

## CHAPTER 9

### REMINISCENCES

#### I. INTRODUCTION

EDGAR A. JONES, JR.\*

For several years, in response to a happy inspiration of Arnie Zack, we have convened this Academy Fireside Chat as an annual occasion to enrich ourselves with a three-dimensional awareness of some of our Academy personalities and the significant events they have experienced. We have visited with members who emerged during the War Labor Board years and who in the immediate postwar years participated in the founding of the Academy.

In these gracious collegial gatherings, our knowledge has been advanced as we have been able to learn more about them and their lives and, thereby, vicariously, more about the history of our country and of ourselves as an Academy. I must add too that they have enhanced our pride in their accomplishments and, in our sharing with them, our collegiality as members of this Academy.

Today we convene for a visit with a more recent breed: A survivor of destroyer engagements in the South Pacific during World War II; a native southerner, born, raised, and educated in Tennessee; and who, after 4½ years in the Navy, used the GI bill to gain his law degree from Thomas Jefferson's University of Virginia from which he graduated in 1948. At Yale Law School in 1954–1955 he earned an SJD degree.

In 1956 he started arbitrating. In 1986 he served as President of the Academy. In 1988 he received the American Arbitration Association's Distinguished Service Award. He also served as the Secretary of the American Bar Association Labor and Employment Law Section. As a law professor at North Carolina he twice received the McCall award for excellence in teaching and successively held two endowed chairs.

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When Bill retired in 1990, the graduating class endowed the William P. Murphy Distinguished Speaker Program, so every year since then there has been a Murphy lecture at the law school. His 15-year stint as Distinguished Scholar at the Southwestern Legal Foundation brought him modesty-eroding praise from his labor law and arbitration peers nationwide. As did his 5 years chairing the distinguished Labor Law Group comprised of labor law professors editing a series of influential casebooks widely adopted in American law schools. Of course, as might be expected, he spent his spare time cranking out law review articles and other onslaughts on complacency and sharing with his wife Joy the raising of their three sons.

Now, these are significant achievements in and of themselves but there are undoubtedly similar achievers in the nation who have garnered comparable records in the course of their careers. But unlike any of the rest of us, or for that matter, unlike anyone else in the country at large, Bill Murphy got caught up in and buffeted about in the course of two successive cataclysmic national maelstroms that brought him both widespread professional admiration and personal traumatic experiences. From all of which, however, he emerged bloody but unbowed.

First, he became a prominent target of the white supremacy attackers who sought to pillory anyone who was not a deep-dyed advocate of racial segregation in the state of Mississippi. These were the days of the racial storm that raged throughout the South after the Supreme Court's 1954 separate, but constitutionally unequal, decision in *Brown v. Board of Education*.<sup>1</sup> It flared volcanically in Mississippi at the University, Ole Miss, where Bill was attacked for teaching the declared law of the land, publishing writings on federal-state relations, and maintaining membership in the American Civil Liberties Union.

Although the process took several years, he was forced out of his professorship by a Mississippi cabal of the governor, the board of trustees, the chancellor, and the rabble-rousing white supremacy citizens councils. But he managed a graceful exit to leave to join the law faculty of the University of Missouri. Bill entered his Ole Miss professorship fired with enthusiasm and he left it the same way—fired with enthusiasm.

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<sup>1</sup> 347 U.S. 483 (1954).

But confirming the truth of the inborn Irish conviction, which has deep resonance in his soul, anything that can go wrong, will go wrong. Bill found himself a few short years later in the middle of yet another national cataclysm. This was the emotion-rending anti-Vietnam war violent outbursts that engulfed the nation's campuses during the late 1960s and early 1970s, particularly in May of 1970. This was the time when the National Guard kids shot the protesting Kent State kids. As the elected chair of the University's Faculty Council, Bill undertook to mediate the situation. In this effort, he confirmed the wisdom of yet another popular cliché, no good deed goes unpunished.

Time to go to Oxford, Mississippi, Bill. How did you happen to arrive on that campus as a law professor teaching constitutional law in 1953?

## II. FIRESIDE CHAT

WILLIAM P. MURPHY\*

Before I answer that question, Ted, I want to say that the most important thing that happened to me during the war was when I went home on leave in December 1944. My mother was a piano teacher and one of her students was a cute, red-headed, high school senior, who, several years later, became the Joy of my life. We celebrated our anniversary, I won't tell you which one, yesterday.

