yale Law School was that of Bayless Manning. Like the rest of us in the fall of 1946, he was recently returned from military service. He brought with him, however, the special

* Associate Justice of the Supreme Court of the United States, 1938-57.

assurance of the man who had made it at Yale as an undergraduate. In the classroom and out, he served notice early that he was to be reckoned with in this new setting.

Bay was forceful and articulate, very much a man of this world and yet as much interested in ideas as in action. It was entirely predictable that he would write a splendid Comment and that he would become Editor-in-Chief of the *Yale Law Journal*. It was just as predictable that he would handle with coolness and dispatch beyond his years the demand by J. Edgar Hoover, already oversensitive to criticism of the FBI, that he be permitted to reply to the mammoth article by Emerson and Helfeld on the federal government's loyalty program.

After some seven years away, as law clerks and in practice, Bay and I returned to Yale Law School in the fall of 1956, the partial product of an elaborate recruitment drive by Dean Rostow which brought twelve new faculty to the school in one year. Once again we were in a situation where change was in the air and a large number of intelligent and sensitive people were feeling their way in a dramatically new environment. Before the dust had even begun to settle, Bay was off in many directions, revamping the curriculum in Corporations, exploring the role of economics in that field, helping to draft a new Corporations Code for Connecticut and reviving something called Legislative Workshop, a student-dominated law reform group which anticipated some of the "new" clinical programs.

He was a colleague and a teacher who managed somehow to be very much a part of our academic world and of the outside world. Not only did he neglect neither; he brought to each the special insight and force of the other world, integrating law and policy as few others were able to do. Even more importantly, he retained a remarkable interest in exploring new fields and institutions and in leaving everything better than he found it. His was, and is, a fierce and insistent drive for excellence in every direction in which he turns, and he turns often.

Bay's interest in power relationships first took form in his work in Corporations and bore early fruit in a brilliant twenty-page book review.¹ That piece, and another written shortly thereafter, made plain that he had a great future as scholar and teacher. But he soon found himself drawn into other areas, engaging in scholarly work but moving ever closer to the exercise of power. He wrote two books on conflicts of interest among federal employees. He did a study for Rockefeller Brothers Foundation on Latin America. And he played a major role, at the Law School and in the University, in developing Latin American Studies. It became apparent, when he

1. Manning, Book Review, 67 *YALE L.J.* 1477 (1958), reviewing J.A. LIVINGSTON, *THE AMERICAN STOCKHOLDER* (1958).

left for an assignment with George Ball in the State Department, that he would not be with us much longer. His talents and energies needed a major administrative challenge, if only so that they might properly be tested.

The test came when he was appointed Dean of Stanford Law School in 1964. His career since then is better known to readers of the *Stanford Law Review* than to us in New Haven. But even from across the continent, it is plain that Bay has led a process of faculty recruitment and curriculum revision which has brought Stanford into the first rank of law schools. And as he did so, he became a leading spokesman for legal education in its dealings with the bar and the larger public and corporate community. It is entirely reasonable to expect, in these next years, that we shall hear a great deal more from him as he turns to the largest problems of foreign policy.

ABRAHAM S. GOLDSTEIN*

* * *

Bay Manning and I first met a decade ago when we were both in the government. He was then designing the legal machinery for a naval fleet called the Multilateral Nuclear Force. We became fast friends. Fortunately for the country, the fleet eventually sank beneath the waves. Fortunately for Stanford Law School, Bay then surfaced in Palo Alto. And most fortunately for me, our friendship survived. I have been watching him in wonderment ever since. Soon after coming to Stanford, Bay and I sought a return to maritime life by acquiring a small sailboat. We called it "Sabbatical." Our theory was that when someone wanted us on windy afternoons, our secretaries could say we were "on Sabbatical." The only trouble was, of course, we never found time to sail it—or, indeed, to take any other kind of sabbatical. Bay was always running; I was always trying to catch him.

Bay is superb—a superb analyst, negotiator, talker, persuader, and showman—all those qualities that make a first-class lawyer. He is also a great teacher—a teacher of his students, a teacher of his colleagues, and, of some parochial interest, a teacher of this new Dean. He has a dazzling set of pedagogical tools and can draw out of his pupils, of any age, creative abilities they never knew were there. That's what education is all about. Bay does it to perfection.

A good dean is inevitably an institutional designer and construction engineer. Bay took on that job with relish. He loves to design and build; almost anything he gets his hands on becomes a project, from houses to law

* Dean and Professor of Law, Yale University.

schools. He has the architect's ability to examine the minute details of today's problems while simultaneously viewing the project as a whole. When he came to Stanford, he had a concept of how legal education should develop in the 1970's and of how Stanford could play a leadership role in that development. Perhaps as much as anyone in the country, he sought to explain the world of legal education to those outside that world. Within the School, he concentrated on people—finding the best, then giving them all the support he could. He did not succeed on all fronts, but his ability to press his colleagues to do a little better than they knew how was critical to building a great law school into a greater one.

Most of all, Bay is a craftsman of the law and an artisan of its language. "It is as craftsmen that we get our satisfaction and our pay," said Learned Hand. Like all true craftsmen, Bay views his craft as a means to fulfill a commitment to fundamental values. Bay holds deep convictions on basic issues of justice and injustice—whether they involve matters on or off the campus—and, unlike most of us, he rarely lets his rhetoric run away from his reason or his criticisms of others extend beyond what he himself is prepared to do.

