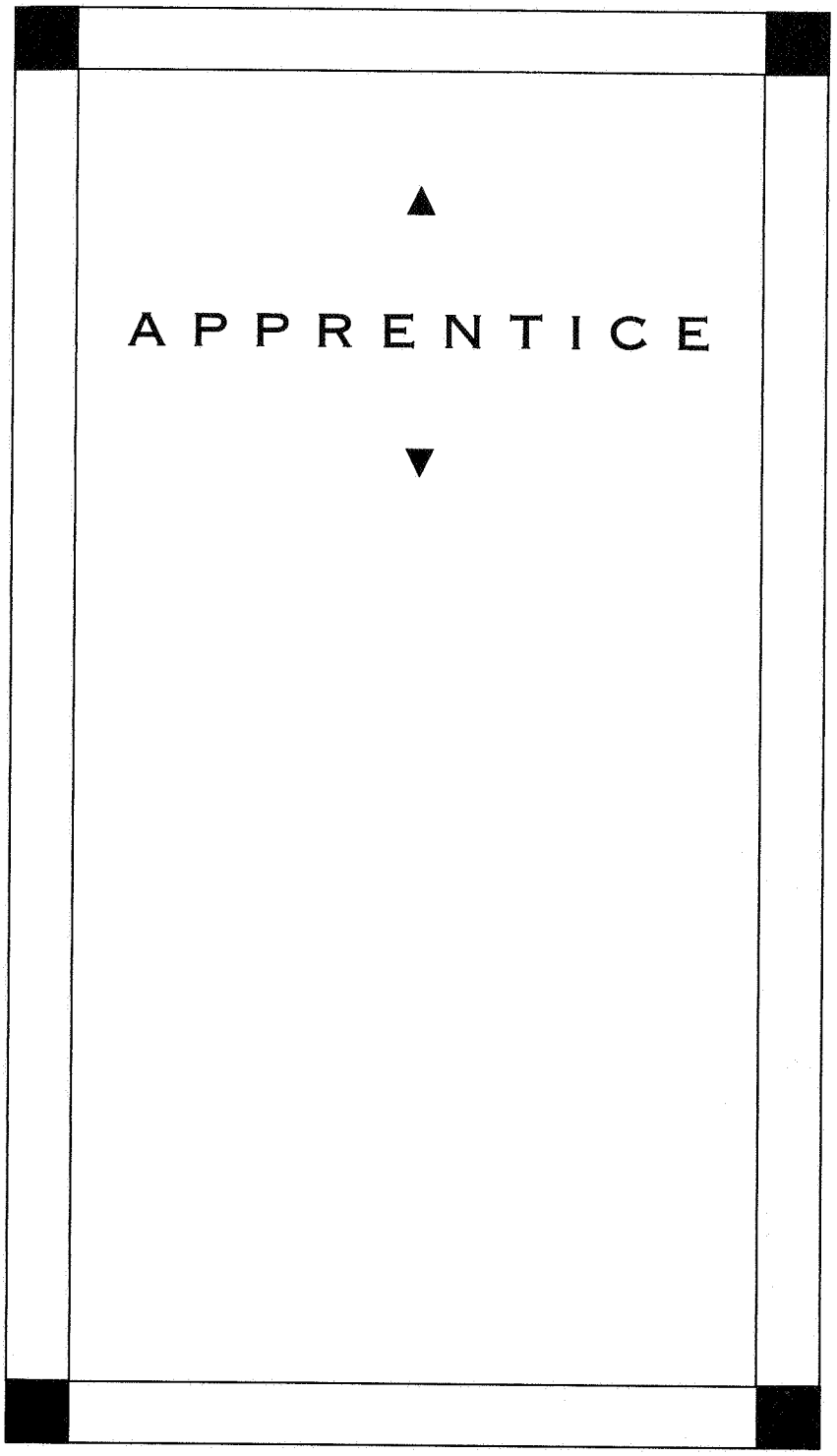
APPRENTICE

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"There is very little law in the job."

I began practicing law at Cravath, Swaine & Moore. I knew little about practice, less about law firms. Straight from law school, I'd served as a law clerk on the California Supreme Court. The one-year clerkship with the Chief Justice was meant to be a stepping-stone to a career as a law teacher. It offered insight into the workings of the judicial system through participating in the decision-making process of an important court. But I also wanted to learn about corporate law firsthand. The experiences in court and in the law office, like the findings of a field trip, were meant to be brought back to the classroom.

The Cravath firm's antecedents could be traced to 1819. Its lineage, charted out like a family tree, was framed and displayed in the reception area of its offices on the fifty-seventh floor of the Chase Manhattan Building, along with a letter from Abraham Lincoln to the firm, when Cravath had engaged Lincoln as a correspondent attorney in Illinois on a collection matter. In recent times Justice William O. Douglas had practiced there and so had John

J. McCloy, U.S. Military Governor and High Commissioner for Germany. Cravath represented the establishment and was one of the elite law firms. Affiliation with the firm placed you, it seemed, in the top tier of American legal practice. Its history and experience were supposed to rub off, adorning you with its much admired patina.

The firm was known for its master apprentice method of training its associate lawyers, called the "Cravath system." In practice, an associate worked exclusively for one partner for eighteen months to two years, and at the end of the assignment period rotated to another partner until, over an eight-year period, the associate had become a journeyman lawyer ready for partnership. At most other firms, associates worked for a group or several groups of partners and no one person had responsibility for their development. Starting at Cravath, you entered a highly organized and rigid culture.

My first day was the first Monday in November 1967. On that day, I was already out of phase. Almost all the members of the entering class, about forty of them, had started their careers in August, after taking the bar exam, or in September, and the few remaining stragglers had arrived in early October. Reporting for work in November, after finishing my one-year judicial clerkship, I was by far the last to begin.

I was assigned an office, which I was to share. It was a duplicate of sixty other offices for associates, identical down to the last detail of size, furniture, metal filing cabinets, and office equipment. There were to be, according to the rules, no variations. These were sparse, no-nonsense offices, shabby from wear. No diplomas or evidences of admission to the bar or to practice before the courts were ever hung on the walls. That was regarded as gauche, an affectation of doctors or dentists. The redeeming feature of each of the offices was a large window (actually a glass wall) that looked out on lower Manhattan from an unobstructed height. In all the offices, the junior associate sat by the door with his desk against and facing the wall, and the senior associate sat by the window with his desk squarely planted in the center of the room at a right angle to the junior associate's desk, his back to the window and facing the door. The configuration of the furniture rejected the view; its sole purpose was to tell you the occupant's status.

In my case, the senior associate had the office to himself through October without any other desk in the room, and by November he assumed that this office would be his alone, not contemplating a late arrival. Moreover, he'd been at the firm almost eight years and was entitled to his own office, but the firm was overcrowded. On the morning of my arrival they moved a standard-issue desk and filing cabinet into the room, and he found the furniture lodged against the wall, terminating his privacy and any illusion of junior partner status. In his in basket was a copy of my picture and a short biography. As with every newly arrived associate, it had been circulated to all the 160 lawyers (approximately 120 associates and 40 partners) in the firm so that the others also would know something about the new arrival. They were told in typical terse Cravath fashion, bereft of any mention of personal history, that I was a graduate of Brooklyn College, class of 1957, and NYU law school, class of 1966, and since September 1966 had been a law clerk. My address in Staten Island was listed. That was all the others in the firm needed to know. Since almost everyone at Cravath was a graduate of an Ivy League college or law school, it was probably assumed that through that network the relevant information would flow to those interested.

No one knew me. At the time I was one of two lawyers who had attended the City University, and there were few NYU Law School graduates at the firm, only one of whom was recent. My biography and arrival at Cravath spoke volumes about my career (late starter), social class (lower middle), work experience (apprentice grind), speech (probably too New York), and social aspirations (none). These were insights to which they had immediate access, but ones that I wasn't knowledgeable enough to share or even understand; nor could I realize how quickly and decisively I'd been classified.

I introduced myself to my office mate, took my jacket off, hung it up on the hanger behind the door, and rolled up my sleeves to start filling out countless forms waiting for data and signature. While I worked on the forms, my office mate introduced me to the rules and culture of Cravath.

First, the dress code. I was told that in the eight years that my office mate had been at the firm he'd never taken off his jacket,

let alone rolled up his sleeves, and he didn't regard my actions as appropriate behavior. Whether or not he relished my discomfort, for I sat there feeling as exposed as if half undressed, he told me that there were some others who did go without their jackets. There could be, he implied, some deviations in dress. No one, however, rolled up their sleeves or wore short-sleeved shirts.

Then protocol. Partners were supposed to be referred to by their last name, "Mr. So-and-so," or as "sir." There were then no women partners. Partners didn't socialize with associates, meaning that they didn't eat lunch with them (unless there was a meeting with a client that the associate had to attend) and didn't meet associates in the evening (unless it was in connection with a firm function). To make the separation complete, partners had their own bathrooms, which associates weren't permitted to use.

And of course there was the work ethic. Work started at 9:30 a.m. and ended when you finished, which was usually late and often included weekend work. If you were busy, it was thought that you were highly regarded by the firm. Therefore, everyone looked busy and worked long hours. With the doors to all offices closed to discourage casual and idle conversation, there was no doubt that this was a hardworking firm. I sensed a note of bitterness.

