

January 2016

## The Luckiest Human on the Face of the Earth

John Burman

Follow this and additional works at: <https://scholarship.law.uwyo.edu/wlr>

---

### Recommended Citation

Burman, John (2016) "The Luckiest Human on the Face of the Earth," *Wyoming Law Review*. Vol. 16: No. 1, Article 4.

Available at: <https://scholarship.law.uwyo.edu/wlr/vol16/iss1/4>

This Article is brought to you for free and open access by the UW College of Law Reviews at Law Archive of Wyoming Scholarship. It has been accepted for inclusion in Wyoming Law Review by an authorized editor of Law Archive of Wyoming Scholarship.

---

# WYOMING LAW REVIEW

VOLUME 16

2016

NUMBER 1

---

## THE LUCKIEST HUMAN ON THE FACE OF THE EARTH\*

### *Foreword*

How can one capture the inspiration and knowledge that Professor John Burman gave to an entire generation of lawyers? Nearly every person who has come into contact with this giant of a man is struck by the depth of his intellect, the tenderness of his affections, and the strength of his convictions. Many times, he has been described as a modern day Atticus Finch. Professor Burman—“John” as he prefers—is every bit Atticus Finch and so much more.

I am not certain when I first read *To Kill a Mockingbird* by Harper Lee.<sup>1</sup> Perhaps, like many lovers of literature, I admired Atticus Finch long before I really understood the implications of the law, Atticus’ compassion for people of color, and his dedication to his children, Scout and Jem. I even imagined myself as Scout—thinking I matched the author’s description of the young, inquisitive girl, and at an early age, I set my sights on becoming a lawyer.

I distinctly remember when I met Atticus Finch. It was the first day of classes in my first year of law school. A tall, lanky man with an uncanny resemblance to a young Abraham Lincoln walked into the room. The moment he began speaking, I knew I was experiencing Atticus Finch in the flesh. His name was Professor John Burman. His carriage and demeanor evoked confidence. He spoke with assurance and depth of knowledge. With nary a note in hand, John calmly spoke of the Rules of Professional Conduct and the Rules’ importance like he was describing a trusted friend. He calmly instructed on the honor of being a member of the legal profession. He guided us to understand our “special responsibility for the quality

---

\* The title of this article is based on Lou Gehrig’s farewell speech given on July 4, 1939, in which he said: “[T]oday, I consider myself to be the luckiest man on the face of the earth.” See LOU GEHRIG, <http://www.lougehrig.com/about/farewell.html> (last visited Sept. 25, 2015).

<sup>1</sup> HARPER LEE, *TO KILL A MOCKINGBIRD* (1960).

of justice.”<sup>2</sup> He helped us believe passionately in our role as representatives of clients, officers of the legal system, and advocates for public citizens.<sup>3</sup>

As a fellow lawyer, teaching colleague, personal friend, and former student, I have a multifaceted perspective on this extraordinary man. John is every bit “the real life Atticus Finch.” He knows everybody and they know him. He has the love, confidence, and respect of most everyone. John believes in equal justice for all, regardless of age, race, gender, sexual orientation, ability to pay, or standing in life. He believes in the law, civility, and human compassion.

John devoted his career to professionalism, to pursuing justice and to teaching lawyers. For over twenty years, he was the faculty supervisor for the University of Wyoming’s Legal Services Clinic, providing free legal help to those in need. Every day, John challenged law students to be the very best they could be. He provided the under-represented with access to our legal system, and he helped clients understand their right to justice. He represented the poor and downtrodden without reservation, but did not hesitate to challenge the wealthy and powerful. I watched him champion the rights of the meek, defend the honor and respect of individuals suffering from AIDS, challenge powerful political entities, and tackle the hurdles of disenfranchised refugees from foreign countries. John was often asked to guest lecture, to deliver speeches at civic events, law functions, graduations, and awards ceremonies; oftentimes as the honoree. This collection of speeches and essays reflects a number of those speeches and gives the reader a glimpse into the thoughts of Professor John Burman.

