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A LAWYER'S STORY: GROWING UP IN ARKANSAS

*Robert Ross Wright, III**

When Chaucer wrote his classic *Canterbury Tales*, he had various tales told by pilgrims traveling to Canterbury Cathedral southwest of London. So, it is perhaps appropriate that I tell mine, or at least some of it, although this will not be a “tale” because this is the truth.

The first thing you have to understand about me is that I am a child of the Great Depression and of World War II. I am a product of what Tom Brokaw called in his best-selling book, the “Greatest Generation.” He was talking about people who were six or eight or ten years older than me, but I was a part of it in the sense that it shaped and molded what I am and what I did with my life. By the time World War II ended, I was a teenager and would have been part of it had it lasted a few more years.

The depression of the 1930s was a worldwide event, and it accelerated and gave rise to the evil careers of Adolph Hitler and Benito Mussolini (whose career in Italy actually began in the early 1920s). The depression began, we are told, with the stock market crash in 1929, but it had other factors. We had by then a global economy although it was not recognized as such. Such regulation as the Smoot-Hawley tariff, which placed a limitation on worldwide trade, was a substantial factor. Investment grew out of control, and the various regulations that we have today on banks, investment houses, and the stock market were quite limited or non-existent. Only in recent years have we begun to recognize the global interaction of economic events. The “dust bowl” of the thirties ruined farming in the plains states all the way from the Dakotas to Texas, and thousands gave up and moved away, many to California. John Steinbeck’s classic, *The Grapes of Wrath*, describes the extreme conditions in that period.

The result, of course, was an economic collapse in which businesses and farms failed on a widespread basis and there were millions unemployed who wanted to work.

I was a child in the depression, but my father had a job as an auditor for an oil company. My maternal grandfather owned land that he farmed in the eastern Red River delta of Lafayette County, and he managed more extensive farmlands that belonged to Henry Moore of Texarkana. In the late 1930s, or around 1940, he and my uncle, a prominent attorney in Texarkana, and my father acquired two clothing stores (one for men and one for women) in Lewisville. That was about the time that the discovery of oil close to the Red

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River in Lafayette County ruined the growing of cotton and soybeans and the alternative crops of alfalfa and lespedeza that were planted to enrich the soil. My paternal grandfather also owned some land, was a store owner for a while, and worked for a time as a supervisor for the WPA (Works Progress Administration).

Franklin D. Roosevelt was the first President that I can remember, and he made wonderful speeches that assured Americans about their future. He had a soothing voice and was a great orator, although he used “patrician” pronunciations such as “again”—as in the ball carrier *gained* six yards—for “again.” He created numerous federal bureaus and agencies in an attempt to use government regulation to put people to work and literally work our way out of the depression. Ronald Reagan said while he was President that he regarded FDR as our greatest President. That was because during the Great Depression, so many men were out of work that our form of government was being questioned. Some of these people were turning to communism or became Nazi sympathizers. In helping to stabilize the economy and putting people back to work, even though it might be menial in nature, he avoided any attempted overthrow of the government. These programs instituted during the years of the “New Deal” were intended in large part to be temporary, but many of them remained and were expanded later by President Lyndon B. Johnson in his “war on poverty.” One that was intended to remain and has remained was social security.

During the 1930s, many unemployed men in search of work boarded freight trains and headed west. The St. Louis Southwestern Railroad, or Cotton Belt, came through Lewisville. Although we lived in El Dorado in the late 1930s, I spent a lot of the summer at my maternal grandparents’ house in Lewisville and later we moved there in 1940 and built a house next to my grandparents. These men who were called hoboes or tramps knew that my grandmother would give them food if they came to her back door. In fact, they would mark the way with chalk so that others could trace the way to her house. I tried to talk to them while they were eating when they were willing to talk. The ones who would talk would tell me that they wanted to work but couldn’t find any work. A lot of them were headed for California.

After I became old enough to enter grammar school, my father ceased traveling for the Lion Oil Company and took a job as an accountant for Lion in their building in El Dorado. (Not long after, he was made head of the Accounting Department.) We lived on Champagnolle Road next door to Dr. David Shepperson, the Presbyterian minister, and his family. We became good friends with them and regularly attended services at First Presbyterian Church. Another family we were friendly with were the Portises, and I was particularly attracted to Aliece, who was in my class at Hugh Goodwin

School. Her little brother was always pestering us, but Charles (Buddy) Portis grew up to be a successful author writing among other books, *True Grit*. You may recall that John Wayne starred in the movie version as the hero, Rooster Cogburn, and won an Oscar.