Finally, the practice of law. I was told by my office mate: "There is very little law in the job." Most deals were a repeat of other deals, and the associate's job was to find the appropriate bound volume where a similar deal had been previously documented and then mark up copies of the papers collected in the volume. Those papers were forms; they were called "precedent" to give them a legal and judicial flavor. Completing the forms was supposed to give you the sense, however tenuous, that the process of filling in the blanks was part of the practice of law. But no matter how slavishly you followed the form, the partner or senior associate for whom you worked would change the words added and the form as well. "Vetting" was the word used to describe the procedure. Each form, vetted innumerable times, was treated as if it were novel, my office mate advised, and the flat tone of his words delivered the full measure of the tedium.

The deals were heavily documented. Such documentation re-

quired administration. Documents had to come in from all over: other law firms had to produce their share; so did the accountants; and company officials; and even public officials of various states. For a closing, all these documents had to come in at the same time, like acrobats joining in midair. Any failure of precision, and the closing would be delayed, with the loss of the time value of money such a delay entails. Nothing is more damning than costing the client money, and so Cravath associates were taught how to administer deals, with all the rigor and seriousness of basic military training. When you started at the firm it was assumed that you would have trouble running a one-car funeral. After a while you could organize occasions of state.

In financing transactions in which corporations borrowed money, someone had thought through all the legal aspects a long time ago. It was hopelessly difficult to separate the substance in the forms from the compulsive gestures of pinched minds. Your job, however, was not to deviate; otherwise you were in uncharted waters where you took foolhardy risks with millions of dollars.

Acquisition transactions were different, I was told. There was actually give-and-take and discussion with clients. No acquisition is totally cut-and-dried. Even when all the terms are thought to have been worked out, the complexity of buying and selling makes it impossible for any two business people to agree on everything. And thus the lawyers have a role: in addition to documenting the deal, they have to find the open points and resolve them in accordance with the elusive logic of the transaction. If that was what was involved, acquisition transactions seemed rather dry and didn't spark my interest.

It was hard for me to accept that what I'd walked into offered such a narrow opportunity for exercising judgment. As a judicial law clerk I'd participated in making decisions about life and death; I'd worked on two death penalty cases, sorting facts, applying the law, and considering the consequences to the defendant and the system of justice. Here, paper shuffling was treated seriously, and as a task of great difficulty. My face, I am sure, showed my dismay as I questioned my decision to work as a corporate lawyer. Shouldn't I tell the firm that I wanted to be trained as a litigation

lawyer and argue cases in court? Anything seemed preferable to sitting in stuffy offices and marking up forms. But I'd already made my decision, and a change would rupture the Cravath system.

Before hiring an associate, the firm required the applicant to decide whether to be a litigation lawyer or a corporate lawyer. Although that decision determined one's career, Cravath didn't contemplate a sampling of the alternatives. Somehow you were supposed to know what you wanted to do. Many people didn't, I found out later. Choices were made on a variety of preconceptions, many misinformed. Once the decision was made and you started working, the firm rarely entertained a change of mind. My career decision, perhaps more rational than most, was based on my experience as a law clerk for Chief Justice Roger J. Traynor for the year beginning in September 1966.

The California Supreme Court sat in San Francisco and monitored a restless and litigious population, which generated a heavy calendar of cases to be argued. Everything about the courtroom was designed to hear argument, and the courtroom was like a theater. The seven Justices sat behind a bench on a raised platform the height of a stage and the several hundred seats in the court were upholstered, tiered seats for comfortable viewing of the proceedings. Even the acoustics were excellent, but none of that mattered. Despite the structure of the courtroom, Chief Justice Traynor would attempt to limit oral argument in every case and to fit in as many cases as possible during the days in which the court heard argument.

A case began with counsel standing at a podium in the well of the court looking up at the seven Justices, and argument usually commenced with counsel reciting the facts of the case. Traynor, high above counsel, silver-haired and imposing in the black judicial robes of the Chief Justice, would immediately break in and say, "Counsel, we are familiar with the case. Do you have anything to add that is not in your brief?" Counsel would usually say, "If it please the court, I would like to give you a flavor of the facts." Traynor would then say, "Counsel, we believe that we understand the facts." Deferential but firm, counsel would say, "This is a very unusual case, your honor." Counsel would be somewhat vexed at this point and for good reason. Having lost in the court below, he

was convinced that the courts didn't understand his case and he wanted an opportunity to see the point of view of the Justices and to change their minds. Moreover, his client was in the courtroom, expecting him to give a star-quality performance.

Traynor would say firmly, "Counsel, we understand your case. Your case is as follows." He would then concisely and accurately, in no more than two sentences, sum up the argument of the case, and firmly ask counsel to sit down.

I was not prepared for what I saw. It was a total departure from anything I'd experienced in law school, where argument was the engine that made the law work. In fact, these same judges appeared in law schools to act as judges of the students' moot court and were congenial and always attentive to the lengthy arguments.

Working for the Chief Justice, I found that courtroom lawyers weren't the only constituency of the court. The court wrote its opinions for the lawyers and the public who used them for guidance in conducting their business and affairs. My classmates told me that in other appellate courts, argument also wasn't considered important. Generally, the better the court, the less important was oral argument by counsel. Even the briefs of counsel, while carefully reviewed, were not always decisive in determining the outcome of the case. Counsel usually took polar positions or adhered strictly to the client's interest, and the court's decisions addressed the middle ground and the public good.

When Cravath required me to make the decision about how I would practice, I chose corporate law, assuming that corporate lawyers gave advice that was tested in the courts and shaped and structured the cases rather than argued them. By my reasoning, corporate lawyers had a critical role in the legal process. But how well founded were my assumptions? My office mate thought that corporate practice was lifeless, offering little chance to give advice about the law. Although shaken, I was reluctant to change my decision on the basis of my first few hours at the firm. I tried to appear resolute, but there was more in store for me that first morning that would test my nerve.

After talking to me and coming to whatever conclusions one does when making a final judgment, my office mate told me that I wouldn't be a partner at Cravath. I don't believe I'd shared the

space with him for more than two hours. The effect of such a statement is not quite the same as being told you are terminally ill, but it was damaging enough, especially coming after only two hours on the job.

I was insulated to the extent that I wasn't seeking the brass ring of partnership. I planned to stay for about two years to get practical experience before beginning a teaching career. However, I felt offended. One never likes to be told that there is no future. But he said it all in such a casual way that it was clear that it was said without malice. Most of the Wall Street law firms, including Cravath, worked on an eight-year system of association with the firm leading to partnership. If you weren't elevated to partnership, you were asked to leave. In the end, almost everybody left, most before the final selection occurred, with only five or fewer people remaining out of a group of thirty-five or forty, all graduates of first-rate schools, at the top or near the top of their class. Of the five, one or two and sometimes none would be taken. All selections were supposed to be made on merit, with the best, the firm said, always taken. From that you had to conclude there was always an opportunity to become a partner. In fact, during the six-year period that I was there (beginning in 1968), only two aspirants from the herd of associates were made partners.

For eight years my office mate had never taken his suit jacket off, called everybody "sir," and worked late nights and many weekends, with many of the weekends not worked otherwise ruined by homework. He had everything going for him. He was tall, gracious, and handsome; white and Anglo-Saxon Protestant; and smart, with enough social sense to wear reserved, well-fitting, appropriate clothing. Despite all that in his favor, he'd been asked to leave. Although they could have used him, they didn't need him. For him it was not personal. Everyone in my office mate's entering class except one had been told to leave.

He laid out the practical consequences of his conclusion that I wouldn't be a partner. On all matters that I worked on, I should keep my own files in addition to those of the firm. It was very expensive to keep duplicates, but the firm didn't care, everybody did it, and when I left I would be able to take my files with me. All those copies would represent forms that could be used else-

where. Despite his irritation at the loss of solitude, my office mate was giving me good, neighborly advice.

My office mate had come for the shine of the firm, and now had to deal with the problems of rejection. On the first day I was seeing the last days. Why would you ever want to start if this was the way it ended? The answer was that being a partner at a firm like Cravath was regarded as the ultimate success for a lawyer, and the firm was looked on as being as much a part of the fabric of America as institutions created by the Rockefellers and J. P. Morgan. Many knew that partnership was, at best, largely elusive and came to Cravath for mobility, to keep their options open, with the hope that the training would allow them to move freely into business or banking or into lesser, but solid law firms. There was also a history of well-regarded law professors who had served a short apprenticeship at Cravath, which was the reason I was attracted to the firm. Leaving, however, sometimes subjected you to the stigma of not having made it at Cravath. There was an opportunity in the third or fourth year (and more rarely later) to exit gracefully into another field, but you had to find the fulcrum point at your own risk.

On the first day, I asked myself again why I had started there. An important reason for me was that Cravath and the law firms like it were the center of corporate financial practice in America, and the partners in these firms were persons anyone involved in financial transactions would encounter and have to understand. It was the first time I'd ever been allowed into an elite organization, and if I left too soon, I would be forever awed by it and cowed by its partners. In its midst, I could learn the firm's strengths and weaknesses, know what the partners knew, and would then be prepared to engage them as adversaries. But that response to myself, important as it was to me later, didn't quite satisfy me, because everything at the firm seemed more routine and less challenging than I thought it would be. I should have understood that the reality of the institution is often not the image that it projects for itself and that it couldn't be understood in a short time. I repeated to myself that I was interested in a teaching career. Even as the thought gave me comfort, I knew that I might not pursue teaching.