While John’s traditional classroom teaching was award winning, his legal guidance was beyond comparison. John taught students to take the philosophical knowledge gained in the law classroom and to apply that knowledge by representing clients in our court system. He served as a model of professional behavior by demonstrating the highest degree of ethics and personal integrity.

John truly believes in the law and justice. He inspired students to become academic scholars as well as outstanding legal practitioners. He encouraged students to find a cause in which they believed, and to use the law to better the lives of individuals or to better society as a whole. John demanded respect, quality work, and dedication in an unassuming manner. His knowledge of the law is exemplary; his ability to convey information and to reach students is a special gift. John encouraged students to expand their thinking and to consider different perspectives and approaches. John’s interactions with people shows his special ability to command respect, to share knowledge, and to provide empathy. In spite

---

<sup>2</sup> MODEL RULES OF PROF’L CONDUCT PREAMBLE: A LAWYER’S RESPONSIBILITIES 1 (AM. BAR ASS’N 2014) [hereinafter PREAMBLE].

<sup>3</sup> See *id.* at 2.

of his prominence and busy schedule, John never hesitated to take a telephone call or answer a question. He is admired and respected by students, the legal profession, the judiciary, and those clients whose lives were forever changed for the better by his assistance.

Like Atticus Finch, John Burman is a complex, yet simple man. Like Atticus, John taught by example; he demonstrated honesty, integrity, and sincerity. John loves the law, his family, his students, and his role as a lawyer and professor. He taught an entire generation of Wyoming lawyers to do the right thing in their professional lives. Under his guidance we knew that “[i]n all professional functions a lawyer should be competent, prompt and diligent.”<sup>4</sup> He showed us that our conduct should conform to the requirements of the law, both in professional service to clients and in our business and personal affairs.<sup>5</sup> He expected us to demonstrate “respect for the legal system and for those who serve it, including judges, other lawyers and public officials.”<sup>6</sup> Like Atticus Finch, John taught us that it is a lawyer’s duty, when necessary, “to challenge the rectitude of official action,” but “it is also a lawyer’s duty to uphold legal process.”<sup>7</sup> Atticus Finch knew he was challenging racial issues and fair application of the law when he defended Tom Robinson, a black man accused of raping a white woman in the Depression-era South. Likewise, John Burman knows that he has challenged poverty, domestic relations, immigration, and fair treatment of all individuals.

In the twenty-five years since John became “My Atticus Finch”—beloved professor, trusted mentor, and dear personal friend—I have often pondered the gems of wisdom and advice that he shared with me and so many others. Listing John’s accolades is nearly impossible. To say that John is the authority on professional responsibility in Wyoming is a true compliment, but to say that John is the Atticus Finch of Wyoming is a more complete, and much deserved legacy.

I am truly humbled and honored to write this foreword to the collection of John Burman’s speeches and essays. I had the good fortune to be present when many of the speeches were delivered and to experience the genuine gift that he possesses in speaking from his heart and capturing the attention and affection of audiences. This collection is a mere glimpse into the mind and soul of one of the greatest legal minds in recent times.

—Denise Burke

---

<sup>4</sup> PREAMBLE, *supra* note 2, at 4.

<sup>5</sup> *See id.* at 5.

<sup>6</sup> PREAMBLE, *supra* note 2, at 5.

<sup>7</sup> *Id.*

## SELECTED SPEECHES OF JOHN M. BURMAN

*John Burman\**

For whatever reason I have been asked to speak in public far more often than I have something to say. As a result, I gave many speeches. Over the years, I have often been asked to provide copies of my speeches. As I had developed the habit of speaking without notes, I was unable to comply with those requests. While I usually spoke without written notes, I generally prepared carefully, and I believe that I can recall what I said, or at least what I wish I had said. What follows, therefore, is my recollection of selected speeches I delivered. I have asked persons who were present and who heard the speeches to review my recollections and check them for accuracy. Before each speech, I have written a brief introduction about when and why the speech was given.

