

## HOMER H. CLARK'S COMMENCEMENT ADDRESS

*Professor Homer H. Clark, who retired this spring after thirty-four years on the Law School faculty, delivered the Commencement address to the May 1987 Law School graduating class. He has graciously permitted Amicus to print an edited version of his talk.*



Professor Homer H. Clark

When your class officers asked me to speak today, I had serious misgivings on a number of grounds, primarily because commencement speeches always have seemed to me to require abilities most people do not possess and abilities I know I do not possess. Despite my concern, I accepted your invitation because I appreciated the generous recognition which it represented of our common departure from the Law School. We both leave this small, sheltered, comfortable and presumably rational world of law school, you to enter what is mistakenly called the real world of law practice or business, and I to an equally misrepresented world called retirement. You can at least congratulate yourselves on one point. A close friend of mine, who has not as much respect for the dignity of law professors as some people, has recently reminded me that you all must be smarter than I am. You have gone through this Law School in only three years. It has taken me thirty-four years.

You may have some chances to escape or delay your fate. As a sceptical colleague said to me not long ago *a propos* this talk, "Tell them it is still not too late for a career change." And some of you may be looking forward to a year's judicial clerkship, an institution analogous to the halfway house used in prison administration to accustom the prisoner to life in society, easing the transition from law school to law practice. But unless you do decide that law school has been a dreadful mistake and that you would be happier in some other line of work, a decision which I once considered very seriously myself, most of you will soon be devoting your energies to the life of a young lawyer. It seems to me that life's greatest difficul-

ties arise from three kinds of activities: meeting the impossible demands of senior partners; preventing clients from engaging in self-destructive behavior; and occasionally trying to reason with a class of mortals most young lawyers regard as unreasonable, judges. I noticed on the poster announcing the class party that the theme of the party was given as "I don't want to work any more." I am afraid that theme does not fit your circumstances very well. In fact, it does not fit mine either, since my very limited experience with the retirement of other people suggests that those who are most contented are those who continue to do some kind of work. But of course I assume that the poster was intended to make an ironical statement about your future lives.

In spite of these prospects of an uncertain future, you are doubtless feeling elated to be leaving school. Yet I suspect that tomorrow or the next day the elation may be mixed with some anxiety as you begin to be conscious of the activities and challenges lying ahead. Needless to say, all of them require expenditures of energy and application of intelligence fully as great as anything you have had to do in law school. Although my purpose is to reduce some of the anxiety that inevitably accompanies your departure from formal education, I cannot do it by assuring you that life after law school will be easier or that you will not have to work any more.

It is fashionable nowadays to be critical of every aspect of life having any relation to the law or to lawyers, including of course the law schools. I

would not want to put myself in the position of defending every legal principle or the activities of all lawyers or even of all law schools. At the same time I am not ready to concede that what I and a lot of my colleagues at this Law School have been doing over the past thirty years has been either useless or harmful, even though some of the harshest attacks on law schools come from their own faculties. A sort of psychological masochism is endemic among many academics who seem to get a perverse pleasure out of condemning their own life's work, a masochism which I do not share. Fortunately I have other methods of causing myself pain. Writing law books for example.

It does seem to me as I reflect on thirty-four years at this Law School that, although I would not wish to make any extravagant claim that I ever taught anyone anything, we have been reasonably successful in providing opportunities for learning to those students who wanted to learn. In fact, I believe that we have managed to induce considerable learning in a surprisingly large proportion of students who began by exhibiting quite a strong determination *not* to learn. I hope that the same statement can continue to be made in the years to come.

My belief about these matters has direct relevance to your own situation and to those feelings of anxiety which I perhaps unfairly attributed to some of you. If I am right about the value of three years at this Law School, you have learned enough to enable you to cope with the demands of senior partners, of clients, even of judges.

*Continued on p. 28*



You may legitimately ask me to be a bit more specific on this score. To begin with a humble example, you have certainly learned how to take examinations in law. This particular skill may not be one you would expect to see highly valued in that so-called real world you are entering, and I of course have had my own examination methods disparaged by many students who received lower grades than they knew they deserved. But the fact remains that those who control your entrance into that real world have chosen to determine your eligibility by means of examinations which only differ from law school examinations in being both simpler and easier. The members of the Colorado Supreme Court, aided by the bar committee, have ordained that you only may become a lawyer if you survive that two-day obstacle course in July. I can confidently assert that as a result of your experience here during the past three years plus some judicious and diligent review, the odds strongly favor your passing that examination. Of course I have the advantage of you in this matter since as far as I know no one has ever suggested that eligibility for retirement should turn either on passing an examination or on failing one. In view of the Board of Regents' passion for evaluating everyone except themselves, I am surprised that they have not thought of a retirement exam.