When I was in college my ambition was to get a PhD and become a political science professor. The war interrupted that. Many years later, in 1952, when I was an attorney for the U.S. Department of Labor in the regional office in Nashville, the desire to teach came on me again, but this time to be a law professor. One way you entered law teaching in those days was to go to a prestigious law school and do graduate study and then get a job from there.

So, I applied for and, sight unseen, received a modest fellowship from the Yale Law School. My GI bill had run out by that time, and we had a brand new baby, but nevertheless I gave up my job to go to Yale. Looking back on it now, I don't know how I had the nerve to do it. But I did. Before we went to Yale, we went to Mississippi to visit with Joy's family. While we were there I drove over to Oxford

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to meet the dean of the law school and take a look. I found out that the dean of the law school had his doctorate from Yale Law School, several members of the faculty had been to Yale Law School, and the man at Yale who was to be in charge of my program was a Mississippian who had graduated from Ole Miss, Myres McDougal. Myres died about 2 weeks ago.

We then went to Memphis to visit with my mother before we went to New Haven, and, while there, Bob Farley, the dean, called and asked if I could start teaching that fall, 1953, and, if I could, he would arrange things at Yale and even get my fellowship increased. And so, that is how I happened to go to Ole Miss. Its proximity to our two families really was the determining factor in the decision to start teaching there.

I did not know anything about Mississippi, I did not know anything about Ole Miss, and I did not know anything about the law school. It turned out that Oxford, Mississippi, is a wonderful little town. We became very fond of it. The University of Mississippi itself had a beautiful campus, about 5,000 students, and about 200 students and about 10 faculty in the law school. When I went there in the fall of 1953, I was assigned to teach the course in constitutional law.

In May of 1954, the Supreme Court handed down its decision in *Brown v. Board of Education*,<sup>1</sup> and this was followed all across the South by a long period of massive resistance to the implementation of this decision. I heard Senator John Eastland give a speech in Mississippi in which he said the state had not only the right but the duty to disobey and defy the Supreme Court. Many southern states passed what were called interposition resolutions, which declared that the Court's decision was null and void and that the state had the power to interpose itself between its citizens and the national government.

Organizations called the citizens councils spread across the South, but they started in Mississippi. They were composed of hardened segregationists. The state of Mississippi created an organization called the State Sovereignty Commission. It was a surveillance group that went across the state to root out and compile files on anybody who might take issue with the Mississippi way of life or express any sympathy at all for the Supreme Court decision. It became clear to me that I was living in a state where there was a massive intolerance of any kind of dissent. The whole purpose of

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<sup>1</sup> 347 U.S. 483 (1954).

the citizens council and the Sovereignty Commission was to marshal the social, economic, and political structures of the state against any implementation of *Brown*. Eventually violence erupted, not only in Mississippi, but all over the South.

To give you an example of the depth of racial feeling, when I went there, one of the editors of the law review, a real nice kid, came into my office and was very upset. He wanted to write Thurgood Marshall and get a copy of one of his briefs. His problem was that he did not know how to address the letter. He could not say "Mr. Thurgood Marshall" because Marshall was black and he could not say "Dear Mr. Marshall" because Marshall was black. Well, I did not give him much help but he finally wrote the letter. It just said Thurgood Marshall and then Counselor.

The first black who came to Ole Miss to enroll was met by the state highway patrol who drove down to the state mental institution and incarcerated him for about a week or two until he agreed to leave the state. They let him out and he left the state. When I went to Ole Miss, they were still giving an annual prize for the best paper on the right of the southern states to secede. At football games, the Ole Miss band would come onto the field with a huge confederate flag covering the whole band, and it created quite an atmosphere when that event took place.

The faculty were on annual contracts. There was no such thing as tenure. We were hired from year to year. The way you got your job assured was that you were put in the budget for the next year—a line item by your name stating your salary and your position. If you were not in that budget, then you just did not have a job for the next year. Shortly after we got there they required us, as a condition of getting paid, to list all of the organizations of which we had been a member or to which we had made contributions in the last 5 years. A similar law in Arkansas was invalidated by the Supreme Court but Ole Miss continued to enforce its requirement until a separate lawsuit was brought.