My office mate, having compressed over 145 years of the firm's

history into personal reality and initiated me into the secret society that was Cravath, took pity on me and offered to take me to lunch. He could see I knew no one and wouldn't for a while, since the doors to all the offices were closed and it was difficult to meet anyone. I agreed to go, although I felt exhausted and depressed from his information and assessment.

After lunch, not knowing what to expect, I went to meet the partners who would control my professional universe and shape my career. On the first Monday I was assigned to work for Francis Fitz Randolph, Jr., and another partner. That was unusual. Ordinarily associates worked for only one partner, unless two partners (older and younger) worked together. These two men didn't work together, and the assignment didn't accord with the Cravath system. Doomed to failure for that reason, it failed for other reasons.

Frank Randolph and I were paired because of my late arrival. The other partners had gotten their quota of associates. Frank had been occupied exclusively as the executor of his father's estate for two years prior to my joining the firm and was winding up the estate when I arrived. The firm, trying to figure out what to do with me, put me with Frank, a gesture that even the firm didn't take seriously. They didn't expect that there would be any kind of bonding between us, or that Frank would be able to pay enough attention to encourage an attachment. Also, from their point of view, Frank's continued involvement with his family's estate entitled him only to half of an associate's time.

Frank's father had been the senior partner and head of J. & W. Seligman & Co., an investment banking firm, and had been a Cravath associate as a young man. Frank had followed uncomfortably in his father's footsteps and achieved partnership status. He was forty-one when I began working for him, and had had a brilliant academic career at Yale College and Columbia Law School, followed by a law clerkship with Charles Clark, a respected federal appellate judge who had been dean of the Yale Law School. No matter, Frank, in mid-life, was everything a Cravath partner shouldn't be. He was undisciplined, eccentric, and often bored with what he was doing. Recently divorced and courting the woman who would become his wife, he was unavailable for evening work. More-

over, after his father's demise he was unquestionably rich and, by Cravath standards, a playboy.

On the first day Frank told me that he had nothing for me to do and that I should come back the next day. It was a bland statement of the situation, honestly put, but without a hint that tomorrow would be different, and totally disconcerting. I didn't think I would have a relationship with this fair-skinned man with blond hair, just turning gray, whose blue eyes looked indifferent.

Feeling the anxiety of no work, I cast around for something to do and went to see the other partner to whom I was assigned, a knowledgeable securities lawyer in the Cravath mold. More than most of his brethren, he looked the part of the Cravath partner: tall, fair-haired, ramrod straight, and always attired in suspenders, called braces. In keeping with the role, he was arrogant and sharp-tongued and reveled in his status. When I reported to him on my first day, he put me on a train to Washington, D.C., to file papers with the Securities and Exchange Commission for one of his clients. First, though, he delivered a spirited lecture about the importance of the job, and its incidental benefits, which included the chance to learn how to get to the SEC and the location of the filing desk. I felt like a pawn in his game.

After I returned from the SEC, my assignment expanded to putting together the file for the transaction and compiling a bound volume of all the papers. There was, of course, a Cravath procedure to be followed. Again, another lecture: this time I would learn a great deal about doing transactions from collating the papers and having them bound. As I took the papers from him, the irritation in my face showed my feelings, which proved to be an effective message, for he never again called on me to work for him and I never volunteered.

On my second day at Cravath, I decided to devote my entire energy to Frank Randolph, rather than fight for reassignment, which my office mate told me was rarely approved. I made the choice after learning that Frank wasn't part of the mainstream of the firm, resigning myself to a boring and short stay in law practice. I misjudged Frank, which was easy to do, because his shrewdness and drive, eclipsed by his charm, were not readily apparent. He had his misgivings about me; I had too much to learn, and he wasn't

prepared to teach in an orderly way. Frank, however, needed help, and I needed work.

Frank represented United Fruit, which was trying to sell its communications network in Central America, held by its subsidiary Tropical Radio Telegraph Corporation. The network, a sizable commercial system, was originally developed from ship-to-shore communications between United Fruit's banana boats and its plantations. Licenses and concessions for the network granted by various of the Central American governments were expiring. In view of the high level of hostility toward United Fruit, it believed that none would be renewed or the cost for renewal would be too expensive. Moreover, the Central American governments were looking for a company that would come in and upgrade the facilities, which United Fruit was reluctant to do. United Fruit was eager to sell, and RCA was the interested buyer.

When I left the judicial clerkship, I was the only clerk who went to work on Wall Street. I was told by my fellow law clerks that I would become, if I didn't watch out, a United Fruit fascist bastard. Sooner than anyone expected, I experienced the irony of that statement.

In what was my first corporate meeting, Frank and I met with RCA. Executives of RCA and United Fruit had previously met in New York, without lawyers present, and had agreed on the price, which was to be paid in RCA shares. None of the other terms had been worked out—these were considered details to be left to the lawyers. RCA's lawyers had then prepared the first draft of the purchase agreement, taking the opportunity to formulate these details in their favor. Our meeting convened in the boardroom of RCA. I'd never seen a conference room that large. The RCA group of fourteen was seated on one side of a magnificent wood conference table which was dwarfed by the room. Representing United Fruit were Frank, myself, and a lawyer on staff at United Fruit, who had never sold or bought a business. He was relying on Cravath for guidance. The three of us centered ourselves on the opposite side of the table.

The RCA contingent consisted of middle-aged men dressed in gray or blue. No attempt had been made to explain their individual status, and it took me a while to fathom their various functions.

Although I didn't know it then, such a large group wasn't uncommon. Their team consisted of Robert Werner, the general counsel and a director of RCA, who conducted the meeting; two assistant general counsels, experienced and knowledgeable men, including Eugene Beyer, who subsequently became general counsel; two lawyers from Cahill, Gordon & Reindel (a large Wall Street law firm which did the federal communications and regulatory work for RCA); two independent auditors and two in-house accountants; and two actuaries from Towers & Perrin, an independent actuarial firm. The actuaries were there to comfort the accountants and provide information on the assets of the Tropical Radio Telegraph pension plan. Also present for RCA were three vice presidents from an operating unit of RCA that would run the company to be acquired.

While it was an impressive array of people, I naïvely assumed that with a Cravath partner on our side we matched them. What I didn't know was that Frank had believed that the meeting would be a short preliminary get-together of lawyers to discuss procedures to be followed and wouldn't address substantive issues. Tropical Radio Telegraph's business was regulated by the Federal Communications Commission and a host of foreign governments. Frank Randolph knew relatively little about Tropical Radio Telegraph's business or the regulatory aspects involved in the transaction. The complexity required specialists, whom Frank would have brought or had United Fruit supply if he had been forewarned of RCA's agenda for the meeting. Within three minutes RCA knew they had us outclassed. It took me much longer to understand that we hadn't fielded a team. They wouldn't let us exit gracefully, telling us early in the meeting that they had arranged for lunch.

I watched them play with us. Robert Werner would raise a question about Tropical Radio Telegraph's business, and we couldn't answer it. He would then ask one of his operating people who knew the business and he'd tell us the most likely mode of operation. Werner would then turn to the corporate lawyers and rephrase the question for their use and then it would be rephrased and rolled over and reflected on by the FCC lawyers and the accountants and the actuaries and so on.

I was waiting for our turn to come: that moment when we would

show a flash of brilliance and the Cravath colors would fly for everybody to salute. The firm colors hung but didn't flutter. Frank was polite and charming, but not effective. Our preliminary comments on RCA's draft had all been anticipated. Every time we made one, we faced a series of arguments from a string of specialists who told us that they couldn't yield on the point. There was no deferring to any of our points and I came away totally satisfied that they couldn't assent. I didn't understand that a first draft is always an asking position from which people back down. Although they had been aggressive to start, they didn't retreat on anything.

The only respite was at lunch. The seating gave me a sense of the corporate hierarchy. Frank was placed at the table with Robert Werner and the senior officials of RCA and I was seated with RCA's operating people who would run Tropical Radio Telegraph after it was acquired. They knew all about me: about my college and law school, my wife and child, and even the date I'd started at Cravath. They had thoroughly investigated me before the meeting. Their information bled out slowly over lunch. Much as I was offended that they would probe into my life merely because I'd come to a business meeting, their inquiry told me that they were willing to go to great lengths to get very little information, which meant that they were extremely well prepared, and we were not.

Frank beat a retreat after lunch at about 3 p.m., and we went back to the office, where Frank asked me to draw the table: tell him the names of all fourteen people, their organizations, positions, relationship to each other, and contributions to the meeting. In that analysis he also wanted finer assessments, such as whether they were smart or experienced and whether their judgments were reasoned or emotional. Uncomfortable about the poor performance of the day and all that the other side seemed to know about us, I worried that it was a test. As such, it would be difficult to pass.

