

Monday, Day 6

Grenny Clark phoned me shortly after twelve to ask whether I could lunch with him. I picked him up at the faculty club at quarter to one and in order to have privacy took him to Comatoo in the Square. After some talk regarding Emory Buckner's condition – he told me of Emory's "miraculous" restoration – he said, with a kind of smile. "Well, I assume you're pretty unhappy about Conant's selection." I replied, "Well, Grenny, at the moment I feel like accepting that job that I declined in Washington." To which he: "I thought you might feel that way. I can understand your feeling. I feel pretty badly myself." By that time we had reached Comatoo.

After the ordering was out of the way Grenny asked me, "Have you heard from Lowell?" "No, I have had no word from Lowell – what was I to hear from Lowell?" Grenny then told, in substance, the following:

"About four or five days ago, each member of the Corporation received a letter from Lowell, enclosing a memorandum from Pound, in which Lowell asked us for our views regarding the situation set forth in Pound's memorandum. The substance of the business was an alleged disregard by you and Landis of the rule adopted by the Corporation some time ago for the government of the University regarding the keeping of teaching engagements or the notification of someone in authority – the President or the Dean – of inability to keep engagements. Pound, in his memorandum to the President, had stated that you had been in Washington and failed to attend to some lectures and disregarded altogether the requirement of notifying him; that Landis had failed to attend some classes and also failed to sit on some doctoral examinations. I wrote the President that I did not know what the facts were, but that I assumed you had been drafted for some work by the Government and that Landis had been associated with you, and that in any event, whatever the facts were, the matter should be dealt with with the utmost consideration. At the Corporation meeting today I was a little late and the matter was under discussion when I arrived and there was only a few minutes discussion. I repeated the substance of what I had written, adding that of course so far as Pound's statements were concerned, we all knew that no confidence could be placed in them, and that I was sure that what you and Landis did was done in connection with Government work, and that in any event, whatever was done about it should be done with every possible consideration. My sentiments were expressed by Nelson Perkins and some of the others, and I supposed that either Lowell or Pound would talk to you."

F.F.: Would you like to know what the facts are, Grenny?

G.C.: No, I don't care to know the facts (with a wave of impatience) no, I don't want to know the facts. I don't give a damn about the facts. I can about imagine what they were. I am telling you all this – I suppose it's a little irregular, but it's all right between us – because I was a little afraid if this were jumped on you suddenly by Lowell you might get so damned mad that you might tell him to go to hell. And it would be the most natural thing in the world for you to do. I know I would – I'd be as mad as hell and resent it, and probably tell him to go to hell. You have more patience and a calmer temper than I have. But even you might do it, and I didn't want you to do that and so I thought I would prepare you. If Lowell were on the job another year, it might

be worthwhile having a real fight, but the old man is going to be on the job only two more months, so what's the use?

F.F.: Of course I am not staying here because of Lowell or Pound, and so I would not leave on their account. Of course it's an indignity.

G.C.: (with great heat) That's just what it is. Of course it's an indignity.

F.F.: But you needn't worry about me or the way in which I shall handle Lowell. I am concerned about Landis – not that he will do anything foolish, though he might be tempted to because he has the temper – but because of the discouragement that it will arouse in him. He's a moody temperament and very unhappy here as it is, under the present situation. But would you like to know the facts?

G.C.: (a little impatiently) Well, yes – I might as well, though I don't really give a damn about them – I am so damned sore about it.

F.F.: Well, these are the facts. Four weeks ago last Thursday I had a telephone message from Raymond Moley, saying that the original Securities Bill introduced on behalf of the Administration had encountered serious difficulties and the President wanted me to come down to help get it into proper shape. I realized that this was more of a job than a little tinkering here and there – for I had studied the Bill in question and was aware of the complicated particularities – and so I asked Jim Landis to come with me, and also arranged by telephone to have Ben Cohen of New York (perhaps the most brilliant graduate of the Chicago Law School, one of the most brilliant doctors we ever had, afterwards Judge Mack's secretary and a man of very considerable financial-legal experience but wholly disinterested, and as you know it was essential to have people free from every possible entanglement) to join me in Washington. Friday morning I saw Moley, who went over the situation with me and then took me to the White House. It had already been arranged that I was to go before the House subcommittee of the Committee on Commerce to confer on the needs of the legislation. After talking with the President, I went before the House subcommittee and had a talk with Chairman Rayburn. He explained to me the unsatisfactoriness of the Bill then before the committee, the President's desire, as well as his, for my aid in working out an effective bill to carry out the President's message on securities regulation. I explained to Rayburn the time that that would take, and that I had brought with me Landis and Cohen – telling him who they were – and he then said it was essential, in view of the parliamentary situation, that I appear before the subcommittee with the general outline of the bill as I thought it ought to be. I was reluctant to stay over till Monday, but he said it was absolutely essential, that the President and he were depending on me to do so. I then consented and told him I would be back on Monday morning with the first draft of our bill. I thereupon returned to the Carlton – where our party was staying – told Landis and Cohen the arrangement that had been made and immediately telegraphed to Pound, telling him that at the President's request, I would have to stay over till Monday and asked him to make arrangements about my classes.

G.C.: In other words, you did take cognizance of the rule about notifying the Dean, and you did notify him?

F.F. (nodding)

G.C.: (with a good deal of vehemence) In other words, you did take cognizance of the rule, which it is alleged you did not head. The only possible point about the whole business is that of course it is necessary in running any organization to have some kind of orderliness and therefore it's proper enough to have some kind of rule whereby men won't just disregard engagements, just pay no attention to them, but provide some means to notify people in advance. And that's just what you did, and Pound never mentioned it in his memorandum. And the only possible excuse – it's miserable, silly, petty business at best – is that you paid no attention at all, when as a matter of fact you did.

F.F.: I returned to Cambridge Monday night and on Tuesday told Pound of the situation, explained to him the President's request of me in further detail and that Landis was being left behind and probably would not be back in time for the doctoral exam on Wednesday and asked Pound whether I could substitute for Landis. He replied, "Sure, That's all right. I am glad Landis is doing that – it's good for him." Later, probably Thursday, when it was clear that Landis would not be back to take his Friday seminar I again spoke to Pound and asked him whether I might take Landis' seminar. He again said, "Sure, that's all right." With entire cordiality and in a matter of course way. The hearings before the committee in Washington dragged on, as such things do – all sorts of interests had to be reconciled, and of course the legislation is very complicated and covers a wide range – and Landis stayed on into the week following. I again spoke to Pound – in the meantime but with Pound's permission substituted for Landis at another doctoral exam; incidentally at both the doctoral exams at which I substituted for Landis Pound was present as chairman of the committee so of course he knew that Landis was not there and I was – telling him that Landis was still detained on Government work at Washington and that with his permission I would take Landis' seminar. He consented eagerly and I took the seminar. And that's the story.

G.C.: Without knowing anything about it, I just surmised that it was something like that.

Grenny then repeated his reasons for telling me about it – his desire to avert a natural resentment on my part of the offensive behavior of Pound and Lowell. He again repeated that the old man has only two more months to go and the thing to do is not to make a fuss about it. I forgot to mention that in the course of my remarks I said that having refused the request of the President for my service as Solicitor General, I could not possibly decline the President's request, those days, to do ad hoc jobs. Clark, with much impatience – and throughout he was the impatient and resentful one of the two and seemed to be under a good deal of suppressed anger against the whole incident – said, "Of course not. How could you? It's ridiculous, and I think it was very, very handsome of you to decline the Solicitor Generalship." He repeated that several times.