Shortly after *Brown* they adopted a speakers' policy. All outside speakers had to be approved by the chancellor's office. Let me give you two examples of how that worked. They had a thing in those days called religious emphasis week, to which they would invite a minister from out of the state to come to campus and deliver some sermons. This particular year the invitee was a Reverend Alvin Kershaw from Illinois or Indiana, somewhere up there. He was interviewed after he won \$32,000 on one of those quiz programs and he was asked what he was going to do with his money. He said

he was going to give a large part of it to the National Association for the Advancement of Colored People (NAACP). When that was discovered in Mississippi there was a hue and cry over the whole state. The result was that the chancellor, J.D. Williams, revoked the Reverend Kershaw's invitation to come to Ole Miss.

On another occasion, a history professor from Emory University was invited to give some lectures. When it was discovered that his wife taught black students at Morehouse College in Atlanta and that they had entertained some of those students in their home, another hue and cry arose, with the result that the chancellor revoked this professor's invitation.

A rather amusing episode occurred when Will Campbell, our campus chaplain—they had them in those days—who had his office in the YMCA building, was visited by a black colleague from seminary. They went out and played a game of ping pong in the recreation room. That created a statewide controversy and was evidence to the citizens councils that we were truly advocating integration at Ole Miss.

Every time one of these things would happen, we would have a general faculty meeting and the chancellor would say, "This is not the ditch to die in." And on one of those occasions I said, "Chancellor, would you define for us, what is the ditch we will die in?" And he said, "When they try to fire a professor for exercising academic freedom in classroom teaching and in his published writings."

Shortly after *Brown*, I wrote a letter to all the southern senators, which was published in the newspapers, in which I said the Supreme Court decision was the law, it was reached through a valid exercise of judicial power, and eventually it would have to be complied with. But, in the meantime, I suggested that the enforcement of the decision be taken away from the federal courts and put in the state courts with the idea that it would go down better if the state judges did it. In retrospect, this was an incredibly naive suggestion, but I made it.

My letter was answered by a man named William J. Simmons. He did not mention my proposal, but he took violent issue with my premises that the *Brown* decision was the law and would eventually have to be complied with. I mention his name because shortly after that he organized and became the executive director of the Mississippi Citizen Councils.

In 1955, when I got back from Yale, I wrote another letter to the paper justifying the Supreme Court's decision and saying that it would eventually have to be lived with. In 1957, a newspaper editor

in Richmond, Virginia named James Jackson Kilpatrick wrote a book called *The Sovereign States* resurrecting this long-discredited doctrine of interposition and I reviewed that book in the *Mississippi Law Journal*. I ripped it apart, so much so that a citizens council lawyer undertook to write a reply to my book review in the *Mississippi Law Journal*.

My doctoral dissertation at the Yale Law School was a comparative analysis of the Articles of Confederation and the Constitution, focusing upon the transition from a system based on state sovereignty to a system based on national supremacy. In 1958, I began to publish this doctoral dissertation in the *Mississippi Law Journal* and this alarmed the citizens council people. A very prominent judge in Mississippi wrote Dean Farley and said that he should not let these articles be published in the *Journal*. Dean Farley did not yield to that suggestion of censorship and eventually my entire doctoral dissertation was published in the *Mississippi Law Journal*.

I decided to join the American Civil Liberties Union (ACLU), at least I thought about it, but I did not know much about it. There was a retired Mississippian who had been one of J. Edgar Hoover's top men who had come to Ole Miss to be director of development. So I went over and asked this man, "Is there any reason I should not join the ACLU?" He said: "Absolutely none at all, join it if you want to." So I did. I became one of two members in the state of Mississippi.

I suppose that the main thing the citizens council crowd had against me was my teaching. At the law school, we had what was called the diploma privilege. You got a degree from the Ole Miss law school and you were automatically admitted to the bar. It was the only law school in the state and through it passed most of the state's legal and political leaders. And there I was up at the law school, teaching that *Brown v. Board of Education* was the law of the land.

I came back in the summer of 1958 from a teaching visit at Duke Law School and learned that a group of alumni had brought charges against about 10 members of the university faculty—history, sociology, education, and whatnot—alleging various kinds of subversion of the Mississippi way of life in what they were teaching and saying. The chancellor and the board of trustees took note of those charges. The chancellor responded with a ringing defense of segregation and the board of trustees issued a report saying that many members of the faculty had been indiscreet, but there was no evidence of a communist cell at Ole Miss.

