

2014

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Transcription of the Chapman University Dale E. Fowler School of Law Dedication Ceremony

Tuesday, September 10, 2013

On September 10, 2013, Chapman University hosted a dedication ceremony to celebrate the renaming of the law school to The Dale E. Fowler School of Law at Chapman University, following the historic \$55 million gift given by Chapman University alumnus Dale E. Fowler and his wife Sarah Ann. The *Chapman Law Review* is honored to publish the remarks and speeches by the distinguished speakers who took part in the ceremony.

INTRODUCTION OF JUDGE ALEX KOZINSKI BY TOM CAMPBELL, DEAN, DALE E. FOWLER SCHOOL OF LAW

Alex Kozinski is the Chief Judge of the United States Court of Appeals for the Ninth Circuit. He has been a federal judge for thirty-one years. Judge Kozinski and his parents, both Holocaust survivors, immigrated to the United States in 1962. He graduated from UCLA School of Law, and was a law clerk to both Justice (then Judge) Anthony Kennedy and Chief Justice Warren Burger. Before becoming a United States Court of Appeals Judge, Judge Kozinski was the first Chief Judge of the United States Court of Federal Claims in Washington, D.C. He has been an Angelino from the day he first came to America. Representing the federal judiciary, Judge Kozinski honors us by his presence today.

REMARKS OF JUDGE ALEX KOZINSKI

It's a pleasure and an honor to be here today at this grand event. The rule of law and economic freedom are inseparable. They are inseparable in society and they are inseparable at Chapman University. That's why it was so fitting that when Chapman graduate Dale E. Fowler and his wife Anne were considering where they could make the most important impact through their exceptional generosity, they agreed on the law school at Chapman University as a beneficiary of their philanthropy. No other law school in the country better

exemplifies the role of law in the creation of economic opportunity. Indeed, no other university in the country has a president and a law school dean both of whom received their PhDs in economics from the University of Chicago studying under the legendary Milton Friedman.

At the Dale E. Fowler School of Law, students will learn how the law can be a partner with and not an obstacle to the economic development of society, as well as a guarantor of individual liberties. As an immigrant from a country that lacked economic and individual liberty, I prize them both perhaps a bit more than those who were born into a society that possesses them in full measure. Indeed, I can say you can't have personal freedom without economic freedom, and without a society to create a bounty, an economic bounty to guarantee those freedoms, it just can't happen. Preserving those freedoms is a duty of all Americans by birth or by choice; and preserving the rule of law is a duty of American law schools and the legal profession. I know this is a duty that the law school at Chapman University takes particularly seriously, and I congratulate you for that.

With this gift, the school of law at Chapman announces to the world that it is here to stay. It's here to create opportunity for its students, here to build on the tremendous financial success of Orange County, of the State of California, and of the United States, and it is here to uphold the finest aspects of the noble profession of law without which none of these freedoms would exist. I applaud the Fowlers for all they have accomplished and for their exceptional sharing what they have created so that the generations to come will have the chance that they did.

God bless the Dale E. Fowler School of Law, and all that make it their home or alma mater. And God bless the United States of America.

Thank you very much.

INTRODUCTION OF PRESIDENT JAMES L. DOTI BY WYLIE AITKEN

I assume I'm on this program for balance, is that right Tom? Tom graciously called me and asked if I would make a few remarks, and I originally volunteered to do the singing of the National Anthem. He asked me if I could sing, and I said absolutely not, but how cool would it be to be standing up there? I do have the honor of introducing our incredible president of this university. But before I do that I want to tell a little Dale Fowler story. Dale, I met when he joined the board of trustees. And I know he is not a lawyer; he did not go to law school—hold your applause—but he asked me after we had heard a presentation on

