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Specialty Law Column

Young Lawyers Column

***65 COMMENTS TO NEW LAWYERS**

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Editor's Note:

Gene Nichol, a former Dean of CU School of Law in Boulder who ran in this year's primary in Colorado's U.S. Senate race, was the keynote speaker at the October swearing-in of new Colorado attorneys. His comments are re-printed here in their entirety.

I was, as you might guess, highly honored when Justice Scott called and asked me to give this speech. I have a special affection for young lawyers, and for this court, and for this legal community.

But still, I was a little hesitant, because although I've spent almost twenty years in this **profession**, I have to concede that I left honest work a year ago, became unemployed, and tried to take up the only line of work even more despised than law. So I'm no longer sure I'm a good role model for impressionable minds. But then I thought that maybe the justices just wanted to use me as an illustration that if you ever get crazy enough to try something like politics, you better remember to keep your day job.

I am delighted to offer you congratulations on behalf of the Colorado Supreme Court and the Colorado Bar Association-your new trade organization. After all, congratulations are clearly in order. Think of it-you have now passed what we all hope is literally your last examination. And even more brutal, you have weathered the storms of legal education-what one American philosopher described as "a pill so horribly bitter it can scarcely be swallowed, even by the unwashed."

And think how far you have come. You've moved from the mushiness of the first-year student's "I feel," to the sophistication of the third-year student's "one could argue." You have learned first-hand that the Socratic dialogue is not a game at which two can successfully play. You now know well the truth of Mark Twain's claim that "appellate opinions are chloroform in print." (Sorry.) You have mastered the law school examination process-leaving you marvelously well-prepared for when that first client walks into your office and asks you a forty-two-part hypothetical question.

You know well why Lord Denning said that "a judge must find a solution for every difficulty, whereas a law professor must find a difficulty for every solution." You know, somewhat ironically, that in a strong state law school the curriculum is not tied to the laws of any particular state, and that in a strong national law school the curriculum is

not tied to the laws of any particular planet.

You have been introduced to class rank-that marvelous tool that transforms legal education from a boring, cooperative, learning experience to the wonderful cutthroat competition that it is. You have learned, in short, why law schools are best compared to a besieged city-everyone outside wants in, and everyone inside wants out. And you got out-now you've gotten licensed and the world is good.

However, I want to talk to you about two things. The first concerns what you've finished. In law school, you spent a great deal of time learning to analyze and dissect issues-considering all sides of a question, treating nothing as given, piercing all absolutes, viewing all answers with skepticism-learning, in short, to think like a lawyer.

That might be overdone in law schools. I'm not sure. But it is clearly essential to your life in this **profession**. There is, however, another side to that coin. It is certainly possible that the cumulative impact of three years of adversarial doubting on your personal foundations can be troubling. Aldo Leopold thought that "education itself is learning to see one thing by going blind to another."

If there is a side that your education may have sold short, I think it is the power of hope and selflessness and optimism-about your individual and collective capacities to affect the future. We are told that the study of law sharpens the mind by narrowing it. But the great masters of this **profession** are those who have been able to become accomplished technicians without losing sight of the goals that-on its highest plane-law is all about. So even though being hardheaded and solid and skeptical are important, they are not enough. And our professional obligations cannot omit the weightiest matters of law-judgment, mercy, and faith.

Robert Kennedy, in some of his best work, just before he died, said that "there is no basic inconsistency between ideals and realistic possibilities, no separation between the deepest desires of heart and mind and the rational application of human effort to human problems. Separating them ignores the realities of faith and passion and belief, forces ultimately more powerful than all the calculations of economists or generals."

My second suggestion concerns the profession that today you officially enter. There are some who say it is not a great time to become a lawyer. I'm not sure if you have noticed, but we are not universally loved. Lawyer jokes are heard on every street corner. And it is true that some things we do are a little extreme. Like the new warning label I've seen on McDonald's coffee cups-⁶⁶ "Allow to cool before applying to groin." The O.J. Simpson trial alone was enough to make me wish I'd considered dental school.