On leaving, Bay gave me a small statue of Sisyphus, and spoke a craftsman's motto, "One need not have hope to persevere." That's a hard line to follow. But certainly, as craftsmen of the law, we must persevere to have hope. Bay has persevered in all that he has put his hand to. He worked with tenacity to develop Stanford Law School; he did so with such style that those who were being led, or pushed, hardly minded at all.

Bay is a man of many futures. Each step of his work in law practice, in teaching, and as Dean was an unplanned basis for the next stage. I make no predictions—except more steps . . . big ones.

THOMAS EHRLICH^{**}

* * *

In writing of Sir Henry Maine's *Ancient Law*, Sir Frederick Pollock alluded to genius, asserting that one of its components was what he termed "a touch of art." Dean Griswold, referring to Roscoe Pound, added his reflection that "artists in the law are relatively rare." To which I would add that artists in the management of strong-minded lawyers who, with or without objective justification, believe themselves first-rate are even less frequently encountered.

Others, upon whom his scholarship has made itself more directly felt, will write of the quality of Bayless Manning's mind and of his intellectual

* Dean and Professor of Law, Stanford University.

contributions to legal education, with mention, perhaps, of the superb and useful analysis he presented to the State Bar of California at its meeting in Santa Monica the year he came to Stanford University. My greater familiarity is with one of the other sides of his complex and multi-faceted personality of which something ought to be said in this series of reflections upon his career at Stanford.

That Dean Manning brought a degree of genius—and, in Pollock's happy phrase, a touch of art—to the administration of the Stanford Law School is a proposition with which none familiar with his work will quarrel. It was manifest from the beginning, which I recall as a luncheon in Los Angeles attended by what he described as a select few of the alumni whom he quickly proceeded to seduce into the service of the school. That the maidens yielded to his suggestion that the future of the school (and indeed of legal education generally) rested, not on him, but on their dedicated goodwill, will come as no surprise. In the perspective of the years, however, one cannot avoid the suspicion that many, if not most, of the alumni were present at similar select gatherings. Art touched what might otherwise have been regarded as a political exercise, albeit of a particularly high order, in that the maneuver was accomplished with such consummate grace and style that none resented, then or later, having been its object.

Later, I served on what I continue to think of as his Board of Visitors and ultimately worked closely with him as a member of the Executive Committee and as its Chairman. Those qualities which equip him so splendidly for his new work in the field of foreign relations and diplomacy have never been more apparent than in his management of the strong personalities of the Board of Visitors and its Executive Committee to what I believe to have been the end, and in all events with the result, that the thoughts of the Board invariably, and with such regularity as not to suggest coincidence, emerged sounding much like his own. This is the exercise of a rare talent indeed, one which, applied to all of his constituencies—faculty, university administration, trustees, students, as well as alumni—was of immeasurable value to the school.

Bayless Manning became dean at the threshold of, and served throughout, an agonizing period for universities generally and for law schools in particular. In an era in which none of our institutions is sacred, and universities less sacred than most, he managed, through the use of his great gifts and the strength of his character, personality, and intellect, not only to preserve what his predecessors had built, but to build additionally upon the foundations they had laid. His work brought him into contact and often into conflict with individuals, groups, and movements employing methodology and techniques that had theretofore been alien to the concept of the law school and for the management of which experience provided no

guidance. That the Stanford Law School prospered in this climate is not the least of his accomplishments. At the same time, he was able to convince a largely conservative, opinionated, and individualistic alumni body to accept the proposition that the explosive postwar expansion of the role of the lawyer demanded of a law school a curriculum expanded into unfamiliar and seemingly esoteric areas to equip its graduates to perform as lawyers in an increasingly complex society.

I have the sense (prompted, I think, not entirely by chauvinism) that Stanford was a first-rate law school before the appearance of Bayless Manning. That it is today a great law school, recognized as such throughout the community at large as well as among lawyers, must be credited in substantial part to his work as its dean. If, as we can reasonably anticipate, the future holds even greater accomplishment for the school, it will be attributable in no small measure to the extraordinary faculty he retained and attracted, to the outstanding scholar and administrator who will succeed him, and to the administrative staff he assembled to work with them.

As his contemporary, I should be forgiven for thinking of a man who has not yet reached his fiftieth year as still a young man. In any event, there can be no suggestion that encomia appropriate to the end of a career are not premature as applied to that of Dean Manning. Reflection upon his past only provokes speculation as to his future.

To begin with Pollock and to conclude with an anonymous Washington taxi driver may seem *de trop*, but one recalls the story of the visitor to the National Archives Building who inquired of his driver as to his understanding of the meaning of the rubric engraved upon its façade: "The Past is Prologue." He received the response: "That means you ain't seen nothin' yet." Those of us who have followed the career of Bayless Manning and whose lives have been touched by his, are confident that indeed we ain't. And that the best is yet to come.

STUART L. KADISON*

* Member and Past Chairman, Stanford Law School Board of Visitors; Kadison, Pfaelzer, Woodard & Quinn, Los Angeles.