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the school of pharmacy, he said, "Can I talk to you Wylie?" I said, "Of course," and he said, "If we start a pharmacy school and any of these students go out and commit a prescription of a bad drug or misprescribe something, would Chapman University be liable for that?" I said that I had never thought about it, but as a tort advocate I don't think that even I could stretch it that far. So I said, "Feel comfortable supporting the pharmacy school. It'll be a great pharmacy school." And with that I want to just take a few moments to introduce our great president. Now, I have two pages of notes, and I will use very few of them. These two pages were condensed from the forty-eight-page coverage of Jim Doti in the *Orange County Register* where they had to eliminate the entire sports section because they didn't have enough room for it.¹ But as you know he's been our incredible president since 1991, and born in Chicago, Illinois where I made my first communion, as well as you Jim. I noted that he would serve twice as acting president, so apparently he failed once, and then failed twice, and then George finally saw the wisdom of bringing you in, and, of course, the rest is history. What he has done for this University, including being the inspiration for this law school itself, and the fact that he has received so many awards, in fact, he is so well known, I have heard it said that he needs no introduction. But he did receive the Humanitarian of the Year Award and the Ellis Island Medal of Honor. Of course, we all know, as Bette reminds me, that I am here because of Bette, and we all know that you, Jim, are here because of Lynn. And this school and you are just so incredible, I cannot tell you how honored Bette and I are to be associated with Chapman University and to follow your leadership. You are an amazing human being, and this is just another major step in the incredible accomplishments. So I give you our incredible, terrific president, Mr. Jim Doti.

PRESIDENT JAMES L. DOTI

Thank you very much, Wylie, for the very kind introduction, though I have a bone to pick with you. It's about that *Register* article where you were quoted as saying, "I warn everyone out there in Orange County not to have dinner or lunch or breakfast with Jim Doti." Ever since that article appeared, no one returns my phone calls.

This truly is a special day in the life of our university. When we name a school or college, it's not only a special day, but an

¹ *Jim Doti: A man who climbs mountains*, ORANGE COUNTY REGISTER, May 31, 2013, available at <http://www.ocregister.com/articles/doti-510798-chapman-says.html>.

historic day. A number of people have prominent roles in that history. People like George and Julia Argyros, who named our Argyros School of Business and Economics; Dick Schmid and his family, who named the Schmid College of Science and Technology; Larry and Kristina Dodge, who named our Dodge College of Film and Media Arts; Don and Deedee Sodaro and Libby Pankey, who named our Sodaro-Pankey Undergraduate School of Media Arts; and Paul and Marybelle Musco, who named our Hall-Musco Conservatory of Music.

What unites these visionary people is not only their love of Chapman University but also their particular regard for a specific discipline or art form that they believe will have a transformational impact on the lives of our students.

Today, we honor Dale and Ann Fowler, and we may ask ourselves, "Why name a school of law?" I think Judge Kozinski gave us a wonderful answer to that question, but I'd like to focus on examining why Dale and Ann are joining other visionary people who believe in our law school. People like Don Kennedy. His leadership and philanthropy made this wonderful building and our law school possible. Wylie and Bette Aitken gave not only their time and support, but also our moot court room. Phil Case gave us our Dean's Suite. Fritzie Williams gave us our first endowed law professorship in honor of her late husband Frank, a great public defender of Orange County. Professor Frank Doti helped name a classroom in honor of our father and mother, Roy and Carmelina Doti. And Richard Stack, who represents the Darling Foundation, has been a partner with this law school from its very beginning.

All of these people believe that a law school adds immeasurably to the intellectual life of a university. Dale and Ann share that belief. They also believe passionately in America, in America's ideals, and in the American Dream. They realize that the American Dream, as Judge Kozinski so eloquently stated, is an essential component of freedom; and freedom is a necessary part of making that American Dream possible.

A quotation of Dale Fowler now graces Kennedy Hall. It is shown to my left, next to our "Milestones on the Road to Freedom." That quote reads as follows:

No country is great without the rule of law, which protects individual liberties and guarantees the economic freedom necessary for entrepreneurship and commerce to flourish. A great law school will produce graduates who will excel at both. Law must be a partner

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in the creation of opportunity in our country to keep our country free individually and economically.

It is, indeed, a great honor to name our law school for a person with such ideals. We are particularly proud that that person is an alumnus of this university. Through his and Ann's transformational gift, countless generations of Fowler Scholars will be touched by their vision and generosity. On behalf of those students, I wish to express our heartfelt thanks.

INTRODUCTION OF THE HONORABLE GEORGE P. SHULTZ BY DEAN
TOM CAMPBELL

George P. Shultz served our country as its 60th Secretary of State. He is a United States Marine, a veteran of the Pacific Theater in World War II. He saw action in the Battle of Peleliu. He served on the staff of the Council of Economic Advisors, and as Secretary of Labor, Secretary of the Treasury, and as the first Director of the Office of Management and Budget. He was dean of the Graduate School of Business at the University of Chicago, formerly a member of its faculty, and the faculty of the MIT Department of Economics and Sloan School of Management. He was president of Bechtel Corporation, the largest construction company in the world, and is now a Distinguished Fellow of the Hoover Institution at Stanford University. He has authored or edited over fifteen scholarly books, and numerous scholarly articles in business, economics, and international policy. He holds our nation's highest civilian honor, the Presidential Medal of Freedom. He is widely regarded, along with President Ronald Reagan, as the architect of the victory of freedom over totalitarianism in the cold war. On the campus of Chapman University, there are statues placed to inspire our students, staff, and faculty with examples of leadership on a worldwide scale. Among these statues are Martin Luther King, Abraham Lincoln, Ronald Reagan, Margaret Thatcher, Benito Juárez, and our dedication speaker today, the Honorable George P. Shultz.