A report completed a couple of years ago by the Colorado Bar Association's **Professionalism** Committee worried that there is a "spirit of ruthlessness" afoot in this **profession**. It reported that many laypersons surveyed regarded lawyers as "greedy" and "money hungry." Jobs are tighter and competition is more fierce. Former Chief Justice Burger wrote that "the reputation of the legal **profession** is at its lowest ebb" since he began practicing law sixty years ago. "With increasing frequency," he said, "the public is questioning the competence, integrity and honesty of lawyers." Much in this **professional** life seems upside down. Or, as Gerald Ford put it, "If Lincoln were alive, he'd turn over in his grave."

It is tough to tell what all this means. But the great ages are often unstable ones-times of challenge, times of change. And it seems to me that the answers to the difficulties we face can best be found in the nature of the adventure you have now chosen to undertake. You have, this very afternoon, sworn an oath-an act that Sir Thomas More thought meant putting your very soul into your hands and talking directly to God.

In becoming a member of this profession, you accept, quite overtly, an admonition to virtue. You dedicate yourself, in Roscoe Pound's words, to "the practice of a learned art in the spirit of public service." That is not meant to be commerce. Don't misunderstand me. There is nothing wrong with commerce. But the practice of law is different.

Different and better. And it means you have committed to value your own comfort and your own compensation *less* than the virtue of your craftsmanship, and the craftsmanship of your virtue.

Now, I am not a fool. And I wasn't born yesterday. I know that not all lawyers regard either their profession or themselves in this way. I've seen the ads. I read the ethics reports. I see lawyers hovering over plane crashes. I see them trying to create problems instead of solving them. I see them trying to fight reform that would serve the public good. I see them ignore the obligations of service described in your oath today. And I see them acting like bullies, blowhards, and boors.

But in this profession, like all others, you make choices. You create your own standards. And you take your own role models. So when you think of what it means to be a lawyer, think a little past what you see on television, or even what you might come to see down the hall. Think, instead, of a thirty-two-year-old lawyer writing a brief for his country in the Declaration of Independence—a brief that has literally and dramatically changed the world. Or think of the greatest American lawyer, Abraham Lincoln, speaking to redefine and rededicate a nation at Gettysburg.

Or Thurgood Marshall, criss-crossing the nation at great personal risk to cut the roots of a system of apartheid that put the lie to our most fundamental aspirations. Or Ruth Bader Ginsburg, formulating and persistently litigating an equality strategy, successfully bringing full citizenship to women. Or Jean Dubofsky, carrying out the lawyer's highest role by using her own power and strength to help those without power and without strength. Or think of the lawyers in every community across this state who use their talents, day in and day out, to lighten and enrich the lives of their fellows.

You will decide your course each day. You won't be perfect; none of us can be. But you can cling stubbornly to the highest view of your professional obligation. It's like Lincoln said of being an honest lawyer: If you cannot resolve “to be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation rather than consenting, in advance, to be a knave.”

In this effort you will have much to learn—because an effective lawyer remains a student forever.

You will have much to sacrifice—because worthwhile tasks are not accomplished with ease.

You will have much to risk—because like Teddy Roosevelt, you'll choose “not to keep your talents undamaged and wrapped in a napkin.”

You will have much to gain—because a life of service is a life of meaning.

And you will have much to contribute—because a lawyer's obligations are to others and to society as a whole.

From this day forward, your interests must include the public's interest. Your generation of lawyers will be charged to reappropriate the ethical meaning of **professionalism**, which includes not just technical skill and competence and good manners—although all of those are important—but which also focuses on the moral contributions that **professionals** are obliged to make to a complex and frequently troubled society.

At bottom, I hope for you what Justice Holmes claimed as a goal for himself, in life and in law, “to see so far as one may, and to feel the great forces behind every detail ... to hammer out as compact and solid a piece of work as one can, to try to make it first rate, and to leave it unadvertised.” Remembering along the way Maya Angelou's challenge to live a life of “passion, compassion, humor and style.” Congratulations and godspeed.

[FN^a]. *Gene R. Nichol is a professor of law at CU School of Law in Boulder.*

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