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I could also argue that during the past three years you have absorbed a substantial amount of information about legal doctrines and legal procedure. Unfortunately, that element of your legal education should not be valued too highly. I remember taking a course in law school taught by an emi-

nent man (who later had the misfortune to become a dean) who began the course by saying: "The law you will need to know for the exam in this course has not yet been made." I can illustrate the same point in another way. I have just completed a manuscript purporting to be the second edition of a book published in 1968. This supposed second edition is a wholly new book. Virtually none of the information on the subject existing in 1968 is reliable in 1987. So you may be sure that twenty years from now, when you are at the height of your professional careers, you will be concerned with legal questions and legal doctrines that you never heard about in law school.

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*The much maligned and misdescribed Socratic method, if used correctly, has the dual purposes of exposing the teacher's thought processes and of forcing the student to expose his.*

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This leads to what I believe to be the most important skill that we have tried to help you develop in these three years. This is the ability to learn about the law, using "learn" in its widest sense. If the legal principles you became familiar with in law school are going to be obsolete in a few years, you are faced with the necessity both to learn new principles and to help design them, without the guidance of any

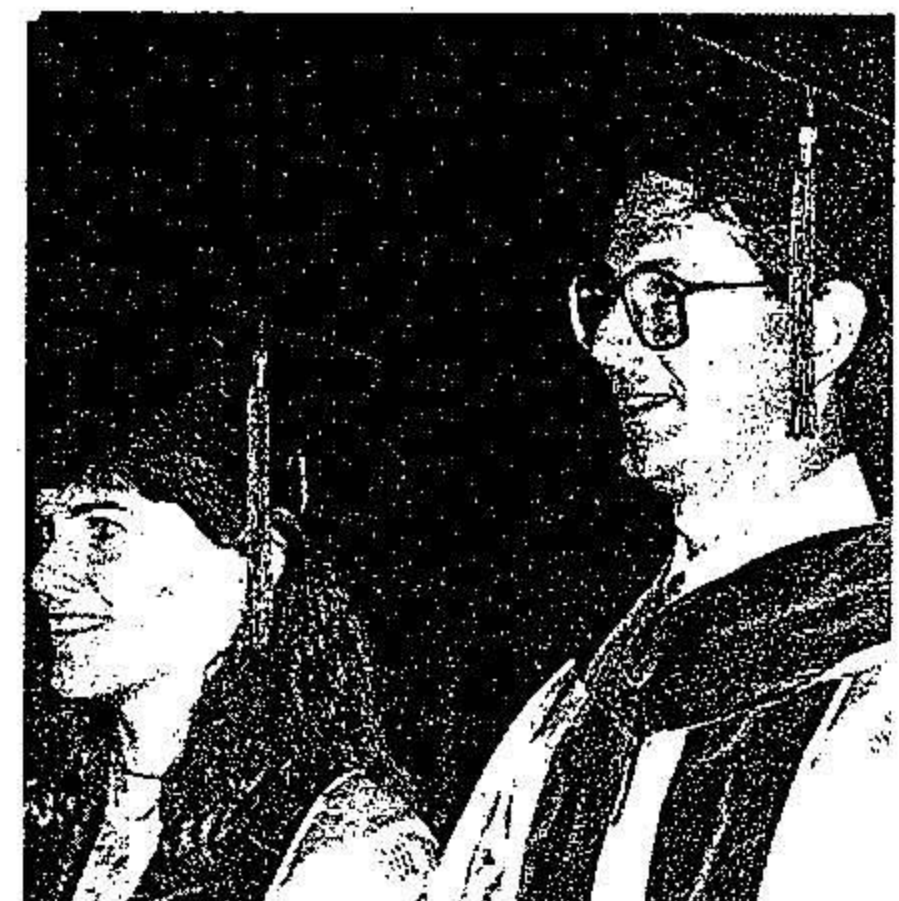
teacher. If we have been doing our work properly while you were with us, you will have had many chances to see the faculty going through this process. You will have been placed in the often uncomfortable position of being forced to engage in the process yourself. The much maligned and misdescribed Socratic method, if used correctly, has the dual purposes of exposing the teacher's thought processes and of forcing the student to expose his. If you have done your best to participate in this activity, you should be able to carry it on independently after you leave us. A well educated law school graduate is a person who can do this successfully. We are not all equal in intelligence, judgment, ability to operate under pressure, and sensitivity to clients' problems. But we all can achieve some proficiency in the critical analysis of legal issues and in the capacity to learn about the law and about human relations which that proficiency makes possible. It is this that I hope and expect that you have acquired from your stay in this Law School. If you have acquired it, you will succeed in your professional careers.

That I and my colleagues on the faculty wish you that success should also go without saying. We have a personal stake in your success since it is that alone which justifies our own careers. Beyond that we take a vicarious pleasure in seeing you put into practice the process which we have begun.

Finally, I congratulate all of you and your families and friends on the culmination of the years of work and sacrifice which this ceremony symbolizes. □



Norman F. Kron with daughter



Wendy S. Feuer and Steven A. Finer at commencement