REMARKS OF THE HONORABLE GEORGE P. SHULTZ

I consider it a great privilege to speak at a law school dedication, particularly to such a distinguished audience. I would like to take as the touchstone for my remarks some words that I read as Dale Fowler's challenge to the law school, namely that it should be part of creating an atmosphere where freedom and entrepreneurship can flourish. Those are matters of governance. And the job of looking after governance is the fundamental and higher calling of a law profession and particularly of law schools. Right now I believe that governance

has become increasingly complicated and difficult so it is a real challenge to think this through.

What I am going to do is first of all paint a global picture for you of what is going on as I see it, and then I will briefly mention a couple of case studies to show contrasting governance arrangements. Then I want to talk a little bit about the United States, and wind up with my challenge to you, Tom, and I say particularly to Tom because he has had an unusual set of experiences. He has been a member of Congress; he has been a member of the California State Senate, elected positions. He has also been the director of the budget for the State of California. And I have to say he has been the last one to bring in an honest, balanced budget, so thank you, Tom.

First of all, what's going on in the world? At the end of WWII some gifted statesmen looked back and what did they see? They saw two world wars. The first ended on some rather vindictive terms that helped lead to WWII, so do not make that mistake again. In the Second World War, seventy million people were killed, let alone the people injured, displaced, and the untold amount of destruction. I have been reading a book called *Savage Continent*² about Europe right after WWII. You cannot believe the human degradation. They saw the Holocaust, such a horror that Ronald Reagan, when he was an air force officer with the job of putting films together for the higher brass to get a feel for the war, came across films of the Holocaust and he told me that it was so horrible; he said, "People will not believe this happened; it's beyond belief." So he saved some films for himself so that, should anyone question, he could show them the films. These people also looked back, and they saw the Great Depression, they saw the protectionism, and the currency manipulation that aggravated it. They said to themselves, "What a crummy world, and we're part of it whether we like it or not." So they set out to create something better. And as they were getting on, the Cold War emerged, so ideas were produced, institutional arrangements put in place: the Bretton Woods System, The Marshall Plan, NATO, the Doctrine of Containment, and through the years, on almost a nonpartisan basis, there was gradually built a security and economic commons from which everyone benefited, including the United States.

Now what's happening? This commons almost suddenly is being shredded. There are a number of reasons. I will not go into them all, but I want to dwell on one in particular that has a huge

² KEITH LOWE, *SAVAGE CONTINENT: EUROPE IN THE AFTERMATH OF WORLD WAR II* (2012).

bearing on governance. The information and communication revolution is already a major influence and growing all the time. And what does this mean? It means that people anywhere can know what's going on. And people everywhere have their cell phones; they can communicate with each other, they can organize. This is new. Always before the people in charge had a reasonable monopoly of information and a total monopoly on the ability to organize. Those days are gone. So you look around the world and what do you see? You see that this commons is being turned into a world awash in change. It's everywhere you look. It isn't just in the Arab countries, Russia, Turkey, or Brazil. I was talking to a friend of mine from Sweden. I said, "In Sweden?" And she said, "Yes, but it wasn't among the Swedes. It was among the immigrants." I said, "Aha, you have been accustomed to governing over homogeneity, and all of a sudden you have diversity on your hands." So diversity is everywhere. In the past, diversity was handled by suppressing it, but you cannot do that anymore.