Well, having failed to get action against these 10 or 12 people, these alumni and the citizens council crowd decided to zero in on one particular individual. I happened to be that one particular individual. The charges they made privately to the university now were published all over the state in a series of articles about all of the bad things that I had done, which I just summarized for you. Alumni groups from all over the state began to pressure Dean Farley to get me off of the law faculty but he courageously resisted.

Finally, resolutions were introduced in the state legislature. One of them would have prohibited the payment of any money in salary to any member of the NAACP, ACLU, or any other subversive organization. Another resolution named me by name and urged the board of trustees to dismiss me from the law faculty. During this time Bob Farley, my hero, defended me every step of the way. The law faculty wrote a resolution in my support, which was submitted to the board of trustees, but it only succeeded in angering them.

Statewide opinion was against me with one exception: Hodding Carter's Greenville newspaper published beautiful editorials defending me. I got no defense at all, however, from the place where I should have gotten it, from Chancellor Williams and the university. They never uttered one word or took one action to defend me against these political charges.

As you can imagine, this was a very traumatic experience both for me and for Joy and so I decided to try and find a job somewhere else. In the summer of 1959, I taught summer school at the University of Missouri and then in the academic year 1959-1960 I went to Kentucky as a visiting professor. Their constitutional law professor was visiting at New York University and had he not come back to Kentucky I would have been invited to take his place, but he did come back so there was no opening there. I had been interviewed for the deanship of Emory Law School in Atlanta and shortly after the first of the year the head of the search committee called and told me that although I was their number one choice, the president of the university had decided that I was too controversial to be their dean. So that went down the tube.

Then I got an invitation from John Wade who was the dean of the law school at Vanderbilt and a graduate of the Ole Miss Law School, wanting to know if Joy and I could come down to Nashville to interview for a job. So we did and we met all the faculty and had a great time. Shortly after we got back to Lexington, John Wade called and said, "It's all set Bill, the faculty has approved you unanimously, you can start teaching here next fall." Well, time



went on and I did not think anything more about it. Finally, just before we were about to go back to Ole Miss, I got a phone call from Nashville. The Vanderbilt chancellor had vetoed the law school's recommendation that I join the law faculty. I found out later from a member of the law faculty what had happened. Somebody in Mississippi had called a judge in Memphis who was a graduate of Vanderbilt Law School and had said to that judge, "Did you know that Vanderbilt was getting ready to hire a communist?" I suppose that's what caused the whole thing to be vetoed at Vanderbilt. At any rate, it fell through. So I went back to Ole Miss and said, "Bob, you've got to put up with me again."

While I was at Kentucky, a man named Ross Barnett had been elected governor of Mississippi. Barnett was a very ardent segregationist who had appointed several citizens council people to the board of trustees. When I got back that summer, I discovered that, although I was scheduled for summer school teaching, the board had jerked me out of the classroom and they would not let me teach that summer. They did pay my salary, but they would not let me make class contact with any of the students.

Then in the middle of the summer, when the budget for the next year came out, I was not in it. No "William P. Murphy, law professor and salary." There I was with a wife, three children, a house mortgage, and no job. Just at that particular time I got an invitation to be a visiting professor at Missouri. Joe Covington, who had been dean there for 6 or 8 years, called me and said, "Bill, I know it's late in the summer, but is there any chance you can come up and visit with us this fall?" They had an unusual situation arise on their faculty and they needed somebody to cover the very courses that I was teaching, and Joe knew I was having a problem at Ole Miss.

This was a lifeline. Bob Farley and I agreed that this was the best thing to do—go off to Missouri. So I put in for a leave of absence for 1 year to go to Missouri, but my request was rejected. They wanted to force me to resign if I wanted to go to Missouri. A leave of absence implied a right to return when the leave was over and they were not willing to recognize that I had any right to come back. So Bob Farley, who had known Ross Barnett all his life, made a visit to Jackson, Mississippi, and met with him. Bob finally persuaded Ross that if they persisted in their course of conduct against me the law school would be in very serious danger of losing its accreditation. So I did finally get my leave of absence. It was too late in the year to take our three children to Missouri, so every month I drove back to Oxford for a weekend to spend time with Joy and the three kids.