The late 1930s were not without memorable events. Joe Louis defeated Max Schmeling in the first round to regain the world's heavyweight boxing championship—something that I predicted to my grandfather and his friends gathered to hear the fight on his Zenith. Orson Welles frightened the dickens out of us with his “War of the Worlds” involving an alien invasion of New Jersey. I missed the first part of it when they said it was fictional. So did most Americans. The German dirigible, the Hindenburg, caught fire while trying to land and killed many of its passengers.

By the late 1930s, the economic situation had improved enough in the country for Roosevelt to be elected to a third term as President in 1940. Following the precedent of George Washington, who only served two terms, previous Presidents had not sought a third term. When FDR defeated Wendell Willkie, the Republican nominee who was a corporate lawyer from Indiana, he became the only President to serve more than two terms; of course, today the office is limited to two terms by the constitutional amendment to that effect.

Although the economics of the nation had improved, it was not until we entered World War II that the Depression ended. The manufacturing might of the United States was converted almost totally to the war effort. This had the effect of putting people to work, including a great many women, because able-bodied men under a certain age were inducted into the armed services. This was the beginning of the recognition that in most instances, women could do what had been considered a man's job. Even before we entered the war, we had begun in 1940 to try to improve our pathetically weak army. I recall army maneuvers in South Arkansas and North Louisiana conducted in the summer of 1940. The “blue army” was composed largely of northerners and the “red army” largely of southerners. My family learned that a unit of the “blue army” was going to come through Lewisville headed for Louisiana down state highway 29 and camp out on the edge of town for the night. So, my grandmother decided to host them for supper out on her lawn. She and Anna, her cook, and other women cooked up a large amount of fried chicken, fried catfish, potato salad, hush puppies, along with fresh tomatoes and other vegetables, with watermelon and homemade ice cream for dessert.

Although the yankees gobbled up the food, they were unfamiliar with Southern culinary delights. One Iowan had never seen watermelons before, and he asked me how you would go about eating a slice and what you would

do about the seeds. At eight and a half, I had achieved a good bit of expertise in this, and I was pleased to demonstrate.

One of the first things I noticed was that these soldiers, or many of them, did not have real rifles—what many had were made out of wood. I don't think this was intentional; I think it illustrates the sad state of our army at that time. There were probably a lot more guns in the little town of Lewisville than what they had. Our navy was in better shape than the army at the time we entered World War II, although the Japanese dealt it a near fatal blow in the sneak attack on Pearl Harbor and destroyed many of our battleships. When the Japanese attacked Pearl Harbor, I was lying down resting on that Sunday afternoon because I had some fever. I was listening to some music on the radio when the program was interrupted by a news bulletin announcing the attack. My father was out back feeding our English setter bird dog, Daisy, which was usually my chore. I went to the back porch and told him what I had heard on the radio, and he said, "It's all right. We'll just have to whip them."

Although the Pearl Harbor event was unexpected, there had been a belief for some time that we would enter the war on the side of Great Britain. On Sunday afternoons, we customarily drove to my paternal grandparents' house, and late in the afternoon, we would listen to Edward R. Murrow and others reporting from London. Sometimes we would listen to a recent speech by the great Winston Churchill. We had no illusions about Hitler and the Nazis. On Monday, December 8, President Roosevelt addressed Congress about the "dastardly" attack on Pearl Harbor and declared that a state of war now existed between the United States and the Empire of Japan. Congress immediately declared a state of war and followed shortly thereafter with a declaration of war against Germany and Italy.

The war gave rise to an added increase in government agencies directed toward different aspects of the war effort. There were price controls to prevent inflation, rent controls (some of which still exist in the East), controls on gasoline and food, and agencies to run them. We had food coupons and had to use them wisely because you could only buy a limited amount of meat or sugar or some other items in a week. As a result, we raised chickens and had a vegetable garden. Most people had vegetable gardens including those who had not had them previously. Gasoline rationing led to coupons based on what type of sticker you had. My father had a "C" sticker for his company car, which was the best, because by then he was supervisor of sales for Lion Oil in South Arkansas, and he had to travel the southern half of the state to manage or coordinate the various service stations and bulk plants. The oil business was considered an essential war-related activity, and he never ran short of gasoline. But our personal car, a 1939 Chevrolet, had an "A" sticker and the gas coupons were more limited and more precious. A "B" sticker was

somewhere in between the two and involved business use considered important but not as essential to the war effort as a "C" designation. The automobile companies began manufacturing trucks, tanks, and similar products for the war, and the last automobiles to be produced were 1942 models and there weren't many of them. At the end of the war, we still had our 1939 Chevrolet, and because of gas rationing, it only had about 20,000 miles on it. My father's company car, a 1942 Ford, had to be overhauled several times and by the end of the war had clocked over 300,000 miles.