I sat down next to Frank and did what he asked, drawing the places at the table and telling him the names of all the people, their approximate ages, background information about their schooling or prior employment picked up in conversation, the positions they held, their level of seniority, how they were regarded by all the other people, and how effective they had been. I told him who was smart and who wasn't and who thought he was smarter than he

was and who was levelheaded. When he added what he knew as the table began to be fleshed out, I relaxed. We spent well over two hours at it, and Frank relived the meeting to understand the questions asked, his responses, and their reactions. I realized he'd suffered from the pressure of being unprepared during the meeting and wasn't able to follow all that was going on. In my innocence, I'd observed most of what had occurred. We then began to form a strategy for dealing with RCA. In the quiet of his office, he laid out all he knew and what we should try to get for the client. I saw a thoughtful and imaginative mind at work, and to replay the meeting was to become a full participant, with a sense of the adversarial aspects of doing a deal.

At every meeting after that I would always draw the table for Frank and then, when working alone, for myself. It always produces insights, and knowing you will do it keeps you alert. The observations help you to be able to size up, fairly early, whom you are dealing with and to make a decision about where you will be able to come to agreement and over which issues negotiations will be difficult. If you listen, people will tell you the problems they foresee, and sometimes express their reasonable expectations and their worst fears.

United Fruit executives thereafter attended all meetings with RCA. Once the executives articulated their objectives, Frank's talents could work, and his ability became obvious. As a lawyer, Frank Randolph was a trader, which is like being a counterpuncher in boxing. He would look to swap this deal point for that; build up makeweight points (requests for concessions from the other side that he treated as critical) to have bargaining chips that he could later give away; and then go through the trades that were possible given the points. Two of this for one of that. The trading went on until the deal was signed; sometimes even after. The discipline that Frank exhibited was that of a fine, trained mind defining the important and the unimportant. He sought and found a theory of the deal, but never demanded simplicity, allowing the deals to become complex, which made them difficult to document. At the outset of the trading with RCA, there was the question of who gets the profits of the business between signing and closing, which could take as long as seven or eight months because of the regulatory approval

needed from government agencies. The amount at stake was sizable. RCA took the position that it was buying the business including the income. Frank's position was they were buying it the way it would be if it were operated in the ordinary course, including the customary payment of dividends. Finally Frank won by pointing out that RCA was not cumulating dividends on its stock in favor of United Fruit between the signing and the closing. Until they owned the company or its stock, they weren't entitled to its income.

Frank was clever in handling the documentation. All lawyers are eager to prepare the papers, but Frank would usually let the other side do the first draft, which freed him to work on more than one or two deals at a time. That reversed the conventional wisdom that it's better to be the draftsman, for it is often thought that the hand that wields the pen controls the nuances of the transaction. Frank would comment, counterpunch as it were, telling me that you have to learn how to read closely as well as write closely.

There were two elements to look for in any draft: one was its accuracy in reflecting the deal, and the other, its omissions. The difficult part was to find what had been left out. Frank would start with "what if" and then go through the structure of the draft and see how it worked. For example, he would ask if United Fruit had to sell its subsidiary under the contract with RCA if it didn't get satisfactory regulatory approval. It might be possible to have to pay damages for failing to sell even though United Fruit wasn't permitted legally to sell. That would not be a happy result. The process of asking questions was like playing pinball. He'd run the ball through the maze and see what lit up and what didn't. He would spin ten or fifteen balls through with me, and the agreement would start to take on shape, then three dimensions and life. When its inadequacies showed, he asked the inevitable question: Could we layer on another level of complexity to account for the omissions? Of course.

The process was very different from what you learn in law school or clerking on an appellate court considering litigated issues. Those situations involved a dispute where the issues were sharply defined. The point here was to craft a deal where there would be no disputes or, if circumstances changed and the bargain became less interesting for one party than another, your client had the leverage.

Accordingly, the problems inherent in any deal were as complex as you wanted to make them. You could be concerned with matters as remote as war, rebellion and insurrection, or the state of the economy, banking moratoriums, or just plain deceit. There were the problems that were readily apparent and those that a fine mind could find. It was important not to be dazzled by your own intellect and reach for remote points or scared by your own shadow and try to cover everything.

Handling any matter required a strong knowledge of substantive law. In litigation there was often the leisure of research, with time to find the law on the disputed issues. A young lawyer can be effective in litigation almost immediately because the skills learned in law school all relate to fact finding, argument, and application of rules to facts. The side of the law for which most people look to lawyers—planning and getting things done—received the least amount of attention in law school. In corporate practice, deals were traded and documented overnight, and you had to know the law or, if you were unsure, take a conservative tack. You could only learn those skills from someone who was experienced and would permit you to participate in the process. The price of the training was apprenticeship, with the apprentice's low status and burdens.

I didn't appreciate the difficulty of using the law as a tool for making agreements until I did some work on my own. Eager to try, I chafed at the bit until Frank let me handle the sale of cable television assets for $5,000, too small a matter for him. What was involved was the simple transfer of assets, which consisted mainly of a cable television antenna in upstate New York, to a buyer who wanted to take over the local cable business. Our client, the seller, sought to be relieved of a performance bond to the telephone company for $35,000. The deal was drawn up as an agreement to deliver the assets conditioned on the release by the telephone company of the $35,000 bond.

In preparing the papers, I didn't require the buyer to "promise" to have the bond released and hold the seller harmless, and when the buyer didn't perform, claiming he was not required to do so under the contract, the seller still owned the company but had no rights against the buyer. I then realized that I had inadvertently

given the buyer an option, without charge, and allowed him to change his mind.

I did some legal research to try to justify the papers and wrote a complex and convoluted memo to the effect that the condition for the benefit of the seller was tantamount to a promise by the buyer to perform, trying to make two different concepts the same. After preparing the memo, I realized that I'd never fully understood the concepts.

I took it to Frank, who said, "We can't argue this."

"Why" I asked, still prepared, because of my embarrassment, to defend the point, and angry that the buyer (and his small-town upstate lawyer) had taken advantage of me and my client.

"Because we know the difference between an option where the buyer can buy or not at his whim and a promise to perform," he said, dismissing all my anger. And then he asked a brilliant question: "How would your judge decide this one?"

I frowned. For over a year I had worked cheek by jowl with Justice Traynor in his chambers and understood the decision process. I knew the answer without much thought. My judge would rule against us.

Seeing my face, Frank said, "Let's not waste any more time."

And that was the end of it. And while it was a small matter that went unnoticed, I still smart when I think of it. Thus, I did my first deal alone, learning that I was inept after four years of legal training. The question Frank asked, however, integrated for me my working experience and my training as a law clerk. It was the kind of question you always had to ask yourself, especially at moments of emotional involvement.

Although I had trouble doing one deal at a time, Frank handled four or five at once. He had a facility for moving in and out of a transaction and could shift focus and direction with the agility of a finely trained athlete. Each matter provided a welcome change of attention, and a new problem he could address without losing the threads of all his other problems and matters. He would shut down at a reasonable hour. At 6 or 7 p.m. he would leave me with whatever problems he had and pick them up again in the morning, always unruffled by the fact that there were nagging difficult prob-

lems left over from the day before. By the end of the day he was freed from the constraints of the office.

Frank's working on many deals exposed me to most of them and built up a reservoir of experience. Each deal had its own character, and Frank made them unique. I never had the sense of repeating myself, but, as a consequence, I couldn't gauge my level of experience or development.

An adversary unexpectedly did the measuring for me. Frank and I were representing a seller of a pulp mill in Port Hudson, Louisiana, to the Georgia Pacific Corporation. The mill was jointly owned by the Riegel Paper Company and the Inveresk Paper Company, a Scottish company, which was the Cravath client. Riegel Paper was represented by other counsel, who were not as experienced in acquisitions and looked to us to take the lead. Georgia Pacific sent a complex contract to us and we began our negotiations. The contract was like a law school examination: no matter which way you turned there was a trap; and in avoiding one trap you would fall into another. The deal was being handled largely by in-house Georgia Pacific staff lawyers. But the agreement, an acquisition form from Georgia Pacific, had gone through many hands before it had come to us and many minds had twisted and tightened it. Even a mediocre mind, well positioned, can be formidable. We worked at it together until Frank saw it as routine and became involved in other matters. Then it became my deal and I worked on it alone until we came to a bargain.

There was a closing dinner, at which I was reviewed. In the middle of dinner at a fine New York restaurant, Frank asked the lawyer for Georgia Pacific how well we had done negotiating the contract. The lawyer had a round beery face, and his two little eyes bore into Frank. He was judging me, but he concentrated on Frank. He wet his soft, puffy lips, and his tongue came out and caressed them, making them look mushy. "Well," he said, drawing the word out, "I'd say that you did—" Then he hesitated, letting the silence thicken the air. "I'd say you did about 50 percent," he said. "That's not bad; acquisitions are tough. You got a lot of things," he said. "I'd say that. But you missed a lot of things too. I'd have to say that."

Frank didn't say anything, but his fair face became flushed. It was the wrong question, and it had gotten the worst kind of answer. Gritting my teeth, I scowled to hide my pain. There was nothing for me to say. Frank said the only thing one could: "We'll see. We'll see." But it wasn't as if we could seek retribution. We'd closed the transaction and the client had gotten the money. Nothing was left to be done, except to comply with a pulp-sale agreement under which Inveresk would continue to buy its pulp requirements. I went back to the office to reread the agreement, looking for missed points, now knowing there were many. All this brought home to me that there was much to learn.