That fall, Ole Miss adopted something they called tenure. If you taught there for 3 years and your dean or department chair recommended you, that was tenure. When I heard about that I wrote the chancellor and said, "Chancellor, I have not received my tenure letter yet." He wrote back and said, "You have not received and you will not receive tenure. Although Dean Farley has recommended you, I will not approve it and you will never be given tenure at the University of Mississippi." This was the man who had said that my situation was the ditch that we would be willing to die in. When it came, however, he was not willing to die in it.

In the meantime, the Academic Freedom Committee of the Association of American Law Schools (AALS) was made aware of my case. They appointed two prestigious southern law deans from the University of Virginia and the University of Texas to go to Mississippi and meet with the board of trustees and impress upon them how its course of conduct toward me could affect the law school's accreditation.

Shortly after the first of the year, I was offered a permanent job at the University of Missouri for the next year. So I resigned at Ole Miss but not before Bob Farley got me in the summer school budget for that last summer. It was a sad summer. We had a beautiful house on a 2-acre landscaped lot. We loved it. We had a lot of friends there. We liked Oxford. Part of the sadness was that people on the university faculty, whom we had thought were our friends, gave us a cold shoulder just before we left town.

Bob Farley called me in before we went to Missouri and said, "Bill, I've got a going away present for you." What he gave me was a petition that the law students had initiated and virtually every student in the law school had signed. They gave it to Bob Farley and said, "If this will help Professor Murphy in any way you can make it public." Well, of course, Bob did not make it public because if he had it would have affected the careers of those students. But he gave it to me and it made me feel a little better to leave for Missouri and know that all my students had done that for me.

**Edgar Jones:** Before you go to Missouri let's get the statement that you did issue.

**William Murphy:** During all this time I hadn't said anything publicly (the chancellor had asked me not to), but when I came back from Kentucky and found that situation that was facing me, I decided that I was going to say something publicly.

**Edgar Jones:** Why don't I read it? It's from an editorial in the *State Times*. Now I'm reading from the editorial.

While accusations have been hurled in the direction of Ole Miss, little has been said in retaliation. This absence of a retaliatory spirit does not apply to Dr. Murphy. He has an Irish name and must be a true fighting Irish. Anyway the following statement which he made indicates that he is not on the defensive. He comes out of his corner slugging. [Then, quoting Bill:]

I am not ashamed of my membership in the American Civil Liberties Union. It is a respectable, patriotic and worthwhile organization. It has defended the rights of all manner of people, including segregationists. It has been commended widely throughout the American press and also by such public figures as President Truman, President Eisenhower and General MacArthur. . . . It is a lie that I have ever advocated integration in my classes. It is not my job to advocate either segregation or integration. I am paid to teach constitutional law. And this includes the Supreme Court's segregation decisions. My approach to these cases is legal and analytical, not partisan and emotional. Of course I teach that Supreme Court decisions are law. No professor with any integrity would do otherwise. I want to make this absolutely clear. I do not intend to give up my membership in the ACLU because of attempted political intimidation. I do not intend to tailor my teaching to satisfy any cult of crackpots, fanatics and willful ignoramuses.

**William Murphy:** I have to admit that that was a little bit intemperate, but by that time I had had it up to here. I did not mention earlier that about a month after we got to Missouri James Meredith arrived at Ole Miss. After his arrival, there were riots on the campus, people were killed, the Army had to be sent in, and Bill Murphy's case, which had been the big publicity thing up to that point, because a very, very minor footnote.

**Edgar Jones:** Before we go to Missouri, we are going to find out how you became an arbitrator.

**William Murphy:** The year I went to Yale, I took Dean Harry Shulman's seminar in Labor Arbitration in which he used his own cases. And I took an arbitration seminar in commercial arbitration from Wes Sturges, a former dean. I got interested in it that way, and they were nice enough to get me on the American Arbitration Association list. I didn't pick up many cases in Mississippi, which was not a hotbed of unionism, but when I moved to Missouri the caseload picked up and in 1966 I became a member of this Academy. It has been an enormously enjoyable and rewarding professional experience.

Before I get to Missouri, I guess I should mention too that my situation at Ole Miss had been reported nationally in any number of publications while it was going. When I did resign, it was received with great joy in Mississippi, but it went out over the wire services

and I got clippings from friends all over the United States about my resignation. In addition to the AALS Academic Freedom Committee report, my case has been written up in four different books on Mississippi, one of which was published just last year. I guess really what happened to me was a benefit because it attracted me to a lot of people, in a favorable way, who would never have heard of me otherwise. I guess I got a net asset out of the whole thing, but if you ask me how I felt about it, I would have to quote Abraham Lincoln who reported that the man who was tarred and feathered and run out of town on a rail said, "If it weren't for the honor of the thing, I'd of just as soon not have gone through with it."

