GEORGE PALMER

Terrance Sandalow*

I first met George Palmer, nearly fifteen years ago, when I came to Ann Arbor to discuss the possibility of joining the faculty. The chairman of the Personnel Committee had scheduled the customary round of informal meetings with small groups of faculty members. As I recall, the first two of these meetings were marked by a certain awkwardness that I have since learned is common when faculties are interviewing someone already in teaching. The participants all understand that the object of such meetings is to permit judgments to be made about one another’s intellectual qualities; yet, a certain delicacy, generally absent when the prospective faculty member is not yet in teaching, leads everyone to avoid the appearance that anyone is being tested.

No such awkwardness marred my meeting with the group that included George Palmer. It was immediately evident that George believed our purpose in coming together was not social, for which the exchange of pleasantries might suffice, but intellectual. Pleasantly, but persistently, George sought evidence of whether I satisfied the standards of rigorous analysis, precision, and careful expression that he demanded of those who would serve on the Michigan faculty. Even now, nearly fifteen years later, I recall it as an invigorating experience.

Not long after joining the faculty, I learned that generations of students had already given a name to such encounters with George. They called it “being Palmerized.” To be “Palmerized,” for the benefit of those unfamiliar with the expression, is to be subjected to one of life’s most painful experiences, the pain of disciplined thought. For more than thirty years, George delighted in inflicting that pain upon his students and colleagues.

In recent years, the notion has grown up that discipline and pain are foreign to education, even inimical to it, and that intellectual standards are wholly personal. George has never succumbed to that cant. Even during the late ’60s and early ’70s, when the assault upon the intellect was at its peak, his demands upon students did not lessen. Yet, George’s refusal to bend with the wind did not diminish his hold upon students. They seemed to understand, even when they did not fully comprehend, that his

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insistence upon the maintenance of intellectual standards represented a commitment to their and the public's well-being that was far deeper than the professions of concern that others at times offered as a substitute.

Readers of this issue who know George Palmer will anticipate his embarrassment as he reads these tributes. Perhaps it will ease that embarrassment to point out that our purpose is not only to honor him, but to serve the institution to which he devoted so much of his life. For by recalling his contributions, we are better able to set our own sights.
GEORGE PALMER

John P. Dawson*

There are many other admiring friends who would be eager to join in this tribute to George Palmer. I consider myself fortunate, therefore, to be included. And it seems to me suitable that the Michigan Law Review should arrange this. He was one of its editors while a law student, has contributed to it often, and has been a mainstay of the Michigan faculty for more than thirty years. He is a hard man to convince against his will, but this issue may help to persuade him that, prophet or not, he is highly honored in his own country.

Our own connections became close in 1942, ten years after his graduation from the law school. In the interval he had practiced for seven years in Indiana and had begun his first venture into law teaching, at the University of Kansas. Then the war overtook us all. George and I found ourselves engaged in rent control, a task for which no legal education could have prepared us. We both joined the legal staff of the O.P.A., where our principal task was devising and revising rent-control regulations. Connected with this was the still harder task of explaining what they meant. Fortunately the main task of drafting was assigned to George. He showed then the capacities that were later to become familiar in entirely different ways—the capacity to take firm hold of a complex and novel topic, to strip away all the marginal frills, to reduce it to its essentials, and then to state those essentials tersely, without a single wasted word. We worked together closely, under considerable pressure, for one active year. Then we both moved on to different assignments in war-time Washington.

After George joined the Michigan faculty in 1946, it seemed likely at first that he would make his main investment in the subject of Trusts and Succession. And indeed he did make a major investment in that subject, as is shown by the range of contributions made in tribute to him in this issue of the Law Review. A substantial segment of his writing has been on problems within that area, not only through articles in law reviews, but in extensive essays and comments in successive editions of his casebook. The high quality of this casebook, Palmer on Trusts and Succession, has been attested in an unusual way by three

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highly qualified colleagues who, to keep it available for use, prepared a third edition when new developments needed to be taken into account but George was too preoccupied elsewhere to join in the enterprise.