An opportunity for some satisfaction did come, and sooner than we thought. Inveresk was not doing well in Europe and, as a result of closing down some of its European paper plants, needed less pulp than it had contracted for in the pulp-sale agreement. In a tight position, Inveresk asked Frank whether there was any possibility of renegotiating the contract to reduce the required annual purchases of pulp. With a mischievous eye, Frank looked over the contract to find where the standard contract allowed turning room, a place to force a retrading of terms.

The contract contemplated the purchase of annual tonnage. Inveresk was required to give thirty days' notice before each calendar quarter, stating its purchase requirements for the next quarter, and was then required, during the quarter, to take equal monthly installments of such tonnage.

Frank asked, "What if we say we have no requirements for the quarter?"

I looked at him, not seeing where he was going, but had a ready answer: "You only postpone the problem," I said. "You have to buy fixed annual amounts. The following quarter the tonnage requirements will increase. That's what it comes to. It's a bigger ball to roll up the hill."

"Can we do that?" he asked. "Not buy in a given quarter?"

"Yes, we can," I said. "You were very specific in saying to them that you wanted flexibility from quarter to quarter, although they usually didn't grant that flexibility to others because they want their mills to run without slack periods or down time. You told

them we needed the flexibility because there were seasonal variations and we might want to postpone some of our purchases."

"That was meant to be a small concession. Are they fully on notice?" he asked.

"Yes," I said, still not knowing where this would lead. "They are responsible for the consequences of the concession. But postponement doesn't relieve you of your obligations," I reiterated.

Frank had a faint suggestion of a smile on his lips and his eyes sparkled. "The client tells me that there will be a strike in the Gulf Coast ports in ninety to a hundred twenty days. That means they won't be able to make deliveries if the Gulf ports are closed. If they can't make deliveries, Inveresk doesn't have to buy."

Frank's suggestion of a smile blossomed in full. He let me put all the pieces together in my mind, and then he recited the conclusion.

"If we postpone our purchases and lump them in the quarter in which there is a strike, they won't be able to ship and we won't have to buy. The client will be in a position of not having to buy at least six months' worth of pulp."

"That will make them renegotiate," I said.

"At satisfactory levels," he said.

"Do you want to make the call or should I?" he asked.

"You should," I said.

"First I'll have the client send them a telegram that there will be no purchases of pulp for this quarter." He paused, as if contemplating the telegram. "That will get them to taste their lunch. Then they'll be prepared for my telephone call."

The incident gave Frank his sought-after satisfaction. For me there was a deepened understanding of the complexity involved in deals and the effect of ever-changing circumstances. The surprise the other side would experience could be my surprise the next time.

Working together, you become close. You share the depression induced by scorn, even if only from an adversary, and the insecurity of not knowing if you have figured it all out. In those moments when the burdens are shared, you take and give comfort. It is personal and intimate and crosses the barriers set up between partner and associate at Cravath. As warm and as personable as

Frank could be, the barriers were always there because he respected them. We shared much and I was fond of him and cared for him, but we weren't friends. I knew little about his personal life, and never during the two years that I worked for him did I see him socially.

At the end of two years Frank told me I would have to begin working for someone else in accordance with the Cravath system. He set me up with an equally eccentric man, but his polar opposite: a man who was the most disciplined, careful, precise, and hard-working lawyer in the firm, William Bly Marshall, whom I sometimes thought of as Captain Bly. The lecture Frank gave me then reminded me of the day I started grade school at age five. My mother told me that they would be calling me Lawrence at school. I'd never heard that name before and had always been called Larry. I asked her why that name and she told me Lawrence was my name. Frank, in the same way, tried to tell me that for the past two years I hadn't been practicing law. Somehow, doing deals (negotiating all the business, as well as the legal points, and letting other lawyers prepare the papers) was not quite the practice of law.

He had me assigned to Marshall to give me the benefit of the traditional Cravath tutelage. Frank could call on Marshall to take me on as his associate because Marshall had represented Frank's father and owed the father a number of favors that the son inherited. I wound up with one of the most difficult men to work for in the firm.

At that point I chose to stay with Cravath and delay going into teaching. I'd experienced the excitement of doing deals, of living by your wits. Frank had made it so. I knew there was much to learn, for at every turn my deficiencies showed themselves. In addition, Frank's deals involved only privately held companies and I didn't know anything about the companies traded in the public markets, a necessary element of my education.

AFTER TWO YEARS at Cravath an associate was entitled to a window seat and a phone with two lines, including a hold button to manipulate them. Those were the prerogatives of a middle-level associate. To anyone at the firm they were the equivalent of battle

citations and as noticeable as if they were worn on your breast. The actual timing would depend on when people left the firm, but the advancement was based largely on seniority. The senior associates with six years or more at the firm would usually be given their own offices, but could lose them depending on how crowded the firm was at any given time. As a result, there was a constant shuffling of offices. You would be told on a Thursday or Friday that your office would be changed, your files were moved over the weekend, and on Monday morning you would come into a new space, the same as the last office, but with a new office mate; and the work was supposed to proceed uninterrupted.

In changing offices I met new people, and, through them, others. Over time I got to know the other associates and something about the firm. Cravath was treated like a graduate school by many: they came and went, enriching each other and the firm. Cravath kept the history of all those who entered and left and systematically followed their careers. As one of the few repositories for this kind of arcane information, the firm's records became the major source for the sociologist Erwin O. Smigel, who wrote a book called *The Wall Street Lawyer* in 1963. The book attempted to profile the change in character of the people who became Wall Street lawyers based on background, schools, affiliations, and later jobs. He was able to show that Wall Street lawyers were becoming less homogeneous as a group.

Not captured in the information about the type of people employed was the quality of many of the associates and their relationship to the firm and each other. These were people who had performed at a very high level, often disliked the practice at Cravath, and moved on. They were in many ways the most interesting aspect of the firm. While I was there some of my fellow associates were Phil Trimble, who became a deputy mayor of New York City under Ed Koch and later organized the American expedition that climbed Mount Everest; Carol Bellamy, who became the President of the New York City Council; Oliver Koppell, a brilliant New York state assemblyman; and Tom Hauser, who wrote the book *Missing*, which was made into a successful movie.

Associates not seeking to build a career at Cravath, and often not intending to continue practicing, provided a leavening irrev-

erence. There was always someone who would put the social structure in perspective while challenging the system. For example, one of the associates tried to bring in his own furniture. The furniture, a chair and desk, was examined in all seriousness by Mrs. Fordyce, who had been chief of Cravath protocol as long as anyone could remember. She ruled definitively that the furniture had partner's legs, not being perfectly straight and squared off, and couldn't be used by an associate. To some of the best legal minds in America, she left open the possibility that you could bring in your own furniture as long as it had the appropriate legs, regardless of its other details. Her ruling was a source for great debate. Rolltop desks could be imagined. No one wanted her to rule again, however. It was better to debate it without testing it, since we all concluded that the next decision wouldn't allow variations from standard issue.

The hierarchical structure of partner, associate, and support staff didn't accurately describe the pecking order, as suggested by Mrs. Fordyce's power. In the ranking, associates were professionals, supposed to be served by the staff, and the forms of address attempted to validate the hierarchy. The staff were required to refer to associates by their last names and refrain from familiarity, while associates were free to call staff members by their first names or even use nicknames. Outwardly, deference was observed, and the well-mannered formalism hid the tensions from the uninitiated. Behind the veneer of social conduct, the staff members had remarkable power. You soon discovered that your career depended on the goodwill of the steno pool and the Xerox room. If you couldn't produce your work on time, everyone faulted it, no matter how brilliant it was. If you weren't liked by the staff, if you didn't observe the proper amount of obsequiousness, your work, when it was found by a tired messenger, would be dog-eared and have paragraphs scrambled and pages missing.

At Christmas you were required to give the boys in the Xerox room and the guys who ran the steno pool a gift, more than a Christmas card with a cheery sentiment. Nothing less than fine old whiskey would do, and not just one bottle. The key to success was to be part of a consortium so that you could deliver a box. Everyone was always impressed with a box of booze, although the contents

would be counted with great care and the card with the names of the members of the group diligently examined to make sure that the gift wasn't stingy. Those guys knew their vassals and if you didn't comply with appropriate homage, your life would be made miserable.

The partnership was aware of these pressures but didn't care. The work got done, the associates could fend for themselves, and the support staff had an outlet.

For the first two years, associates had to call the steno pool for secretarial assistance. In June we'd meet the girls from Bayonne, the new recruits for the steno pool. Every year Hy Miller, who ran the pool, recruited at Bayonne High School (his hometown) and took the best of the class. The new crop arrived immediately after graduation, between twenty and thirty in number and between seventeen and eighteen years of age. These neophytes spent about two years in training before becoming secretaries. By September, the June recruits were fairly seasoned, so when the new associates needed steno service it was hard for them to distinguish the newly arrived from the more experienced.

At Cravath, great emphasis was placed on dictating directly to a stenographer as the most efficient way to draft letters and documents. Beginning associates usually tried to put off learning the skill because of the embarrassment of haltingly trying to find the right words and sound like a lawyer in front of a young woman. The girls from Bayonne had all been trained at school to display total impassivity. Whether what you dictated was nonsense or poetry, it was met with the same acute indifference. Behind the mask, however, there was always a mind at work, judging and grading you. If a stenographer wanted to be nasty she would fidget when you took time to think, one of the many options on her part that balanced the relationship.