People were fully supportive of the war effort. Tom Webber, Susan's father, could not get in the U.S. military because of poor eyesight, so he joined the American field services. He was assigned to drive an ambulance despite the eyesight problem, and he was with General Montgomery's Eighth Army in North Africa. My father tried to enlist as a gunnery instructor, being a crack shot, but he was forty (too old), had a wife and two children, and was working in a war-related industry. He would have made an excellent gunnery instructor. People would bring him their new rifles to adjust the sights, and he would tap a nail onto a post and when he could drive the nail into the post by shooting it, the gun was sighted. He won several trophies in skeet shooting in the late 1940s, including the "high over all" at the state tournament.

During the war, aside from the garden and the chickens, I obtained a book from official sources that contained all sorts of information about military airplanes, both ours and the enemy's. It had pictures, outlines, and information. I became an airplane spotter. Now, of course, that was absurd and overdoing it. The enemy did not have a plane that could fly all of the way to South Arkansas in the early 1940s and return, even if it came from an aircraft carrier. Also, the Lewisville-Stamps Metroplex was not exactly a threat to the Axis war machine. However, I got plenty of action because Barksdale Air Force Base was just about 65 miles down the road in Shreveport-Bossier City.

In the Boy Scouts in the 1940s, we played Germans and Commandos. We would go to a wooded area when it was getting dark and it would be an "island." The "Germans" would defend it, and the Commandos would try to capture it. We had flour wrapped up in little plastic wraps similar to modern-day "baggies." If you hit someone with one of those, he was dead and out of the game. The game was over when all of one side had been hit. Everyone wanted to be a commando, but there was an advantage in being a German. You could lurk in the bushes and wait for them. Moreover, the commando targets were the "power station," the "radio station," the "railroad station," and similar designated spots, and so you knew where they were going.

I kept up with the war on a daily basis. Either my parents or my grandparents took the *Shreveport Times*, the *Arkansas Gazette*, the *Arkansas Democrat*, and the *Texarkana Gazette*, as well as the two Lafayette County

papers. They also took *Time* and *Life* magazines and the *Saturday Evening Post*. Aside from current events, both sets of grandparents had a lot of books that I would read. One had a set of the *Harvard Classics* that I still have as well as other classics. One had a five-volume pictorial history of the Civil War (and I still have three of those volumes), and a complete set of Shakespeare's writings in individual books.

One unfortunate thing that happened to me during that period was that I developed a stomach ulcer in the duodenum. It developed when I was nine years old, and I think it was caused by stress due to the fact that my mother almost died following the birth of my brother, Stewart. It was a very stressful time on me and on my father. At that time, in 1941, doctors did not believe that children could develop stomach ulcers. The ulcer was not discovered until I was eleven. It was diagnosed by an internal medicine specialist at Highland Clinic in Shreveport who had recently returned to his native Louisiana after a time at Mayo's. It nearly killed me in early 1957 when it perforated the stomach and both sides of the gall bladder. My daughter, Robin, who is twelve, has a duodenal ulcer, and we keep a close watch over it and make sure she takes her medicine.

My last year in high school was 1948-49. Football had been discontinued because of World War II and had not resumed. It was decided to start a football team. Coach Shackelford, the football coach, was also the basketball coach. He had played at Henderson State under Coach Duke Wells, who in turn had been at Tennessee under the legendary General Robert R. Neyland. Henderson ran the single wing, as did the Vols, and so the coach installed the single wing. I was class president and later valedictorian, and naturally I wanted to play quarterback. However, a quarterback in a single wing seldom passes as he does in a "T" formation or some variation of it. He is largely a blocking back and occasional ball carrier. The tailback is the passer, most of the time, and is the principal runner. We had a very good tailback in Jack Barnes who had played at Lufkin, Texas, a big-time East Texas program. He was later to become head coach at Brinkley and coached Jon Brittenum, one of the premier Razorback quarterbacks of all time during the mid-1960s.