At any rate we were relieved that my career could go on. I was bitter for awhile, and then I realized my being bitter up there in Missouri was not helping the situation in Mississippi and it was really affecting our lives, so I did my level best to overcome the bitterness. But I have to admit that I was not completely successful. We have been back to Mississippi twice a year regularly since then and you would not believe the changes that have taken place in that state. I do not have time to talk about them now, but I would not have thought it possible when I was there that Mississippi would be the state that it is today.

Well, on to Missouri. Now I want to preface this by saying what I am getting ready to tell you about Missouri and the Missouri Law School was a long time ago, years before Tim Heinsz, my good friend, became dean. If Tim had been dean when I was there, I would probably still be there.

When we started at the University of Missouri, there were about 20,000 students. The law school there was about 300, maybe 400, students, with a faculty of about 15. Columbia is a very, very nice little town smack-dab in the middle of the state.

Joy and I set about making a new life for ourselves. I wrote a report for the American Association of University Professors chapter on faculty participation in university government that attracted quite a bit of attention. I went before the city council and gave a statement upholding the constitutionality of a fair housing ordinance. There were no black law students and I convened the first meeting of the black students at the university to talk to them about the possibility of legal careers. I think they have any number of blacks at the law school now. I got interested in Boy Scouts, was president of the church board, a member of the University Long Range Planning Committee, and a member of the Missouri Commission on Human Rights. Joy was president of

the PTA. We became pretty active people on campus and in Columbia.

At that time, the senior member of the Missouri law faculty had been there since 1938. The governor was a former student of his. The lawyer members of the Board of Curators were former students of his. He was a very, very influential person throughout the bar in Missouri. He was also a very, very conservative and, I'll have to say, I think a narrow-minded person. He had wanted to be dean when Joe Covington was appointed and he made Joe's life miserable. Joe Covington was one of the most thoroughly decent people I have ever known in my life and his deanship was harassed regularly by this senior member of the faculty.

Joe finally decided in the late 1960s that he would submit his resignation. A search committee was appointed of which I was a member. We recommended to the chancellor some outside candidates. We did not recommend any inside candidates, but the system was such that anybody on the faculty who wanted to recommend an inside candidate would just write a private letter to the chancellor. I'm confident that a majority of the faculty did not want this senior member of the faculty to become dean. But when I got back in late summer of 1969 from a visiting professorship at the Utah Law School, he had been appointed dean. The chancellor told me later that he was under intense pressure from the lawyer members of the Board of Curators to appoint this man dean and so he became dean.

The first thing that happened that fall was that I was elected to a 3-year term by the law faculty to represent the law school on the Faculty Council on University Policy, a representative body composed of people elected from various academic constituencies around campus, about 25 or 30 people all together. When I went to the first meeting the faculty council unanimously elected me chairman for the next year.

Remember this is a period of intense opposition to the war in Vietnam, so there was a lot of activity on university campuses—draft card burnings, vandalism, violence, and seizure of buildings. It was a very, very turbulent period of antiwar opposition.

The very first thing that came up that fall was the national peace coalition wanted to have a 1-day moratorium in October in which all the universities were to be shut down to protest the war in Vietnam. I was opposed to the war in Vietnam. I wore my black armband and I initiated a letter to Senator Thomas Eagleton supporting the War Powers Act. However, I thought it was wrong

to shut down the university as a means of political protest, even if one were against the war. I got the faculty council together and we issued a very straightforward statement disclaiming any desirability for the university, or any professor, to shut down classes as a means of protesting the war in Vietnam. So the year went on and the faculty council became very, very active, much more so than it had been in the past. We took positions on so many more things and issued statements and the faculty council really became a vibrant voice on the campus.

Then there came a big blowup in May of 1970. Nixon's secret bombing of Cambodia resulted in turbulence all over the United States. If you recall, the National Guard in Ohio killed some students at Kent State. There were campus eruptions everywhere. I was home one day about noon when I got a call that said that I had better go to the campus, something was happening.

