

1988

A Love of Excellence

Harry L. Carrico

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Recommended Citation

Harry L. Carrico, *A Love of Excellence*, 22 U. Rich. L. Rev. 121 (1988).

Available at: <http://scholarship.richmond.edu/lawreview/vol22/iss2/2>

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ARTICLES

This is an address delivered by Harry L. Carrico, Chief Justice of the Virginia Supreme Court, at the T. C. Williams School of Law annual banquet honoring merit scholarship sponsors and recipients. At this banquet, Dean Joseph D. Harbaugh presented Justice Carrico with a plaque honoring him for his unique and extensive contributions both to the legal profession in Virginia and to the T. C. Williams Law School.

A LOVE OF EXCELLENCE

The Honorable Harry L. Carrico

Let me take you back in history to another day when people gathered on this school's campus in a spirit of dedication to scholarship and heard a speaker say:

Without an ardent desire of knowledge for its own sake, no [person] . . . can ever become truly learned. But as, though no [person] can be truly virtuous without the love of virtue for itself, regardless of its rewards, yet the beneficent author of nature has annexed inseparably to virtue the greatest rewards; so learning, acquired through the disposition I have been now recommending, will always prove a most efficient auxiliary towards obtaining whatever ends an honorable practitioner of the law can wish for.

These words were spoken on October 10, 1870, and with their utterance Richmond College Law School, now your own T. C. Williams School of Law, began its long career of distinguished service to the legal profession and the public. They were spoken by Judge William Green, one of the school's three first professors, to the first thirty matriculating students attending their first lecture.

The "disposition" Judge Green referred to in urging the first students to pursue knowledge for its own sake was a "Love of Ex-

cellence." Such a regard for excellence, he said, was a far better virtue in the search for success than avarice or ambition. And a "Love of Excellence" would animate the success-seeker, he counseled, "to strive after a perfect knowledge of the laws."

So, on the very first day of its existence, the theme and the goal of this law school were fixed—a "Love of Excellence" and "a perfect knowledge of the laws." Tonight, on this important occasion in the life of the law school, they are still its theme and goal, and we are here to perform yet another act to nurture their fruition. For tonight we come to honor those who through their own love of excellence have attested their scholarship and earned this recognition of their achievements.

As we honor them, though, we charge them with a great responsibility. They will be tomorrow's leaders of the bar, and upon them will fall the responsibility of perpetuating the legal profession as an independent, self-policing activity.

Theirs will not be an easy task. Already, there are efforts afoot to place the legal profession under regulation from the outside. Congressional legislation, so far unsuccessful yet relentlessly pursued, would give the Federal Trade Commission authority to regulate the practice of law. This is an effort every member of the bar, and the public as well, should resist at all cost.

The trouble is that we may not receive the support of the public. At a time when we need it most, public confidence in our profession is at a low ebb, and I am deeply concerned.

I am not alone in my concern. Former Chief Justice Burger, in a recent speech before the American Bar Association, stated that "in the past ten years, the legal profession has experienced a sharp decline in public confidence." He attributed this decline to a number of factors, including the doubling of the number of American lawyers in the past 20 years, the high cost of legal services, unseemly practices in lawyer advertising and solicitation, lawyer incompetence, inadequate discipline, and discovery abuse.

Near the end of his speech, Chief Justice Burger stated that "when we see our standing in public esteem falling, something is wrong," and he asked the question: "Who is responsible?" The answer must be, he said, "We are. I am. You are." Then he asserted that:

The entire legal profession—lawyers, judges, law teachers—have become so mesmerized with the stimulation of the courtroom contest that we tend to forget that we ought to be healers—healers of conflicts. Doctors, in spite of astronomical medical costs, still retain a high degree of public confidence because they are perceived as healers. Should lawyers not be healers? Healers, not warriors? Healers, not procurers? Healers, not hired guns?

Why, indeed, my friends, should we not be healers? Rather, why should we not *again* be healers? For, in an earlier time, our profession was perceived as one dedicated to the public good, one providing leadership in government and community life, one placing service to others above hope of self-gain, one devoted to upholding principle rather than making profit, and one invoking pride in excellence for the mere sake of excellence. Indeed, even in my time, which I admit goes back a long way, the public held lawyers in the same degree of respect as doctors.

And what has happened to change all this? The simple answer, in my opinion, is that the practice of law is fast becoming, if it has not already become, a trade rather than a profession. And the fault rests on our own doorstep. Oh, we can blame the Supreme Court decisions permitting advertising and solicitation. We can accuse the law schools of not putting greater emphasis on the ethical aspects of the practice of law. And we can claim that the great increase in the number of practicing lawyers necessitates the sort of competitive practices we hear about these days.

But the real cause of the malaise from which the bar suffers is the loss of its sense of professionalism. As a result, too many of its members are more concerned with the number of billable hours put on the books than with the quality of service rendered the client. And too many have turned their backs on the simple truism Chief Justice Burger expressed in his ABA speech, when he said:

In the past, the professional standards and traditions of the bar served to restrain members of the profession from practices and customs common and acceptable in the rough-and-tumble of the marketplace. Historically, honorable lawyers complied with the traditions of the bar and refrained from doing all that the laws or the Constitution allowed them to do. Specifically, they did not advertise [and] they did not solicit

I cannot deny the right of lawyers to advertise and solicit. The Supreme Court has said the Constitution guarantees this right, and, of course, lawyers can exercise the right if they choose. But I can deplore the unseemly aspects of commercialism those decisions have imposed upon our profession, exemplified by newspaper ads for \$99 divorces and two-for-the-price-of-one wills. And I can tell you with some certainty that such practices will spur the efforts of those who are hard at work trying to convert the legal profession from an independent self-policing activity to one subject to federal bureaucratic control.

Furthermore, I can urge every lawyer to exercise again that degree of restraint Chief Justice Burger had in mind when he noted that members of the bar once "refrained from doing all that the laws or the Constitution allowed them to do." And I can invite you to take the lead that may shortly be yours in restoring the public perception of lawyers as healers of the ills which result from human conflict.

There once was a time when a brass sign outside a lawyer's door bore the title of "Attorney *and Counselor* at Law," and the same inscription appeared on almost every lawyer's stationery. For some reason or other, the word "counselor" has virtually disappeared, and I regret this phenomenon because I fear it indicates an unconscious change in direction for the legal profession.

To me, the word "counselor" means someone who does more than merely give advice or try cases in court. The word imports a sense of helpfulness, an idea of giving solace, a notion of conciliation rather than confrontation. This is the sort of healing I have in mind when I urge that lawyers once again make themselves healers.

An ancient allegory is a favorite of mine, and I can easily paraphrase it to make the point I have been trying to get across. With my amendment, it goes like this:

It was the boast of Augustus that he found Rome of brick and left it of marble.

But how much nobler will be the boast of *lawyers* when they shall have it to say that they found the law dear, and left it cheap; found it a sealed book, left it a living letter; found it the patrimony of the rich, left it the inheritance of the poor; found it the two-edged sword of craft and oppression, left it the staff of honesty and the shield of innocence.

I can also advert to Judge Green's first lecture. At the very end, he said: "Is it not an object that may warm, may fire, a patriot's heart, to contribute all in his power towards keeping his country furnished with [an able and upright] bench, and a bar to match?"

This is the reason for this law school's existence—to train the men and women who aspire to serve as lawyers and judges. By the same token, you who attend have come to prepare yourselves for this important service. Echoing Judge Green, I urge you always to strive for excellence so that, in your time, you may provide your country "[an able and upright] bench, and a bar to match."