Because I was the fastest person on the Red Devil team, I got to carry the ball more than most quarterbacks in the single-wing. I also became a pretty good blocker. However, I shared time at the position with another person partly because the coach was afraid that I would take a hard hit that would rupture my stomach ulcer. We went 6-4 on the season and defeated our arch-rival, the Stamps Yellowjackets, twice (the last time 34-6), and that was pretty good for a team in its first year. That was the same year that Buddy Sutton and Tommy Britt starred for the Hope Bobcats, and they lost the state

championship by only 12-7 to Little Rock Central. Buddy, of course, played for the Razorbacks, but had the ill fortune to play under Otis Douglas.

At the time that I graduated from high school, I was interested in history, political science, and law. I also had an interest in journalism, but my uncle, Ned Stewart of Texarkana, a prominent lawyer, assured me that I would starve to death as a journalist. My father sought to interest me in Medical School, and although I entered the University of Arkansas as pre-law, I did take some pre-med courses. Dr. Samuel Dellinger unintentionally cured me of any pre-med tendencies. I sat on the front row in zoology, and the class met at one o'clock in the afternoon, right after lunch. He would take part of a cow's cadaver out of a vat of formaldehyde and hold it out next to my desk where it was almost dripping on me. I had to leave class several times because I became sick at my stomach. So, although I made an A in the class, that combined with the chemistry lab's periodic manufacture of stink gas that permeated the entire building was more than my delicate insides could take. I think my life would have been more financially rewarding as a physician, and rewarding in other ways also, but the same could be said if I had spent my entire career as a practicing lawyer instead of only the first seven years.

As for journalism, it did not seem very challenging, although I took a couple of courses in it, worked on the *Traveler* for a time, and served later as Business Manager and Assistant Editor of the *Razorback* yearbook. Due to my recent experiences with the press and those of my wife, particularly my experience with a reporter who I have been told was formerly a gossip columnist for the *Washington Post*, and my observation of that profession in recent years, I am very glad that I did not travel that route.

I have limited this commentary to the time up to when I entered law school. I could devote a great amount of space to my social life as an undergraduate at the University, particularly involving the Kappa Sigma Fraternity and some of my associates. However, I will save that for another day. Instead, I will close with a few observations on American legal education and the profession and how things have changed since I entered the teaching profession on July 1, 1963, as compared to the present.

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The most noticeable change in both law school and the Bar began to occur in the late 1960s, and that was the increase in women studying law. Their numbers continued to accelerate during the 1970s and 1980s so that today they number almost half of the student population in this school and about 40% or slightly more in Fayetteville. Moreover, their presence in the

Bar has been felt to the point that it is no longer unusual to find women trying cases or sitting as judges.

In my chapter on women lawyers in the soon-to-be-published book on the history of the Bar in Arkansas, you will find some interesting facts. I will not provide citations here because they are found in that chapter. However, the fact of the matter is that women were not permitted to practice law in Arkansas until 1917 when a law passed in the nineteenth century that limited law practice to males was changed. Many law schools, including some of the most prestigious, did not admit women. Some of the early ones that did were Washington University in St. Louis, the University of Iowa, and the University of Michigan. Harvard Law School did not admit a woman until 1950.

There were women who attended the Arkansas Law School, the unaccredited predecessor of the University of Arkansas Evening Division in Little Rock, back in the teens and twenties of this century. The University Law School in Fayetteville never kept women out, but I recall only one woman who was in law school with me in the mid-1950s, and that was the unforgettable Virginia Harkey Ham, whom you know today as Ginger Atkinson. My home town produced a woman lawyer prior to then, Patsy Robinson of Lewisville, who was a University of Arkansas graduate. But women were scarce up until the late 1960s and early 1970s.

This has been the most remarkable change in the Bar and in American law schools in the last half-century.

Another change has been less noticeable, and that is the increase in minority law students. It is less noticeable in that they do not represent the numerical increase in women. I was in law school with several lawyers of African-American descent. Some had graduated before I got there—Wiley Branton and George Haley, for example. The one I knew the best was George Howard, now a long-time U.S. District Judge. He worked very hard and put in long hours—longer than I did, and I put in long hours too. One Saturday night, I went to the law library after dark because I had left one of my books there. George was in the library, typing on his typewriter, under an old gooseneck lamp.