I have to back up a minute, and tell you that during the fall of 1969 I was at home one night when I got a call to go to the campus because some students were about to take over possession of a university facility. I drove to the campus and I introduced myself to these students and I persuaded them that what they were about to do was self-defeating and I persuaded them to disperse. They dispersed just minutes before the dean of students and the campus police came to arrest them. The chancellor, John Schwada, let me know the next morning he didn't approve of my intervention.

Now, back to May of 1970. I got a phone call about noon one day to go to the campus because something was happening and maybe I could help. What had happened was that about 2,000 students had congregated on a grassy area in front of the main administration building. The chancellor had locked the doors and had ordered one of the leaders of the demonstration arrested and put in jail. He had called the governor to tell him what was going on. There was talk about the governor sending in troops to break up the demonstration.

I talked to the chancellor and persuaded him that, if he were willing to sit down the next day at a meeting with the student leaders and discuss all of the different problems that existed on the campus in connection with this antiwar feeling, then I would go out there and try to get those students to disperse. He agreed to it and I talked to those 2,000 students. I told them that if they would disperse we would have this meeting the next day and see what we could come up with.

They did disperse and we did meet the next day. I chaired the meeting with the chancellor and his people on one side and the student leaders on the other side. We met all day and finally agreed on a large number of things regarding how the campus should be governed, how protests could be conducted, and a whole spectrum of issues. Then I went home that night and wrote it up.

I came back the next morning; the chancellor did not come in but his assistant did and we tinkered with the statement a little. Then the student leaders, the chancellor's representative, and I signed it. We called it the Joint Statement on Current Campus Problems. I had to go out and read the statement over a loud-speaker system to about 5,000 or 6,000 students who were gathered in a huge area. I read it to them and explained it to them. The student leader took the microphone and endorsed it and all of the students just raised up their hands and shouted. If you want to know what participatory democracy is, that was it. At any rate, the statement was approved and we had peace on the campus for the rest of May 1970. I thought that that was the end of it.

The governor, however, issued a public statement criticizing me for some of the particulars in the joint statement. He did not criticize the chancellor who signed it; he criticized me for having written it. I responded with a public statement to the governor that was respectful, but I defended the statement. The next thing I knew, the chancellor called me to his office and chewed me out for about 30 minutes. I really was shaken that he had talked to me the way he did for those 30 minutes. Then we had a general faculty meeting at which I spoke on everything that the faculty council and I had done. The chancellor spoke and damned if he did not renege on one part of the statement that he had agreed to! The chancellor said he had never agreed to it. I was flabbergasted. The faculty, I suppose, believed what he said.

And then the Board of Curators, just before commencement, the last part of May, had an emergency meeting. They totally repudiated our Joint Statement on Current Campus Problems and ordered that disciplinary proceedings be brought against faculty members who allegedly had let students out of class in order to do what they called "work for peace." I never knew exactly what that meant, but that was the phrase. They brought disciplinary proceedings against a number of faculty members for having acted improperly.

I was so upset that our good work on the campus, which had absolutely solved our problem in Columbia, had been nullified

that the next day I issued a statement criticizing the curators. I said that instead of repudiating what we had done, they should be proud of the way the faculty and the students at the University of Missouri-Columbia had conducted themselves. During this whole time I got a lot of support from across the state and from people in the faculty community and town. The local newspaper, the *Columbia Tribune*, wrote beautiful editorials in my support and I was re-elected by the faculty council to chair the council for the next year.

The council decided to publish a narrative of these events as a university document. I had the job of writing that narrative that was approved by the council and then published and widely circulated on campus.

In June, the dean called a special meeting of the law faculty. The purpose of the meeting was to revoke my representation of the law school on the faculty council. The dean charged that I had made an unsolicited entry into the campus confrontation and that I had issued a public statement criticizing the curators. He charged that I had initiated a letter to Senator Eagleton urging that the Senate reject President Nixon's nomination of Judge Carswell to the Supreme Court. The dean said that was a very improper thing for a law professor to do. He said I was a leader of an activist group on campus and for that reason should not be representing the law school on the faculty council. He even accused me of posting "liberal" notices on the door of my office.

The vote was 8 to 6 against me. One of the six was Jim Westbrook, a member of the Academy who is here today. I think the dean had the votes in his pocket before he called the meeting. Some of the law faculty had complimented me weeks before on what I had done. Now, they supported the dean and voted to revoke my membership on the faculty council. The faculty council then issued a statement, prepared in my absence, in which they said that the law school did not have any authority to do what it had done. I had been appointed for a 3-year term and as far as the faculty council was concerned that meant for 3 years and the law school could not revoke it and I was still chairman for the coming year.