### *Eulogy for David Nicholas*

In 1985, I joined the law firm of Corthell and King in Laramie, Wyoming. At that time, one of the partners was David Nicholas. He was a very talented lawyer and politician: Dave served two terms as a Wyoming Senator, representing Albany County. Among his many political gifts, he had a close friendship with a former Casper classmate by the name of Dick Cheney. When Dick was named Secretary of Defense by President George H. W. Bush, Dave was appointed the Secretary of Defense's Advisor to NATO. This meant that Dave had to live in Brussels.

When George W. Bush became President in 2001, Dick became Vice-President. Dave was appointed to a position with the Organization for the Security and Co-operation in Europe ("OSCE"). OSCE is located in Vienna, which meant that Dave had to live in that city.<sup>1</sup> Dave was later appointed as the United States OSCE Ambassador to the Ukraine. In that capacity he spent part of his time in Vienna and the rest of his time in Kiev.

While in Kiev, Dave died under mysterious circumstances on March 13, 2005; allegedly of a heart attack. Dave's nephew Phil, another partner of Corthell and King when I joined the firm, told me of Dave's death in a telephone conversation shortly afterwards. During that conversation, Phil asked me if I would be willing to speak at Dave's service which he said would be in Laramie in a couple of weeks. I agreed.

---

\* John M. Burman is the Carl M. Williams Professor Emeritus of Law and Ethics at the University of Wyoming College of Law. He thanks Denise Burke and Tim Dean Crawford for reading and commenting on the draft of this article. Their comments were helpful. He is also Of Counsel to Corthell and King, P.C., of Laramie, Wyoming.

<sup>1</sup> Marilyn and I visited Dave in Vienna in early 2003.

Dave's service was set for later that month in the Multi-Purpose Gym at the University, which could hold the several hundred persons who were expected to attend, including Vice-President Cheney. Because I heard nothing more about speaking I assumed I would not be. Dave was a very well-known person and there would be many others to speak.

Marilyn and I met at the College of Law and walked the short distance from the college to the Multi-Purpose Gym for the service. When we arrived we checked in with a young woman. When I introduced myself, she said "Since you are a speaker, you will want to sit near the front." Not wanting to appear surprised, I said "When will I be speaking?" "You will be after Lew Bagby, who is third," she replied. "Do you know where he is sitting?" I asked. She directed us to where he and Donna, his wife, were sitting, and we sat right behind them. While sitting behind the Bagbys, I began to think about what I would say. Fortunately, I had some ideas from when Phil had asked me earlier.

The first speaker was Vice-President Cheney. Next was Wyoming Governor Dave Freudenthal. After the governor came Lew Bagby, the then Director of International Programs for the University of Wyoming. In his capacity, he had traveled widely with Dave, and had a wonderful presentation of pictures of Dave from around the world. I did not pay much attention to the picture-show as I knew I would be the next speaker.

When Lew finished and sat down, I walked to the short platform for speakers. The officiant, Rodger McDaniel—a lawyer, minister, politician, and the then Director of the Department of Family Services for Governor Freudenthal—shook my hand as I stepped onto the platform. I turned to the lectern and began to speak:

When I think of Dave, I think of his amazing sense of humor. One of my brothers recently told me about a comedy group that is making a name for itself by reversing the first letters or sounds of famous person's names. So, for example, the Duchess of York becomes the "Yuchess of Dork." That is funny I agreed but I thought, Dave had been doing that for years. I recall the time shortly after I joined Corthell and King when Dave dictated a letter to "Max Peterfield," the Dean at the College of Law. The unsuspecting secretary prepared such a letter for Dave, only to be informed that the Dean was actually named Peter Maxfield.

Dave and I also shared a love for travel. In fact, other than with my wife, I traveled more with Dave than with anyone else. We made trips to Russia and China. Also, my wife and I visited Dave in Vienna.

The trip to China was especially memorable. As we were part of an official government delegation, every dinner was a banquet; our hosts liked guests who ate and drank a lot. Since I have never had to watch my weight, I became the designated eater, while Dave became the designated drinker. Since the Chinese are very particular about protocol, seating was always based on one's relative "importance." Because Dave and I were well down the list, we usually sat at the "second" table with the other less "important" persons. The "second" table was usually the party table, with more drinking than at the "first" table where the more "important" and more dignified persons sat.