So the challenge you need to work on, Tom, and help us on, is this: How do you govern over diversity in an age of transparency? It is hard. Let me refer to a couple of case studies and then talk about the United States. Take Europe right now. Europe, understandably after WWII, sought to create something that would envelop Germany in something bigger so that we could not have them start more world wars. So this instinct to create something larger has prospered. At the same time it is full of an instinct to homogenize. A clear example is the euro. I remember being in Berlin, at the time I was Chairman of the JP Morgan International Council, it was a few months before the adoption of the euro, and the people there—economists, businessmen, financiers—were all saying, "This is a stupid thing. You are putting a fixed exchange rate system over very different economic units. This is simply not going to work." Helmut Kohl came to our meeting. He was chancellor then, and after listening for a while, he got up—all 300 pounds of him—and he said, "The decision has been made. It is a matter of war and peace. It is up to you to make it work." Well, it is not working because it fails to recognize the fundamental importance of diversity. If you are going to govern successfully, you have to recognize the diversity, let it express itself, and at the same time put it into some sort of common framework. And the Europeans are not doing that right now and that is why they are floundering so badly, I believe.

Let me take a little different example. Here is something that people hardly recognize, but I think it is fair to say that North America has arrived. It has sort of stolen in on us. NAFTA

was put in place a couple of decades ago and then things have just taken their course. Nowadays, Canada, Mexico, and the United States are each other's top trading partners. Our U.S. imports from Mexico are 40 percent U.S. content, and from Canada 25 percent. In other words, the production process is integrated. Our imports from China are 4 percent U.S. content, by contrast. Some 230 million people each year from the North American countries tour each other's countries legally. It is a huge number of people. I do not know if you have looked lately at the fertility in Mexico but it has gone down. So there is no more big bulge in Mexican young people. And Mexico's economy is likely to be very prosperous if the reforms that are now being talked about really take hold. Under the circumstances, it should not be surprising that the net immigration of Mexicans to the United States in the last year was zero. Ladies and gentlemen, we are worrying about the wrong border. The border we should be worrying about is Mexico's southern border—call it the North American Southern Border—and help Mexico avoid becoming a transit country, with all of the human degradation and corruption that goes with human trafficking. That is the problem, not Mexico. So suddenly, North America has arrived, and there is no bureaucracy running it; it has just happened. The diversity has been recognized and allowed to express itself.

And what about the United States? I almost hate to undertake this description in the company of all these distinguished jurists, but let me paint the history of our country in a little different way than it is usually done. The people putting together our Constitution realized that they had thirteen very different states on their hands. So they had to recognize this diversity, otherwise they would never get the Constitution ratified. So they constructed a government different from anyplace else. They created a country with a federal government that had limited powers, and those powers were checked and balanced by three branches of government. If you look at the Constitution, the practical things that affect your daily life are reserved to the states, cities, and localities. So that was a Constitution that recognized diversity and let it express itself.

Now what has happened over time? Gradually, the federal government has encroached more and more into the arena that is presumably reserved for the states and localities. They have used the preemption powers, the commerce clause, and, most recently, the taxing powers to say that it is within the federal government's power to tell you to buy something that you do not want or else the IRS will come and penalize you. The Founding Fathers, would they have gone for that? So my message is that in

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the United States we inherited a very ingenious form of government that recognized diversity and put it within a framework of an overall common set of values. And that has worked.

And I might say that accompanying the governmental structure was a commitment to market processes. If you think about the marketplace, the marketplace is a natural respecter of diversity. Now Tom Campbell, he wants to drive a Rolls Royce; I will settle for a Chevy. We make our choices. That is the marketplace; it recognizes diversity. People express their different tastes. As soon as the government comes, you all have to buy the same thing. So remember this division of powers, and remember the importance of the market as a way of getting things done.

We have been drifting away from it. And I think we are at a point where, in a way, the United States has been moving against the trends of modern history. We will have a collision in this country, maybe not as violent as we see in other countries, but we are going to see a necessity to sit back for a minute and say in this age, where people know what is going on and they can organize, we have to have a system of government that allows diversity to express itself and put that within a common framework.

I read that the elected president of Turkey sought to take a historic square in Istanbul and construct a building on it. An eruption happened. Suppose the president comes to San Francisco and wants to abolish Chinatown. Get out of here! This is an expression of the diversity of the city.

So, Tom, I think the higher calling of law schools is to think about the process of governance within the framework of the facts that are there. And I think the facts about the problem of governance have changed and they continue to change. And we have to recognize the depth of the information and communication revolution and ask ourselves how that plays into our Constitutional arrangements. They probably stand pretty well. But in the way they are implemented through legislation and by the various court rulings, are they leading us to a system that will recognize diversity? We are the most diverse country on earth. People come here from everywhere. So we have to preserve a system that recognizes diversity within a common framework and I think we are moving in the wrong direction right now. It is up to people in the law schools to recognize that their job is to think about governance. It is particularly up to Tom Campbell, with the kind of experiences he has had, to lead us in our thinking on this subject. So if he succeeds, and I am

sure he will, he will lead us into creating an environment that allows freedom and entrepreneurship to flourish.

