

Fall 2006

## Honoring the Call to Practice

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### Recommended Citation

Joseph F. Anderson, Jr., Honoring the Call to Practice, 58 S. C. L. Rev. 1 (2006).

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**HONORING THE CALL TO PRACTICE\***

THE HONORABLE JOSEPH F. ANDERSON, JR.\*\*

President Sorensen, members of the Board of Trustees, Dean Lacy, distinguished faculty, family and friends, and most especially, members of the class of 2006, what a wonderful day to celebrate with all of you! I know I speak for Mortimer Caplin when I say we are both deeply humbled and very grateful to be recognized with an honorary degree. It is especially meaningful for me to be honored in this way by my law school alma mater, and to show my appreciation, I will not afflict you with many words. I realize that a commencement speaker is very much like the body of the deceased at an Irish wake—they need you there to have the party, but nobody expects you to say very much.

Graduates, this day marks the completion of your formal training for the bar. You, your professors, and your family are justifiably proud. After all, law school has transformed you—in three short years—from students who answered legal questions with a halting, “I don’t know,” to lawyers able to state authoritatively, “It depends.”

Please join me in thanking your families. They are, and always will be, your greatest teachers. They taught you about life, love, respect, and integrity long before your first classes began here in August 2003. By the time we taught you about the rules of professional conduct, your family had already taught you about morality and helped you define your own code of ethics. They have nurtured you in ways that far exceed the standard of care of the “reasonable man” you met in torts class.

They encouraged you to challenge yourselves, and they cheered the loudest when you succeeded. But they also reminded you that the strength of your character was far more important than any of your awards or accomplishments. And now, they have traveled from around the country to celebrate your graduation. For that, and for so much more, we are grateful.

Thanks are also due, of course, to our law school faculty—an outstanding group of scholars and educators in whose company I have had the good fortune of working for several years. They showed you the law—the opinions, statutes, regulations, and customs—and they revealed to you the theory behind the law. They challenged you to think critically, to imagine a more perfect system of justice, and to advocate for that system, whether with your pens or your voices. They have been your mentors and your role models, and in turn, you have become their champions,

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\*A slightly condensed version of this commencement address was delivered to the 2006 graduating class of the University of South Carolina School of Law on May 5, 2006. The author expresses his appreciation to his career law clerk, Shiva V. Hodges, Esq., for her valuable assistance with this speech.

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producing extraordinary research and scholarship, and contributing to our collective discourse on the law.

It has been said that public speakers should focus on *one* thumping point of great practicality—as, for example, the late Conrad Hilton did when he appeared on *The Tonight Show* with Johnny Carson. Carson said to Hilton:

“[Y]ou[‘re] a giant of American attainment, a legend in your [own] time, you’ve built hotels all over the world, turn to th[e] camera . . . over there, look your fellow countrymen in the eye and tell them the *one* thing, based on your life’s work, that you would like [them] to know.” Like a [good] trooper, . . . Hilton turned to the camera, looked America in the eye and said, “Please, put the curtain inside the tub.”<sup>1</sup>

The modern trend is for commencement speakers to emulate Hilton and to send forth graduates full of pithy advice, as I recently learned when I perused some randomly selected commencement speeches given by others. One address, attributed to Kurt Vonnegut but later shown to be a hoax, offered graduates two injunctions: Use sunscreen and floss regularly.<sup>2</sup> Columnist George Will advised the graduates of Washington University at St. Louis: “[W]ith a runner on second and no outs, try to hit behind the runner.”<sup>3</sup>

These micro-rules—put the curtain inside of the tub, use sunscreen, floss, hit behind the runner—may seem to you a tad too minor to merit attention, particularly on a day this momentous. However—and here we come to my macro point—seemingly small thoughts can often illuminate larger truths. Permit me, then, to offer three small thoughts for your consideration.

First, be proud of your degree from the University of South Carolina School of Law. This institution has provided you with a superb legal education. You are equipped to compete with anyone, anywhere and to do wondrous things in or out of the legal field.

Consider for a moment, the legacy of this school that precedes you. This year, the national president of the American Bar Endowment is I.S. Leevy Johnson.<sup>4</sup> The president of the Association of Trial Lawyers of America is Ken Suggs.<sup>5</sup> The

1. George Will, *Rule by Microrules: Commencement Address at Washington University in Saint Louis* (May 15, 1998), in *GEORGE WILL, WITH A HAPPY EYE BUT . . . : AMERICA AND THE WORLD 1997-2002*, at 197 (2002).

2. Mary Schmich, *Vonnegut? Schmich? Who Can tell in Cyberspace?*, *CHI. TRIB.*, Aug. 3, 1997, § 4, at 1.

3. *GEORGE WILL, WITH A HAPPY EYE BUT . . . : AMERICA AND THE WORLD 1997-2002*, at 198 (2002).

4. Jean Hoefler Toal, Chief Justice, S.C. Supreme Court, *State of the Judiciary 2006* (Mar. 1, 2006), <http://www.judicial.state.sc.us/whatsnew/SOJ2006/SOJ2006Text.htm>.

