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THE ART OF ADVOCACY

THE HONORABLE ERNEST A. FINNEY, JR.*

This issue of the *South Carolina Law Review* is devoted to the art of effective advocacy. Nationally and on the state level, the legal profession has recognized the correlation between effective advocacy and continuing legal education. For more than two decades, state supreme courts, state bar associations, legal professional associations, and law schools have assigned a high priority to continuing legal education. Consequently, attorneys now have abundant opportunities to enhance their skills by availing themselves of useful information on recent developments in the areas of practice and procedure, professional ethics, techniques of civility, and law office management.

Since the turn of the century when citizens lingered at the courthouse to observe legal proceedings, continuing with mid-century screen legends symbolized by Perry Mason, and up to current courtroom sit-coms, the prowess of exceptional attorneys has been the focus of ardent admiration and passionate debate. These icons of the legal profession exude an aura of success. Some of the more memorable trials of this century are noted as much for the lawyers' skill as for the parties involved or the causes litigated. The superlative advocate can transform a mundane trial into a riveting experience for participants and spectators alike.

What attributes distinguish the superior advocate from the average lawyer? Are certain individuals born with a unique potential to develop these traits or can an extraordinary level of skill be acquired by ordinary attorneys? Beyond achieving success in the conventional sense, few may aspire to having their name become a byword for effective advocacy. However, there are several other compelling reasons why the perpetual pursuit of professional excellence should be the goal of every attorney.

Foremost among these is the current state of the justice system, which mandates that legal counsel be paradigms of industriousness, vigilance, and integrity. Court dockets are overcrowded, and it is crucial that optimum use be made of the time allotted to each case. Judges are overworked and impatient. Prosecutors are anxious about public accountability, and opposing counsel are eager to gain every advantage—often at the expense of justice. The client's best interest is likely to be the first casualty in this legal tug-of-war with erosion of confidence in the legal system a close second. Generally, the justice system offers built-in safeguards to deter and to correct systemic injustices suffered by parties, but it is up to counsel to invoke that shield of protection.

* Chief Justice, South Carolina Supreme Court.

This publication of the *South Carolina Law Review* is a collection of timely, insightful, first-hand commentaries by attorneys and judges who are either currently active or in the recent past have practiced or served in the state and federal courts. These distinguished practitioners relate their experiences, observations, and viewpoints on a broad range of relevant subjects. Recognizing that state-of-the-art information technology is paving the road to the virtual courtroom of the new millennium, the article on courtroom technology explores the role of technology in improving the administration of justice. Articles on successful courtroom advocacy from the perspectives of the bench and the bar cover techniques for examination of witnesses and closing arguments. Of particular relevance in an era when the criminal justice system is plagued by the enigma of juvenile crime, a county attorney explores the role of prosecutors in juvenile justice as it relates to advocacy in the courtroom and leadership in the community. At the other end of the spectrum, an Assistant United States Attorney examines the prosecution of death penalty cases at the federal level. Prominent members of the federal judiciary and of the bar discuss the finer points of appellate practice, including effective brief writing, formulating and presenting lucid oral arguments, the role of civility in general, and its specific application in advancing resolutions of appeals.

Rarely has such a wealth of substantive information on issues relating to trial and appellate advocacy been made available in a single volume. Whether an attorney is striving for professional pre-eminence or merely seeking the means to becoming a more effective advocate, the material presented in this publication should prove to be a helpful practice guide.