The drink of choice for Chinese, especially young judges, is a vile liquor known as Boojee. The protocol for drinking the stuff was that someone at the table would say "Gambay," which I think means "bottoms up." Each person at the table was then supposed to drink all the boojee in his glass. To prove that the glass was empty, he was then to hold the glass upside down. That procedure reminds me of Dave, because every day was a gambay day to Dave.

At the end of every day, if there had been gambay and Dave had to turn over his glass of life, it would have been empty because Dave had lived life to the fullest and drained every drop of life from the glass. So, I am going to miss you, and all I can say is "Gambay, Dave."

### *Graduation 2009*

Each year the College of Law holds a graduation ceremony in May. The graduating class always invites a member of the faculty to speak at that ceremony. I have been fortunate enough to have been selected for that privilege several times. One of those times was in 2009. The class of 2009 actually choose two of us to speak; the other speaker was Professor Jim Delany. I think I said something like this:

When I learned that I would be allowed to speak at this May occasion, I thought I should say something profound. Unfortunately, I could not think of anything profound, so I gave up on that idea.

I decided, instead, to share with you some bad news, and some good news.

First, the bad news. This is for those of you who are graduating in the top ten percent of your class. The bad news is that after today, no one cares. Furthermore, 90% of practicing lawyers did not either, and they distrust anyone who did. The good news is for the other 90% and it is the same. After today, no one cares. Whether you are a good lawyer or a bad one depends on characteristics we can't measure on law school exams. You all have the ability to become outstanding lawyers. But whether you do, depends on the choices you make.

Some of you know that I am a great fan of the Harry Potter books, though I think they are misnamed. They should be called the Albus Dumbledore books because Harry is, to me, a very secondary character. By contrast, Dumbledore is one of my heroes. Now there are those who would say that it is absurd to have a fictional character for a hero. My only response is that I am a law professor, and academics don't live in the real world, so it's appropriate for me to have a fictional character as a hero.

You may recall that back in book two, the young Harry Potter had just vanquished the evil Voldemort; see I'm not afraid to say his name. He was, nevertheless, worried. He was, as he told Professor Dumbledore, much the same as the young Voldemort: Voldemort, of course, had gone to the *dark side*. What was there to keep him, Harry, from doing the same thing? Don't worry, said Professor Dumbledore, you won't: "It's the choices, Harry, far more than our abilities that show who we really are."<sup>2</sup>

The same is true for lawyers. You all have the ability to do well, but it will be the choices you make as you decide how to practice law. I have no doubt that this group will make many good choices.

### *Bar Convention 2010*

Each year the President of the Wyoming bar is allowed to give the President's Award to one member of the bar. In 2010, President Bill Hiser chose me to receive the award. It is usually presented at the annual banquet, which is held on the last evening of the bar convention.

In 2010, the convention was held in Laramie and the banquet was at the Hilton. The keynote speaker for the banquet was my friend, Judge Downes,

---

<sup>2</sup> J.K. ROWLING, HARRY POTTER AND THE CHAMBER OF SECRETS 333 (1998).



the then Chief Judge of the United States District Court for the District of Wyoming. Also, Sharon Wilkinson, now the Executive Director of the Wyoming bar was in charge of the bar convention. Shortly before President Hiser made the presentation, Sharon passed the word to keep comments brief. After President Hiser presented me the award, I was given the opportunity to speak.

I was just told by Sharon Wilkinson to keep my remarks brief. Your wish, Sharon, is my command.

Receiving this award would be a great honor under any circumstances. Receiving it tonight is very special for two reasons. First, my friend Judge Downes is the keynote speaker. Second, and more importantly, the one person who has made everything possible for me is here, my wife, Marilyn.

There is an old saying that behind every successful man is a woman. I think we need to update that saying, because I don't believe that Marilyn has ever been behind me. Rather, she has always been in front of me: encouraging me to start projects I really did not want to do; cajoling me to finish projects of which I had tired; and dropping back once in a while to help me through a rough patch.