When George began to take a serious interest in the subject of restitution, he gave no particular reasons, and I did not inquire closely, since it was good news for me. I think the attraction for him may have been that the subject was considered disorderly, amorphous, and very much in need of work by an orderly mind. That reputation was in fact quite undeserved. It was and is a widely used and entirely manageable part of our legal system. Many lawyers have practiced restitution without knowing it as a regular feature of their daily lives. But it did need a great deal of work by an orderly mind. As compared with other legal systems, Anglo-American law was if anything oversupplied with restitutionary remedies. They had originated in widely separated parts of the legal order, gave different kinds of relief, and operated under different names. Legal writing also dealt with the subject in segments and gave, therefore, limited and partial glimpses of what seemed to be a cluttered landscape. What was urgently needed was a comprehensive overview that would compare these remedies closely, define the functions that were appropriate for each in a variety of different settings, and relate them all to their common objective—the prevention of enrichment through another's loss. Such a comprehensive overview was essential also in order to discover the full possibilities as well as the necessary limitations of the prevention of enrichment as a declared objective.

Only by devoting a substantial amount of time to the law of restitution does one learn what a large quantity of law it includes. I had some notion of this, for I had started long before collecting notes for a book on the subject. But any such purpose on my part faded as George's own purpose became more firm. And so for more than twenty years he has continued to apply his mind and energy unremittingly to this very demanding enterprise. Its completion calls for celebration, not merely because a major gap in our legal literature has now been filled, but much more because it was he who did it.

It is not for me now to undertake a review of his treatise; so I will venture no more than a few opinions. I think it is a great achievement. I have read through all four volumes for the pleasure of encountering so many old friends and familiar themes and also through curiosity as to the author's present views on some of
the more debatable questions. The range of issues discussed is wide, the volume of material assembled is very large, but accuracy and clarity are maintained throughout. To practitioners this will be an extremely useful, much needed source. For many other readers it will illuminate an area of our law that for some still seems to be shrouded in darkness and mystery.

George did this all on his own and was helped, if at all, only by cheers from the sidelines by interested observers who are delighted and in no way surprised by the outcome.
In December 1977, George Palmer taught his last class as, in administrative parlance, an “active member” of the University of Michigan law faculty. In the following July, he was promoted by the Regents to the rank of Professor Emeritus of Law.

While his change of status was referred to at the time as a “retirement,” and with undisguised pleasure he will call attention to certain of the privileges and immunities of his new rank, including exemptions from committee service and attendance at faculty meetings, it is clear that to withdraw from academic life is not his intent. He will teach again during the winter term at another institution, located in a milder clime and known for the distinction of its senior faculty; and when asked, upon the recent publication of his major work, *The Law of Restitution*, whether he felt relieved, free of his burden, and inclined to relax, he replied, with surprise in voice and expression, “Oh no! I like what I do! I enjoy finding things out and putting them together.”

When he joined the Michigan faculty in 1946, the senior member of a cadre of young teachers that brought new blood to the school and enabled it to respond to the needs of an army of returning veterans, he was neither a neophyte nor a stranger to Ann Arbor. He had acquired his A.B. degree at the University of Michigan in 1930, and his J.D. in 1932. Seven of the fourteen intervening years had been spent in private practice; the remainder, following a year at Columbia where he became a Master of Laws, had been divided between law teaching at the University of Kansas and government service in Washington.

Within a short time after his return he taught Bills and Notes alongside Ralph Aigler, Trusts and Estates beside Lewis Simes, and Restitution next to John Dawson. Whether those subjects came to him or he to them I do not know, but they and the teacher were made for each other. The memoir adopted by the Board of Regents when he was named Professor Emeritus notes that “in an era that has increasingly succumbed to elaborate and often impenetrable statutes and regulations, Professor Palmer has been hailed as ‘The Last Great Common Lawyer.’” That he well may be, but he makes his way through statutory thickets with equal
aplomb, and is at least as comfortable in the leeways of equity as in the straitened precincts of the law, developing the implications of an idea so broad and vague as "unjust enrichment" or the precise construction of technical language in a trust agreement, a statute of descent, or a section of the commercial code.