In many respects the careers of the girls from Bayonne paralleled those of the young entering associates. After two years they would become secretaries to two associates and if they stayed long enough would ultimately become a secretary to a partner. Since the partnership was relatively small and stable, few got that far. Most left, using Cravath's peerless prestige for the mobility that it promised. Some married associates, and many left to work for senior asso-

ciates at their next and more promising jobs in executive suites. If Smigel, in his study of social mobility, had been closer to his subjects, he might have also wanted to follow the careers of the girls from Bayonne, who intermingled with and became part of the lives of the young men from the Ivy League.

There was very little official socializing at Cravath. The one social event of the year was the dinner dance, which was a black-tie affair held in the Grand Ballroom of the Plaza Hotel.

My first office mate was the head of the dinner committee, and he enlisted my services to help him administer it. I got an interesting insight into the workings of the firm, which I hadn't expected. After all the seating arrangements had been made, the managing partner came into our office to review them. This was the first intrusion by the partnership into the event. The managing partner that year was John Hunt, a cheerful, rugged Irishman who didn't particularly enjoy dealing with the day-to-day affairs of the firm. He had, it turned out, a secret list, which he held in a hamlike fist, close to his chest like a poker player not wanting to reveal his cards. The list, reflecting an accumulation of at least fifty years of experience in the firm, specified those partners or their wives who couldn't be seated at the same table with other partners or their wives, and associates who offended certain partners. The list was long enough so that it couldn't be committed to memory and he had to refer to it a number of times, each time with a quick, furtive downward glance, making sure that no other eyes could see.

A number of changes were required in our arrangements, and he asked for all copies of the seating chart, saying that he would change it, have it retyped, and send it back to us for final distribution. There would then be no possibility of reconstructing his list. He then left us, presumably to put his list in the firm's safe for updating immediately after the dinner. Given the tension of the event, every year a number of partners and associates got drunk and offended somebody, and this was brought to the attention of the managing partner. Also, who knows what other slips were made at the party that got reported to him for his list.

For many, the dinner dance, rather than being a social affair, was another test; this time your social skills were measured. The men danced with each of the women at the table and the partners'

wives were treated to affable and extremely attentive young men. The partners, too, got their share of attention as they bestowed their grace on the associates' young wives and dates. Working with the dinner committee, I was able to get assigned to Frank's table, and for me at least, the event was a pleasant social evening.

Cravath, I concluded, was organized for the practice of law, and the social aspects, while difficult to live with over an extended period of time, didn't get in the way. I girded myself for another two years, this time with a tough taskmaster.

WILLIAM MARSHALL WAS fifty-five years old when I began working for him in 1970. He had established an excellent academic record at Yale College and at the University of Pennsylvania Law School, from which he graduated in 1940. He began working at Cravath in 1946 after his discharge from the Navy, where he had been a PT boat commander.

Marshall was a chain smoker and had a leathery, lined face that made him look ruggedly handsome. He would sometimes lean his head on his hands and pull his skin tight while concentrating, and you could see briefly the handsome young man who had once been the naval officer. A number of involuntary tics caused him to grimace regularly. They didn't detract from his appearance, but gave the sense of someone who was keeping his emotions under tight control. Anger would rise up in him over some perceived wrong and he would curse. Sometimes he would lash out. There was often a sense of imminent explosion and, at such times, he would be given a wide berth by most people who knew him.

Although Marshall was one of the busiest men in the office, he worked on only one matter at a time. While he might occasionally take calls about other business matters, if he was involved in a deal, he wouldn't interrupt his work, refusing to be distracted by anything else. The client would have to wait. We would often sit in his office for three or four hours working through a problem. He would pose a question to me and I would attempt an answer immediately. That would always annoy him: whatever I said couldn't be right because I'd responded without the kind of deliberation that he went through. Each question or problem had a

beginning, middle, and end. Moving from phase to phase, he would parse through all the elements, tease out all the subsidiary questions, carefully define all terms, and laboriously seek an answer. No matter how complex the issue, it would be diced and sliced so thin that it didn't seem to have any complexity at all. A novel question would become mundane.

Each sentence of a document would be reviewed with the same exactitude. If there was a loophole, he would find it. If there was an invalid assumption, it would show. I would sit in his office, impaled in the process, sometimes waiting for him to read slowly and carefully to himself, watching as he worked through each problem with dogged persistence. Other partners in the firm at his age didn't work on drafting papers. They gave advice. Marshall was revered for his judgment and was treated as a gray eminence, but once his advice had been given and it was time to do the papers for the deal, he would do those too. The associate would do the first draft, then Marshall would discard it, begin again, and redraft the document with the associate at his side.

Marshall would never trade a deal like Frank. For Marshall there were business points and legal points. He wanted the businessmen to trade all the business points, leaving him with a complete term sheet so that he could document the transaction. If he found open points, he'd ask the client to trade them out so that the deal could go forward.

In his view there was nothing novel about any transaction. He would always want to start from a precedent, some agreement that had documented a similar deal. In that agreement there was a world of experience for him. His office was filled with several hundred volumes of the documentation for the deals he'd done. He would select all the agreements and parts of agreements that were relevant to the transaction at hand. All work on a new deal started with one of those precedents and from there he would add or subtract on the basis of others. Then he would finally ask whether anything had been left out, meaning had he covered all the points that the client wanted included.

Randolph and Marshall had the same objective, to cover all the issues, circumscribe the risks of the deal so they were all stated as agreed or customary. But they proceeded from opposite directions.

Frank Randolph tortured himself about whether or not he'd covered everything. Marshall always started with a high degree of comfort, but was nervous about the possibility that some precedent might not have been complete. Bad forms were the bane of Marshall's working life. Marshall would always be dismayed when he had to work opposite a lawyer like Frank whose first instinct was to be innovative.

Each looked at the process as drawing a series of concentric circles to circumscribe the risks, with the issues in the inner rings being the most likely risks. They tried to draw as many circles as reasonably necessary, without burdening the deal with too much complexity. Frank's structures were often elliptical, covering issues in the outer rings while sometimes leaving others reasonably near the center uncovered. Marshall's deals were more symmetrical and less complex, unlikely to cover remote or novel risks not near the center (although possibly a problem in time), since he proceeded from precedent.

Marshall's workweek began on Sunday night, when he would call me and others, usually at dinnertime, to discuss the schedule for Monday. He was an indefatigable worker, and worked as late as he had to, often without eating, to get the work done. He would regularly stay at the office until two or three in the morning working with his male secretary, Sy Garrow. Many days he would work around the clock, telling Sy to have a messenger buy him a shirt and a tie and some underwear, and he would begin the next day as if he'd gone home and slept through the night.

Sy Garrow was as much of an institution as Marshall. He would work whatever hours Marshall wanted. Because of his overtime he was handsomely compensated and was reputed to have invested significant amounts of money in Bronx real estate. He appeared to be an instrument of Marshall. Whenever Marshall needed anything, Sy was always there. Also, Sy Garrow was a remarkably skilled secretary. Perfect pages would fly off the typewriter, and he could take dictation as fast as Marshall could speak. It added to Marshall's mystique and power that he could harness such a person and keep him occupied.

Marshall had two or three associates working with him at any given time, but he couldn't delegate to any degree. The associates

always worked separately on different deals. Mostly an associate would take comments, field complaints, and gauge the client's annoyance when Marshall was preoccupied with another deal. Marshall allowed the associate to make only small (usually glacial) advances without him. Without this delegation of authority the work would have come to a grinding halt.

Marshall's was actually the largest practice at the firm. It had developed through J. & W. Seligman & Co., the investment banking house run by Frank Randolph, Sr. He represented Seligman and also Blyth, Eastman, Dillon on financing matters. From these two investment banking houses he gained introductions to their clients. Over time their clients became his clients. For example, he represented Honeywell at a time when Honeywell was a leading maker of computers. Cravath also represented its much larger competitor IBM. At a certain point Marshall was asked to drop Honeywell as a client because of conflicts with IBM. That was a major event. The Cravath firm had to screw up the courage of the presiding partner to go into Marshall's office and tell him that he would have to drop one of his clients. For Marshall it was like losing a finger, and he was not easy to live with for days.

Marshall didn't cultivate his eccentricities the way talented people often do. In fact, he suppressed them. Businessmen and their lawyers must relate to each other, he told me. If the lawyer looks strange, he loses trust, and if he acts strange, his word can be questioned. Marshall's furniture was nondescript as well. It looked as though it had been issued by some bureaucracy for temporary use. All this was camouflage. Anyone with a good eye could see how Marshall differed from the norm.

Marshall's time and attention were solely devoted to representing the firm's clients. At one point the managing partner, John Hunt, gave me two weeks' leave in addition to my four weeks of vacation to work on John T. Connor, Jr.'s campaign for the state senate of New Jersey. Two weeks' time off to work on political campaigns had become a routine grant, and a number of associates took advantage of the opportunity. Connor, Jr., was then my office mate. I remember Marshall looking at me over his glasses and asking, "Young John?" John's father, John T. Connor, had been at Cravath and had left to become a business executive. He'd served as

Secretary of Commerce before becoming chairman of Allied Chemical. The senior Connor was a client of the firm, and helping him made sense to Marshall. But young John wasn't a client. When I told him, "Yes, young John," he made it clear that he thought I was wasting the firm's time.