Thank you, Marilyn, and I love you. And thanks to President Hiser for this great honor.

### *Graduation 2011*

In May of 2011, I was, again, asked to speak at the College of Law graduation.

When I learned that I would be speaking at graduation, my first thought was to say something profound. Two problems quickly arose. First, I could not think of anything profound. Second, if I said something profound, I might have been able to fool those of you in the audience into thinking I am profound. I have had all the graduates in two classes, and many of them in the clinic as well; there is no way I could fool them. So, I gave up on that idea.

I decided to do what many speakers do when they can't think of anything profound to say. That is, they quote someone else because every speaker soon realizes that almost everything that one could say has already been said, and said more eloquently. All a speaker has to do, therefore, is to discover who said what he or she would like to say, and then quote that person.

You might think that as a lawyer, I would quote a famous lawyer or jurist. And there may be such a person out there. But I find more inspiration in songs, especially country music. I want to quote the greatest Western swing band of all time: Asleep at the Wheel.

Several years ago, the band wrote and performed a song called: "Dance with who Brung You." The message of the song is that it is fine to have a great time at the dance, and to dance with whomever you want, but don't forget to dance with the one you came with. The song says: "life ain't no forty-yard dash, be in it for the long run, 'cause in the long run you'll have more fun, if you dance with who brung you to the bash."<sup>3</sup>

The word "life" may be replaced with "law. So, "[law] ain't no forty-yard dash."

Now, you may be wondering what this song has to do with law school graduation. A lot. No one gets through law school alone. Rather, he or she makes it with the help from others.

When I graduated from law school thirty years ago, a lot of persons came, including my parents, my wife's parents, and my grandparents. Really, every person who had helped me was there.

I made two mistakes that day, mistakes I hope the graduates will not make.

First, I did not say "thank you" to anyone who was there. Second, some of them deserved something more. That is, "I love you." And I didn't say that either. Only one person who was there thirty years ago is here today. That is my wife, Marilyn. Marilyn, it's thirty years late but "thank you" and "I love you."

Now, I'm not going to say "I love you," to the graduates. But I am going to say "thank you" for this wonderful honor.

---

<sup>3</sup> ASLEEP AT THE WHEEL, DANCE WITH WHO BRUNG YOU (1991), [http://www.countrytabs.com/tablature/Asleep\\_at\\_the\\_Wheel/Dance\\_With\\_Who\\_Brung\\_You\\_Chord\\_50781/](http://www.countrytabs.com/tablature/Asleep_at_the_Wheel/Dance_With_Who_Brung_You_Chord_50781/).

*Graduation 2012*

In May of 2012, I was allowed to speak to the graduating class again.

As I thought about what to say on this festive occasion, it occurred to me, to share with you the most important thing I've learned in over thirty years as a lawyer. That is, I am less important than I thought. The flip-side of that of course is that others are more important. One should therefore, not do things for one's self, but for others. For example, when I stopped trying to be a good teacher, I became one. And when I stopped trying to be a good lawyer, I became one.

Every year at graduation, I think about my graduation from law school in 1981. Perhaps the over-riding memory I have is that a lot of persons came to watch me graduate. My parents, my wife's parents, and even my grandparents came.

During the ceremony, someone, probably the Dean, asked those grandparents in attendance to stand. My grandfather stood and preened as if he, and not I, were graduating from law school. Only later did I realize that I was graduating only because of what he and others had done for me.

You see, my grandfather had not graduated from law school because he had not had the chance to go. He had not graduated from college because he had not had the chance to go. He had not even attended his high school graduation because he had not gotten to attend high school. In fact, at age sixteen, my grandfather had, by himself, taken a ship from his home in Denmark to this country. He had met and married my grandmother, and they had made sure that their children had the opportunities they did not have. All their children attended college, and two received advanced degrees. The importance of education was passed on to their grandchildren. I once determined that each of their grandchildren received 2.2 University degrees. So once again, I am below average.