His classroom is a unique experience. Those who have been there will not forget the inescapable necessity of thought, the relentless pursuits of meaning, the blunt evaluations of performance, the abrupt transitions when the point is made, and the difficulty of capturing it all on paper. Nor will they forget how they came to see similarities in problems that looked different and differences in those that seemed like, nor how they were led ultimately to discover, in Llewellyn's words, the "true sense of the situation" by a teacher with an unerring instinct for the heart of the matter. From him, more than most, what they learned by example, the virtue of a careful and discerning analytical method governed by strong ethical and informed policy senses, overshadowed in importance the announced subject of instruction. All this is well understood by Michigan students. It is the priceless contribution he makes to the education of lawyers and the truth that is aptly caught in the Regents' vignette.

His office, small and spare, is located in the stacks as near as may be to the books in which he delves. Most frequently he will be found there with one or two open books and one or two sheets of paper or file cards spread upon the desk, reading the one, writing on the other, or staring thoughtfully with hand to chin at the blank wall before him, his acute sense of the relevant reflected in the absence of those mounds of books and papers that litter the workspace of others. In this space he collected cases in the thousands, statutory provisions by the hundred, and the matured reflections from thirty years of teaching and scholarship, and "put them together" in a treatise—its publication fittingly concurrent with his advancement to emeritus rank—which at last brings light to an enormously important and fruitful sector of the law that for too long has remained inaccessible and poorly understood. Without doubt that treatise will be a major and progressive influence on the law for the foreseeable future.

George Palmer is a deliberate person, and a thorough one. Rarely is he seen to move afoot at a pace exceeding eighty to the minute, and driving behind him on a city street is for the impatient an exacting experience. One who seeks his opinion must be prepared to wait first while the answer is considered and then while it is articulated, fully and inexorably, in a midwestern
drawl that brooks no interruption. He is given neither to fragmentary statements nor to brainstorming, and with him a conversation may well entail a rich exchange of views, but would never conceivably be described as an “interaction.” Commenting upon a course recently adopted by some law schools, he noted that it seemed to cover a little knowledge about a lot of things, and added “but then I never was much interested in a little knowledge about any thing.”

Another trait that could not pass without notice is his addiction to truth. Others may round off the edges or soften the texture of unpleasant fact. Not he. His well-known candor serves in any working group to keep the deliberations honest and the flights of fancy modest. Not that he often intervenes. In meetings he never makes a speech, and infrequently comments; but on occasion, his tolerance for cant exhausted, he asks a blunt question or expresses an unvarnished judgment that cuts to the bone, and in the classroom or elsewhere his direct gaze backed by a questioning expression frequently leads to second thoughts and an embarrassed shuffling of feet.

All of which combines with his square features and normally sober mien to project an image, particularly to students, that is illusively austere; in fact this is a man of compassion, quiet humor, and great personal warmth. Undemanding, unquestioning, and steadfast in friendship, he relishes a pitcher of beer and small talk with colleagues at campus retreats and takes great pleasure in the company of friends on all occasions. One of the joys of conversation with him is to watch and marvel at the sunrise when, in amusement, his features pass from serious repose to quizzical smile to unbuttoned grin, delighted chuckle, or outright guffaw.

In December, at the time of his “retirement,” he adamantly refused to entertain suggestions that the occasion be publicly recognized. Happily the Law Review editors are subject to no such restraints, a public figure’s privacy interest being subject to the paramount public need; for it is surely as important and immeasurably more uplifting that excellence be celebrated as that its opposite be scorned. The editors are to be commended for providing the occasion for the celebration.