The practice of law wasn't a business for him. He had trouble billing the clients for his services and would run months, sometimes as much as a year behind. Often the presiding partner would have to tell him to bill. Clients grumbled even to me when they hadn't received a bill in a long time. They were worried about the cost and about being able to properly account for it. It was then that he had to face the price of his services, embarrassed by the size of the bills.

Marshall took a joy in his practice that was rarely expressed. One day I was in his office and he got a call from Walter Wriston, then the head of Citibank, who asked him a question about real estate investment trusts. He had heard that Marshall was the leading expert on Wall Street. When he hung up the phone Marshall said to me, "Do you know who that was?" "No," I said. He said, "It was Walter Wriston. He had some questions about REITs. Imagine that." And then he scowled and went back to our discussions.

As a role model he had his limitations, especially when he fought for dominance in his bare-knuckles way. He would tell me our job as lawyers was to control the meetings we attended. You were to listen to everything that was said, accept the good ideas, and firmly reject the bad. We set the agenda and the time schedule. More importantly, we would rule things out of order. If there was a clown at the meeting (defined to mean anyone who wouldn't follow your lead), we were to make sure he wasn't given a chance to speak. Clowns would take everybody's time and destroy the meeting.

At every meeting, Marshall would promptly stake out his claim for control, assert all the power of his client, and if that was not enough, assert the power of his position. Usually Marshall was the oldest person in the room, and his experience was legend. Added to that was the mystique of Cravath and an aura about its partners which facilitated command. Cravath counted itself at the top of the legal profession. The sense of hierarchy didn't start at Cravath.

It was in part built into the system by elitist choices about prep school, college, and law school. On every level of life there was a hierarchy, and whether it truly existed in the practice of law didn't matter. It was in the minds of all the people with whom I worked, however vague their criteria for measurement or analysis. How would you be judged as a lawyer if you left Cravath? was the gnawing question that troubled every associate. Asked often enough, especially in moments of self-doubt, which are many in a long apprenticeship, the answer would deepen those doubts.

Lawyering involves a constant evaluation of yourself and other lawyers. It was assumed that partners at other firms couldn't be as able as the partners at Cravath, and events would usually provide confirming data, if not outright confirmation. What made it tough to be fair-minded was that most lawyers were reasonably knowledgeable and it was difficult to assess where concessions made or denied would make any real difference to the clients. Only on rare occasions would you get any hint of the power of another lawyer, and thus an understanding of Cravath's limitations.

Marshall unwittingly gave me a view of those limits (and his confrontational style) when he became too feisty with William Kaynor, then a middle-level partner at Davis Polk. Kaynor tried to avoid argument at every turn, but Marshall persisted. Marshall wanted certain concessions which Kaynor wouldn't give and Marshall terminated the meeting in a huff, walking out without setting a scheduled time for further meetings. When he talked to me he referred to Kaynor without using his name, saying "what's-his-name" or "what's-his-face." That evening we worked long and hard at being devilishly clever with the papers so that there would be all kinds of barbs and snares for Kaynor, with Marshall smiling in anticipation of Kaynor being caught by them. In the morning we called Kaynor to set a meeting time and Kaynor told Marshall that he was busy and wouldn't be able to meet for at least a week.

The response practically knocked Marshall off his chair, because delay caused by a lawyer's schedule is never tolerated. Marshall would have been prepared to meet at 3 a.m. to begin work if that was the only time that Kaynor could meet. Marshall tried every argument he knew. Kaynor kept saying, "Bill, I'm sorry, but I'm extremely busy. I know that it's hard on your client, but I'm just

not going to be able to accommodate you." Only a man of great power could do that: one who was able to control his client and take the heat of not moving rapidly. It was done with finesse and politeness. Stalled, Marshall was devastated. If he complained to his client, the client would know that Marshall had been ineffective. Lawyers were supposed to be able to deal with each other and move things along.

Finally Marshall had to resort to asking me to use whatever goodwill I had with Kaynor's associate to get things moving. In that moment, he recognized me as a participant to whom others reacted independently, rather than someone who was merely an extension of his will. Kaynor's associate was favorably disposed toward me, and I got the deal done working with him. Embarrassing as it was for Marshall, there was no expression of appreciation. But I'd gotten something better than praise; I'd gotten a clearer view of other lawyers. By recognizing that lawyers outside Cravath could match its members' skills and power, I prepared myself to leave when the time came.

In other ways too, I learned more from Marshall than the things he explicitly tried to teach. I realized that the Cravath machine, which looked to the outside like a law factory, was a dedicated lawyer and a bunch of typists who were prepared to spend all night typing. The size of the firm had little to do with the ability to function on complex transactions or produce work on particular deals. Marshall and I would work alone on the largest transactions. If I could do what he could do (which I recognized was awesome), I could do it anywhere. Except for a few specialists, there seemed to be no need for another 150 lawyers to be part of the process.

I'm not sure what would have been the effect on me had I worked for Marshall first. The discipline would have had no context. The approach to problems, always searching for old models, would have been exasperating. Moreover, the attitude that you were an imitator and not a creator would have been too debilitating to overcome if it had been all that I'd experienced. My first office mate worked for Marshall in his early tenure at Cravath and that accounted for, as far as I could see, his feeling that the practice was a process of copying old dusty papers.

With Frank, I'd come to see the excitement of the law, and now

I'd learned its discipline. I could accept the discipline, seeing that it was a necessary element of practice.

WORKING WITH SOMEONE who is experienced and talented trains you, but often leaves you doubting your ability. It's like having a parent whom you can turn to, with the experienced hand always there to pluck you out of water that's too deep. That knowledge (and the comfort of it) often affects and influences your judgment.

The next step was to try to do deals on my own, but the only way to get that opportunity was to work with someone who was a nominal supervisor but would trust my experience. After two years with Marshall, I asked him to arrange for me to work for Samuel C. Butler, who gave his associates free rein. I was postponing my teaching career even longer.

Just before my next phase at Cravath I got another lesson in negotiating, this time from my mother. She visited me at the office before we went to lunch. On leaving the building, she stopped in front of a street vendor selling cloth by the yard. The street was filled with vendors at that hour. This one was practically a permanent fixture. He asked five dollars a yard for his goods. I'd been able to negotiate a four-dollar price for some goods I'd bought for my wife. My mother asked him his price and he told her five dollars a yard, and she appropriately told him she'd pay no more than three dollars. She was in her element.

He responded: "Lady, I can let you have it for four dollars."

"Three dollars," she said.

"How much do you need, lady?"

"Two and a quarter yards," she said, "at three dollars."

"That's my cost, lady. Do you want it?"

She nodded and he began to cut the goods.

"Three dollars," she said, confirming with precise timing her last statement as his scissors cut the goods.

"Lady," he said in exasperation, "I've already cut it."

"That's your problem," she said. "Three dollars, no more."

"Who knows how much it comes to," he said, referring to the novel price per yard requiring an unfamiliar calculation for him, but conceding.

"Six seventy-five. Everything doesn't have to be round numbers or always the same," she said.

"What are you going to do with the two twenty-five you took from me, lady?" he asked, handing her the goods with grudging respect.

"Save it for my children." Then she took my hand and said to me, "See. It's not for millions, but I can do deals too."

SAM BUTLER HAD graduated from the day-to-day practice of law to meeting with clients and dealing with administrative tasks in preparation for heading the firm. He had a younger partner who worked with him and a staff of eight or nine lawyers, a large staff by Cravath standards. He parceled out the work and left the associates largely to themselves to handle the matters. The junior associates worked with the more senior associates. You could talk to Sam Butler if there was a problem. If you presented a problem, he would give you an immediate answer, and then his mind would turn to something else. Like all able administrators, he didn't linger over the problem once the matter was decided. If you wanted to linger, you were left to do it by yourself. If you were dissatisfied with the answer, you could raise it again and he would address it again. He never fretted or worried about whether he'd done the right thing. It was done, and his mind was freed up for other matters.

In 1972, after I'd spent more than four years at Cravath, Sam Butler assigned me to the first sizable transaction that I was to handle largely unsupervised, representing a major group of underwriters in the sale of AT&T's stock in Comsat Corporation. While meant to advance my training in representing public companies, the deal prepared me to leave the firm.

AT&T was Comsat's largest stockholder, but they competed in international transmission of telephonic messages. AT&T used its long line and Comsat beamed signals from earth stations to its satellites and then back down to receiving earth stations. When Comsat was organized by Congress, AT&T was encouraged to invest in Comsat to help it get started. Once Comsat significantly established itself and became a substantial competitor, AT&T was required by the Federal Communications Commission to make a

public distribution of the stock it owned in Comsat, thus eliminating ownership by a competitor. Over $150 million of stock was being sold. At the time, this was the largest secondary offering (an offering of a company's stock by a stockholder and not by the company) that had ever been made. To sell the stock to the public we had to prepare a prospectus with a comprehensive description of Comsat's business and the risks inherent in it. The last prospectus dated from the original issuance of the shares when Comsat had been formed, at least ten years before, and the business had significantly changed since its beginnings.