No one graduates from law school alone. We need help from others. We are, in other words, standing on the shoulders of others and we need to both recognize that and thank those who helped us get to where we are today.

*Retirement*

In May 2013, I “retired” from the College of Law faculty because my health would no longer permit me to continue as a law professor. A couple of weeks earlier, on April 27, 2013, the College of Law held a retirement luncheon for me.<sup>4</sup> I chose four persons to speak: Hon. William U. Hill, from the Wyoming Supreme Court; Hon. Scott W. Skavdahl, from the United States District Court for the District of Wyoming; Robert J. Percifield, a Deputy Larimer County Attorney; and Leah C. Schwartz, the then law clerk for Hon. Nancy D. Freudenthal. The last three speakers had all been my students. The final two speakers had been Student Directors of the Legal Services Program at the College of Law.

After the four speakers spoke, Dean Easton—the master of ceremonies and the former Dean of the College of Law—acting pursuant to my instructions, asked me if I would like to speak. I said “yes,” rolled to the front of the room, picked up the microphone, and said:

As I listened to the speakers, I was reminded of one of my favorite songs by Mary Chapin-Carpenter: “I Feel Lucky.” I feel lucky for several reasons.

First, I won the parental lottery. Instead of being the son of poor peasants in China, I was born the son of middle-class Americans who valued an education. Second, I won the family lottery. My siblings are all over-achievers. They are all here today. One of my brothers is a M.D.; the other is a Ph.D., as is my sister. So, I am the least educated of the bunch. Third, and most importantly, I won the spousal lottery. All I wanted was to marry someone who was smarter, nicer, and very attractive. Once Marilyn said “yes,” I never asked for a recount, because recounts are for losers.

When I think of all the gifts my parents gave me, one of the most important was the gift of loving to learn, which usually took the form of reading. Our home was always full of good books, good magazines, and good newspapers. Every holiday it seemed was celebrated with the gift of a book. I always read and enjoyed the books, except for one; actually it was a story in a book that I did not understand when I read it, or for years afterwards.

---

<sup>4</sup> Sleeter C. Dover was present and wrote an article about the event. That article was helpful in reconstructing what happened. See generally Sleeter C. Dover, *When Words Fail*, WYOMING LAWYER, June 2013, at 12.

The book was about adventurers. As any boy I was excited to read about the adventures of Thor Heyerdahl and the crew of the Kon-Tiki. I was also thrilled by the underwater adventures of Jacques Cousteau. But there was one story I didn't understand. That was the story about Lou Gehrig.

For those of you who are not baseball fans, Gehrig played first base for the Yankees in the twenties and thirties. He is still generally considered the greatest first basemen of all time. He is more famous, however, for a neurological disease, arterial lateral sclerosis, which caused him to retire early, and which is now known as Lou Gehrig's disease. After he retired, the Yankees decided to honor him with a special "Lou Gehrig Day." At the end of the celebration, Gehrig was prevailed upon to speak. As he finished his remarks, Gehrig said: "[T]oday, I consider myself the luckiest man on the face of the earth."<sup>5</sup>

That is the part of the story I did not understand when I read it and for many years thereafter. Now I think I do. Gehrig had learned a lesson that most of us only pay lip service: That is, the value of a day. I have no doubt that many days before that day really stunk. And I have no doubt that many days after that day stunk too. But Gehrig was not talking about those days.

Now, I've never played in Yankee Stadium. In fact, I've never even been in Yankee Stadium. My Yankee Stadium was the classrooms of the University of Wyoming College of Law, my office where I met to discuss cases with students, and the courtrooms around the state where my students appeared to represent clients. And I never hit any home runs. But every time a student represented a client well, it was a home run to me. And the number of times students represented clients far exceeded the number of home runs hit by Hank Aaron or any of the current heir contenders to the home run crown.

Now, there may be those who would say I've gotten a bad break, but today, on April 27, 2013, I consider myself the luckiest human on the face of the earth.

---

<sup>5</sup> See LOU GEHRIG, <http://www.lougehrig.com/about/farewell.html> (last visited Sept. 25, 2015).