5. Janet, Jenner & Suggs, LLC, <http://www.janetjennersuggs.com/kenneth-suggs.html> (last visited Oct. 10, 2006).

president of the Defense Research Institute is David Dukes.<sup>6</sup> And, president of the National Council of Chief Judges of Courts of Appeal is Judge Kaye Hearn.<sup>7</sup> All of them—USC Law School graduates—all of them! I challenge you to find any other law school in the country with four of its graduates heading up four national legal organizations at the same time.

Also on the national scene, David Bruck, USC Law '75, is generally recognized as the preeminent lawyer in the country on capital litigation.<sup>8</sup> When officials in Montana needed to appoint someone with the legal skills and trial abilities necessary to represent the Unabomber, they went all the way to the state of Washington to select Judy Clarke, USC Law '77.<sup>9</sup> Last year, Chief Justice Jean Toal was presented with the coveted Margaret Brent Award, a prestigious honor given to the top woman lawyer in the United States.<sup>10</sup> USC Trustee William Hubbard has held numerous national leadership positions in the American Bar Association.<sup>11</sup>

Want more proof? When the City of San Francisco needed an attorney to represent its interest in litigation involving asbestos in all of the buildings owned by the San Francisco School District, it did not choose a graduate from any of the thirty-nine law schools in California. Instead, it chose Daniel Speights, USC Law '73, who practices in Hampton, South Carolina, population 2,795.<sup>12</sup> Dan's competition—asbestos property damage abatement litigators from across the country—included firms whose senior partners attended Yale, Chicago, the University of Virginia, and Harvard.<sup>13</sup>

6. Nelson Mullins Riley & Scarborough, <http://www.nelsonmullins.com/lawyers/print-bio.cfm?ID=15> (last visited Oct. 10, 2006).

7. See COUNCIL OF CHIEF JUDGES OF COURTS OF APPEAL, DIRECTORY OF JUDGES OF STATE COURTS OF APPEAL iii (2005), [http://www.abanet.org/jd/ajc/ccjca/pdf/directory\\_intro.pdf](http://www.abanet.org/jd/ajc/ccjca/pdf/directory_intro.pdf).

8. See David I. Bruck, Washington and Lee School of Law, <http://law.wlu.edu/faculty/profiledetailpr.asp?id=143> (last visited Oct. 10, 2006) (detailing Professor Bruck's experience, publications, and recent media appearances).

9. Mark Gladstone, *Kaczynski Lawyers Win Praise from Colleagues*, L.A. TIMES, Dec. 7, 1997, at A3.

10. South Carolina Supreme Court, <http://www.judicial.state.sc.us/supreme/displayJustice.cfm?judgeID=1118> (last visited Oct. 10, 2006). The American Bar Association presents the Margaret Brent Award to five women each year who have achieved professional excellence and have encouraged women in pursuit of legal careers. American Bar Association Commission on Women in the Profession, <http://www.abanet.org/women/margaretbrent/pasthonorees.html>. Chief Justice Toal won the Margaret Brent Award in 2004. *Id.*

11. Nelson Mullins Riley & Scarborough, <http://www.nelsonmullins.com/lawyers/print-bio.cfm?ID=66> (Last visited Oct. 10, 2006).

12. See *San Francisco Unified Sch. Dist. v. W.R. Grace & Co.-Conn.*, 44 Cal. Rptr. 2d 305, 306 (Cal. Ct. App. 1995) (listing Speights & Runyan, Daniel Speights's Firm, as counsel for the school district). See also Roger Parloff, *Sue First, Sign Up Clients Later*, FORTUNE, Nov. 14, 2005, at 40, 40 (calling Speights the "Big Daddy" of asbestos property damage suits).

13. Cf. Parloff, *supra* note 12, at 40 ("Over the past 23 years, Daniel A. Speights is widely believed to have filed, tried, and settled more asbestos property-damage cases than any other attorney in the U.S.").

In short, your education from the University of South Carolina School of Law can and will take you as far as you choose to dream.

The second small point I offer for your consideration is: Leave the law better than you find it. It will come as no surprise to you when I say that lawyers in general do not enjoy an exemplary public image. This is not simply a recent phenomenon. Curses against lawyers were found in the remains of King Herod's palace.<sup>14</sup> In 1658, Virginia legislators passed a law expelling all lawyers from the colony.<sup>15</sup> Nearly every writer of note—from Shakespeare,<sup>16</sup> to Franklin,<sup>17</sup> to Sandburg<sup>18</sup>—has gone out of his way to demean the legal profession.

No doubt some of the public dissatisfaction with the legal profession flows naturally from our adversarial model of dispute resolution. Even outside of litigation, the public finds itself at the mercy of lawyers at unhappy turning points in life such as the probating of a deceased parent's will. And, unfortunately, there are a few bad apples in the field that attract a disproportionate share of the limelight.

Despite these challenges—or maybe because of them—we each have an obligation to improve the stature of the legal profession. The vast majority of you will find your livelihood in the practice of law, and you owe it to the law to leave the profession better than you found it.