Bruce Wasserstein, who now heads his own investment banking firm, worked with me on the offering. He had been at Cravath a little over a year, making me the senior associate and in charge of the deal. Bruce had worked for Ralph Nader in Washington on an investigation of Comsat the summer before he joined Cravath, and when he heard that there would be a public distribution of Comsat stock, he asked to work on the matter.

Bruce was only on the edge of conforming to the Cravath model in terms of dress and appearance. It didn't take a very trained eye to see that everything was about a half turn off. He walked the halls of Cravath without his jacket on, his shirttails invariably hanging out, wearing soft gummed-sole shoes instead of oxfords. The shoes emphasized his energetic bounce, lending him a boyishness which his pudginess did little to dispel. The eyes were shrewd; and if you missed the eyes, you missed the man. He had an investigator's zeal, which didn't make friends for us at Comsat. He was, however, a good companion and a wonderful ally.

We made innumerable trips to Washington and met with company officials to learn how the satellites were launched, why they remained in synchronous orbit above the United States, and other technical data fundamental to the business. The method of accounting for the satellites troubled us and became a matter of contention. There had been a number of failures in launching satellites, as well as early failures in orbit, with satellites falling into various oceans around the world. The accountants capitalized all the costs attributed to the failed satellites, which meant that they increased the value of the remaining satellites in orbit. It was

possible that there would be only one satellite in orbit and ten failed satellites, but the financial statements wouldn't reflect the failures or the tenuousness of the assets and the risk of business failure. Rather than capitalizing these costs, we thought it more sensible if the costs were expensed. That meant charging income for the failures, which would have significantly reduced income and depressed the value of the company.

There was no intention on the part of either the company or the accountants to change the method of accounting, and after some discussion I tried to let the point rest. But Bruce wouldn't let it go. Finally, I called a meeting and had the accountants and company officials come to New York to discuss their financial statements. We spent eight full hours at it, eating lunch in the firm's conference room. By the end of the day the accountants were angry, as were the company officials. Bruce was irritated and I was exhausted. Not one note to the financial statements was changed, and not one number affected. It was clear, however, after the session, that we understood the way the accountants described Comsat's assets and business and that the satellites were the central asset.

In keeping with the importance of the satellites, we had asked the most fundamental questions about them. How well were the satellites performing? Were they moving around in space? Would they fall down? These were simplistic, lay questions, and readily answered. Everything was in working order, we were told, which was confirmed by the various corporate officials responsible for the operation of the satellites. In turn, these answers were reflected in the prospectus circulated to all the directors of Comsat, to senior officials at AT&T, and to all the persons in the various underwriting firms and law firms working on the transaction. A date was set to file the prospectus with the SEC, and the printer was informed that we would be at the printshop the evening immediately preceding the date of filing.

Evenings at the printer's are usually long, routine, and largely boring. There is a lot of mechanical work to be done. The prospectus to be printed has to be fully reread, largely for nonsubstantive matters, to catch typographical errors or dropped words, and changes are made throughout the evening. Page proofs are

usually sent to the printer's after the market closes, and the first round of corrections for proofreading are usually distributed in the early evening.

At 9 p.m. the working room was crowded. There were five or six lawyers and business people from AT&T. Each of the three lead underwriters represented almost two hundred other underwriters, domestic and foreign, and each had sent two or three people. There were also a team of accountants, three people from Comsat, and approximately three lawyers from Wilmer, Cutler & Pickering, outside counsel for Comsat. The Comsat team had arrived late because the members had attended the Comsat board meeting that day in Washington to approve the prospectus before it was filed. Page proofs lay on the conference-room table waiting another round of proofreading.

It was at that point that Ellie O'Hara from Wilmer, Cutler told me that she had a rider (a supplemental paragraph) for the prospectus. The rider, I was told, had been prepared by the chairman himself right after Comsat's board meeting. It plainly said that the satellites were degrading and weren't repairable, and no one knew the rate at which they were degrading. Then, in the jargon of prospectuses, it said that no assurance could be given as to the life of satellites, meaning that they could fall to earth at any time. Worse, the next launching by the government wouldn't be for a year, and there was no assurance that such launching would be successful. The last launching had failed.

"Is it true?" I asked. "Are the satellites degrading?" She said that's what the chairman wrote. I told her that we'd spent weeks discussing the satellites and had asked innumerable times about their functioning. Each time, time after time, we'd been assured that the orbiting satellites were perfect. "This is what he wrote," she said. Her face was without any expression of sympathy. "He said we're not to file unless this rider goes in the prospectus." Her voice was firm, as tough as her words. The degrading of the performance of the satellites had been discussed at the board meeting to approve the prospectus and the board concluded that the possibility of satellite failure had to be presented. The information had been kept confidential until the management and the board were sure that there would be a public sale of the stock. From their

perspective it was the right thing to do. But with the unexpected information being reported at the last minute, it was disconcerting.

There was no confrontation. The scattered papers in the room looked like the debris of a failed satellite. I did the only thing I could do, which was to tell her I didn't think the underwriters could underwrite the stock or that AT&T could sell it under such a confused set of circumstances. Regardless of the expectations of everyone in the room or the institutions for which they worked, the right thing was to stop the offering. I didn't hesitate and told the group, "We won't be able to proceed."

"What will happen?" Ellie O'Hara asked.

"We'll review the matter in the morning," I said. "I'm going home."

I arrived in my office at 9:30 a.m., the opening of business at Cravath, and found about ten telephone message slips on my desk from various of the underwriters, officials at AT&T, and a Comsat vice president. All were marked "Urgent." I'd met the vice president only once in my many visits to Comsat. He'd treated me as much younger than I was because of my position, a mid-level associate at Cravath. Our conversation had been brief, about the business aspects of Comsat. I had been talking to him about satellites in synchronous orbit when he interrupted and said, "My, you have certainly learned the vocabulary."

"I guess I have," I said.

"You must be good at cocktail parties," he said.

I had no rejoinder and didn't know whether it was a compliment or sarcasm. In any event, I'd been dismissed.

That morning I returned his call first. Comsat was the center of the controversy. If the problem was to be dealt with, it would have to be with Comsat. I got through to him promptly.

"Mr. Lederman?" he asked, hesitantly.

"Yes," I said.

"Lawrence," he said, his voice filled with warmth and friendliness, all expressed in the way he said my name, and I could see, in my mind's eye, his face and could sense the charm he could radiate.

"You've decided not to go forward with the transaction?" he asked.

"Yes."

"There is some mistake," he said. "We'd like to apologize for that rider. We're prepared to change it, rewrite it, so that the deal can go forward."

"Nothing can be changed," I said.

"No?"

The sound of the "no" was hollow. There was a moment of silence and it was clear that he meant "Why not?"

"If it's true, we're going to have to investigate the situation and decide whether we're prepared to take the risk of selling these securities at this time. And if it's not true . . ." I let my voice trail off. There was a moment of silence while I let him understand that there would be no reason to tell us about degrading satellites if it wasn't true. Then I said, "There aren't many ways to say it differently."

"Oh," he said. "This is serious."

"Yes," I said.

"What will happen next?"

"I'm going to have to talk to people responsible for satellite operations—and the underwriters are going to want to do the same thing—and find out what's wrong with the satellites."

"How long will that take?"

"About a week to ten days," I said.

"Will we be able to proceed with the offering?" he asked.

He was seeking my counsel, asking the ultimate question.

"Probably," I said. My voice took on a weighty tone; despite myself, I was inadvertently imitating Marshall's style when he gave his assurances. "It's a matter of getting comfortable with the uncertainty of it. The risks have to be understood and properly described, but all businesses have their risks."

"I feel better, then," he said. I could hear his relief. "Will you set the schedule for us, then, and tell us what you need?" he asked.

"After I talk to my clients," I said. I found enormous satisfaction in saying that.

"Thank you, Lawrence," he said.

I knew then that I could handle deals myself.

Within ten days the offering of the Comsat securities went forward, disclosing the information about the degrading of the sat-

ellites in language substantially similar to that in the rider prepared by the chairman. The market absorbed the news without difficulty, and the offering was successfully completed on schedule at about the pricing level originally anticipated.

Shortly thereafter, I decided to leave Cravath. Although I also felt ready to teach, I didn't want to give up the practice of law. To keep faith with myself, despite the long hours of practice, I found a part-time position at NYU Law School, teaching corporate law in the evening. But it wasn't until the end of 1974, more than a year after I decided to leave, that I found a satisfactory position at a law firm. The stock market was finding new lows during the period, and corporate activity of the kind I had been involved with had slowed down considerably. Also, I wanted to join a small firm, one where I could develop my own practice. Small firms weren't interested in taking on new people to whom they would have to make a partnership commitment in a time of economic slowdown. My prospects seemed dreary. But in November 1974, a classmate of mine, knowing that I was looking to leave Cravath, suggested my name to Wachtell, Lipton, Rosen & Katz, a firm of twenty-four lawyers where three of our fellow classmates were partners. I met all twenty-four lawyers over a two-month period before I joined the firm in February 1975.

It was time for me to make my own way. I had taken the advice of the first day to heart and had accumulated my own files, duplicates of the deals on which I'd worked. I had at least fifty cartons of deals to pack. I hoped that the hoarded papers of deals done would make a platform on which I could stand in the next stage of my career.