PRESIDENT JAMES L. DOTI

It is my honor and privilege now to introduce Dale Fowler.

It's safe to say that Chapman blood flows through the Fowler family. It's not just Dale. His and Ann's son, Jeffrey, and daughter, Kathryn Fowler Flattum, also graduated from Chapman. They have another daughter, Lori, whose daughter, Sarah, is a member of our English faculty, and whose son, Jeremy, earned his pre-med certificate at Chapman.

There is an article in today's *Orange County Register* about how Dale and Ann risked their savings to build an apartment building in Huntington Beach.³ That first apartment building was the beginning of Fowler Properties, an Anaheim real estate investment and management company.

The incredible success of that company has allowed Dale and Ann to help and support many causes, in particular, higher education. They have made transformational gifts to Gordon College as well as to Chapman University. Indeed, Gordon named its campus in honor of Dale and Ann. At Chapman, they have supported our Musco Center for the Arts, our Presidential Scholars Program, and our Economic Science Institute. Now, in naming the Fowler School of Law, they are helping to create a new trajectory for our law school, to lead it to even greater prominence in terms of its impact on legal education.

Ladies and gentlemen, please join me in welcoming the naming donor to the podium: Dale Fowler.

DALE E. FOWLER

Well some of the things Jim told you were more true than others. The stars he talked about reaching for, I caught one; and that's my wife Ann. Jim gave about half of my talk by describing my family, and I would like to take an opportunity and just introduce two very special people who have not been introduced to you. They are my cousin Dolores Duckett and my cousin Shirley Fowler, and her name is not Shirley Fowler, but it's Shirley Gilbert. Shirley's father was my dad's partner for all of his business life, so we are so thrilled to have Dolores, Shirley, and Shirley's husband Gil with us today.

³ Sherri Cruz, *Giving until it helps*, ORANGE COUNTY REGISTER, Sept. 6, 2013, available at <http://www.ocregister.com/articles/fowler-524730-chapman-dale.html>.

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It's a delight to be here and have Secretary Shultz, who actually was a neighbor of ours for a number of years, not next door but in the general Berkshire area of Western Massachusetts. We enjoyed many evenings together at Tanglewood, listening to the symphonic music of the Boston Symphony. It was always delightful to be with him.

To all of you, to our Dean, to the Chairman of our Board, and to all you wonderful Board members and Ambassador Argyros, whom I have known as George for a long time—we've sat in many classes together—and he and Julia were neighbors of ours for a number of years—it's delightful to be here today, and I just want to thank you for the opportunity to present to you some memories that I share.

Fifty-five years ago, I left this campus with a diploma that indicated I had graduated from Chapman College. Approximately thirty years earlier, my mother sat in the classrooms across the street and walked the halls as a student of Orange High School. In 1912, more than 100 years ago, my grandfather A.E. Fowler, began hauling sand and gravel from Santiago Creek near Cambridge Street. My father and Shirley's dad, my uncle, later joined in this endeavor until their retirement in 1959, after expanding into excavating, heavy equipment, and ready-mixed concrete.

I was born in Orange, at St. Joseph's Hospital, and have lived here for the past sixty years within three miles of this campus. I guess I haven't progressed very much!

I have lived my entire life so far in Orange County, although Ann and I currently have a vacation home on the East Coast. I am proud to be a Chapman alum, but never more so than when Dr. Doti invited Ann and me to an evening of Christmas music, provided by Bill Hall and a group of Chapman students. Ann and I were stunned. We thought it to be one of the finest and most enjoyable evenings of music that we had ever experienced. I was so moved that when speaking with Bill later that evening, I commented that Ann and I would like to do something meaningful for Chapman. Being an alum, and having our son Jeffrey and our daughter Kathryn as alums, and now our granddaughter, Sarah, as a professor and our grandson of course—Jeremy has completed his pre-med work here—waiting for that email to tell him which med school he is going to be going to—we feel truly grafted into the Chapman family.

We are privileged to have the opportunity to invest in the lives of present and future gifted students of this law school. It is through those values, believed in and taught by this institution—

values such as freedom, integrity, and entrepreneurship—that we can and will extend lives of continued liberty to future generations. These values have been so graciously provided to us by a loving God.

Thank you for joining me and my family today in celebrating these special moments.