I then left with Joy and the kids to go to Brown University in Providence, Rhode Island, where I was teaching constitutional law to a group of foreign lawyers. I thought about it over the summer and I decided that the better course of conduct would be to resign from the council. When I got back that fall, I did just that.

The dean had about five or six chairs to fill. I think anybody who was on the faculty at that time would tell you that my credentials



entitled me to one of those chairs; but he did not appoint me. Then the faculty salaries for the next year became known. I was the only member of the law faculty not to get a salary increase for the next year. When the dean published his law school committees, I had not been appointed to a single committee.

At that point, I concluded that I did not have much of a future at Missouri, so I did two things: I filed a complaint with the Academic Freedom Committee of the AALS and then I started looking for another job. I was determined that I was not going to move down in order to move out. It either had to be a better job or at least a lateral move. I contacted three law schools, all in the South. The University of North Carolina at Chapel Hill invited me to come for an interview. Shortly thereafter they invited me to join their faculty in the fall of 1971.

The investigating committee of the Academic Freedom Committee of the AALS had been appointed to investigate the Missouri situation. It was a blue ribbon committee. But, when I got the job offer at Carolina, I talked to my four closest friends on the law faculty who had supported me through all this. I told them that this committee was about to investigate the law school, but I was about to leave and what would they like me to do. They all said, "We'd appreciate it, Bill, if you'd withdraw your complaint. We need to put this law school back on an even keel." So on their behalves I did withdraw my complaint to the AALS.

If you would ask me to compare my experiences at Mississippi and Missouri, I'd say for one thing the time frames were totally different. The tribulation at Ole Miss spanned about 3 years and the problem at Missouri was tightly compressed into a period of about a month or so. The sources of opposition were different. At Ole Miss, the dean and the faculty supported me down the line contrary to the external political pressure. At Missouri, I not only got the external political pressure, but the dean and a bare majority of the faculty were against me also.

In comparing the two, I'd say I could understand why those people down in Mississippi were doing what they were doing. From their point of view I was what they called me, a dangerous person. They never knew me personally, I never knew them personally. At Missouri, the people who did me in were people who, for 7 or 8 years, I considered to be close personal friends and I thought I had earned and deserved their support.

I went to Carolina in the fall of 1971. Ted has told you how nice the people there have been to me. I guess I have to say that my academic career ended up on cloud nine.

Now we had to figure out some way for me to finish this talk. Ted persuaded me to finish it up by reading to you a little thing I wrote some years ago and have used on more than one occasion. Here's what I said. You all know the familiar Murphy's Law: "If anything can go wrong, it will." When things go wrong, I can blame Murphy's Law. When things go well, I can credit the luck of the Irish. But over the years I have developed my own Murphy's Law: The Law of Optimum Ratios.

That Murphy's Law says that in any human process from 75 percent to 90 percent of what is said is irrelevant and that only 10 to 25 percent really matters. That law is applicable to every arbitration hearing I have ever held, and to every transcript I have ever read. It certainly applies to judicial opinions that almost invariably reflect one of the curses of our legal system, overanalysis. I guarantee you that Murphy's Law applies to faculty meetings, and, you are now no doubt saying to yourself, it also applies to program speakers.

I suggest that Murphy's Law of Optimum Ratios applies also to life itself. If you consider the ageless adversaries and the prevalence of the vices over the virtues, mediocrity over excellence, stupidity over intelligence, ignorance (including willful ignorance, the worst kind) over enlightenment, lies and deception over truth, selfishness over altruism, and power over justice, my Murphy's Law becomes important. As Gibbons told us, history is indeed little more than the register of the crimes, follies, and misfortunes of mankind. But under Murphy's Law of Optimum Ratios, that is only 75 to 90 percent true. The truly important thing about my law is that it postulates 10 to 25 percent wheat over chaff, gold over dross. With that much of a fighting chance, there is room for hope and some optimism, however skeptical. My Murphy's Law is a healthy antidote against cynicism.

Mercifully for the audience, every speech must end and I have now come to the end of this one. This is the first time I have ever given this talk about my experiences at Ole Miss and Missouri to an audience. Thank you very much for your kind attention.