Work or dedication to becoming a part of the legal profession is a commodity that I think is less in evidence today in law schools than it was then or even twenty years ago. I don't think law students put in the time that they used to put in, and I think faculty have become less demanding. A student ought to be embarrassed if he or she is not prepared for class. Unless they have been sick or distracted by personal problems, they should not be in law school unless they are willing to do the work necessary to learn the law. Moreover, if they manifest that lack of knowledge on an exam, faculty should be willing to give them low grades. Maybe my attitude is a generational one.

I despised the "culture," if you can call it that, of the late 1960s and early 1970s. It was soft and self-indulgent, and the behavior patterns were generally obnoxious. That generation comprises the people generally in control today from the President on down. Now, clearly, all were not that way, and many were quite responsible (my wife being an example), but I blame a good many of our troubles today on the attitudes that came out of that period of time.

Another thing that you see today is larger law faculties. Up until the mid-sixties, you seldom had more than ten or twelve people on the average law faculty. That changed, particularly during the 1970s, and today faculties are considerably larger. Salaries went up for a time also, but have followed a much slower increase in recent years.

In the law itself, there is a complexity that did not exist in an earlier day. Much of this is due to governmental regulations and new programs. Environmental law and regulations are an example. They are largely the product of the last thirty years. Our system of taxation has grown increasingly complex, and every attempt to simplify it seems to complicate it further. We do not yet have the bureaucratic impossibility of China, but every year we seem to head more in that direction.

Finally, there is something in the legal profession that did not exist forty or so years ago and that is an increased incivility among lawyers. For example, when I started practicing law in 1956, you did not have to give an opposing lawyer formal notice of a deposition. You made arrangements with him over the phone.

It was more gentlemanly back then. Judges, as well as lawyers as far apart in age as fifty years, have mentioned this to me. The young lawyers, of course, know about this only from what they have been told. The older ones know about it from experience.

I attribute this increased incivility at least in part to the degradation that the legal profession has suffered at the hands of the highest appellate courts, particularly the United States Supreme Court. They have lowered the standards of the legal profession by, first of all, allowing non-lawyers to do certain legal work. Secondly, they have degraded the legal profession by permitting lawyers to advertise or, for that matter, seek clients directly through agents or by mail or by actually approaching them. These activities would lead to disbarment proceedings forty or fifty years ago but now are sanctioned by the highest courts.

I believe that this manifests a disdain for and lack of knowledge of history in general and legal history in particular. You have to start with a fundamental fact and that is this: Civilization began with law, and without law, there is no civilization.

The law has never been perfect, and it is not today. But there has to be law of some kind to regulate human behavior. For humans to come out of the caves and interact on a societal basis, there had to be a primitive form of law enforced by that primitive society. Our law today is traced back to the law of the Holy Land as manifested in the Bible, and the law of Greece and Rome. You find passages in the Old Testament that reflect the modern law of wills, and you can trace the law of zoning to ancient Roman law as manifested by the Code of Justinian in 450 B.C. Christianity and the Judaic-Christian tradition in general contributed substantially to modern law. And of course, law in this country is derived principally from the English common law. A substantial number of Acts of Parliament in England are a part of our law such as the Statute of Uses in the 16th Century and the Statute of Frauds in the 17th Century, as modified by our own statutes.

This is a rich heritage, and we ignore it at our peril. Further, we ignore at our peril the concept of an independent judiciary and legal profession. Admittedly, the concept of an "independent judiciary" does not mean a license to advocate stupid and obviously flawed concepts under that guise, and that is to a large extent what has led to attacks today on the independence of the judiciary. Just as a few bad apples can spoil the barrel, a few bad judges can ruin the system in the eyes of the public. As for the legal profession itself, the same is essentially true. Lawyers who steal from clients, barely skirt the margin in terms of ethics, and perform shabbily are few and far between. But that is not the view of the public, and our profession is rated down as low as used car salesmen and newspaper photographers who trail famous people in packs.

Law is the oldest of the social sciences. It has sheltered civilization down through the ages. It was the overseer to the Renaissance and the Age of Enlightenment. It was built upon by the great philosophers of the latter period, Locke, Rousseau, Montesquieu, and the others who influenced our founding fathers. It is like the universe in the sense that it is still expanding. What we do with it will shape the kind of society we will have and the people we will become.

The law is our legacy and our trust. How well we nurture that inheritance and carry out our trust will determine our own legacy and our own place in history.