The best way to do this is to work from within. Always honor and be respectful of the system in your public comments. Handle your cases so that the opposing side would consider hiring you the next time they need an attorney. Conduct yourselves, in and out of the courtroom, professionally and respectfully, while obviously keeping your client's interest at heart.

Differ without derision. Interview without intimidation. Use common sense and common courtesy, neither of which is all that common, frankly. If you feel that you must advertise, please, please—keep it dignified.

Whether you work in a corporate office or serve in public office, whether you practice in a courtroom or teach in a classroom, whether you labor in a bank or sit on the bench—comport yourself with the utmost integrity, dignity, and grace so that others will be proud to know you as a lawyer.

On the local level, the skills and the values imparted here are driven home to me every day in my job where, from my seat at the far side of the bench, I see before me USC Law graduates who exemplify the best of our vocation. They represent their clients competently and zealously, yet they never forget that the

14. Michael Hill, *Lawyers, Seeking Gentler Image, Told to be Teddy Bears, Not Sharks*, STATE (Columbia, S.C.), Mar. 26, 1995, at E3.

15. Act of Mar. 31, 1658, ch. CXII, *reprinted in* COLONY LAWS OF VIRGINIA, 1642-1660, at 482-83 (John D. Cushing, ed., 1978).

16. *See, e.g.*, DANIEL J. KORNSTEIN, *KILL ALL THE LAWYERS?: SHAKESPEARE'S LEGAL APPEAL* 11 (1994) (noting that Shakespeare's references to lawyers are rarely complimentary).

17. *See, e.g.*, Benjamin Franklin, *THE ART OF SAYING LITTLE IN MUCH*, PENNSYLVANIA GAZETTE, June 17, 1736, *reprinted in* BENJAMIN FRANKLIN: WRITINGS, 263, 263-66 (J.A. Leo Lemay ed., 1987).

18. CARL SANDBURG, *THE LAWYERS KNOW TOO MUCH*, *reprinted in* THE COMPLETE POEMS OF CARL SANDBURG 189 (Harcourt Brace Jovanovich, Inc. 1970).

legal profession is unique in that its members are both colleagues and adversaries. This special relationship among lawyers was summed up by John Silber, Chancellor of Boston University, when he said: “The lawyers’ contribution to the civilizing of humanity is evidenced in the capacity of lawyers to argue furiously in the courtroom, then . . . sit down as friends over a drink [at] dinner. This habit is often interpreted by the layman as a mark of their ultimate corruption.”<sup>19</sup> Silber concluded by saying: “In my opinion, it is their greatest moral achievement: It is a characteristic of human[ ] tolerance that is most desperately needed at the present time.”<sup>20</sup>

And as you work to improve your chosen profession, I urge you to accept the challenge of my third and final point. I hope as you embark onto the next leg of your journey, that you will consider dedicating yourselves to some form of public service. Do not take my word for it. Look to Jefferson: “There is a debt of service,” he said, “due from every man to his country proportioned to the bounties which nature and fortune have measured to him.”<sup>21</sup> Roscoe Pound said that the law is a profession characterized by a “spirit of public service”<sup>22</sup>—a spirit that requires a lawyer’s devotion of time, effort, and talent to help the community.

Historically, both the structure and the moral tone of Western Civilization have been shaped and preserved in great part by those trained in the law. The declaration of the moral underpinnings of this nation and its Constitution were framed by lawyers.<sup>23</sup> At the crucial junctures of its history, lawyers have played a crucial role in preserving it. Our system of law and justice is a national treasure—one that depends on our ability and willingness to look beyond the next billable hour and to choose to live the life worth living.

You as lawyers will be uniquely equipped, both by your training and your status in society, to act as instruments to shape the community’s mood, structure, and conscience. Your career can provide you with many ways to live a life of consequence to others. In my experience, the best lawyers are actively involved in schools, churches, synagogues, and community life. They are leaders, giving of themselves to serve through charities, the arts, pro bono legal work, social services, and directly in government.

None of us is likely to have the opportunity to write a constitution or debate in one of the halls of Congress. But the skills that such endeavors require are just as vital and just as necessary in a civic club, a place of worship, a precinct committee,

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19. John R. Silber, President, Boston Univ., Address at the Boston University School of Law, reprinted in *Notable & Quotable*, WALL ST. J., Mar. 16, 1972, at A14.

20. *Id.*

21. Letter from Thomas Jefferson to Edward Rutledge (Dec. 27, 1796), in 3 MEMOIRS, CORRESPONDENCE, AND PRIVATE PAPERS OF THOMAS JEFFERSON, LATE PRESIDENT OF THE UNITED STATES 344 (Thomas Jefferson Randolph ed., 1829).

22. Roscoe Pound, *What is a Profession? The Rise of the Legal Profession in Antiquity*, 19 NOTRE DAME LAW. 203, 204 (1944).

23. See FRAMERS OF THE CONSTITUTION 30 (James H. Charleton et al. eds., 1986) (“By profession, the law predominated. This was the pursuit of more than half the delegates . . .”).

a school board, or a town council, as they are in the courthouse or in the halls of Congress.

We celebrate your achievements today, your hard work and personal accomplishments. But you must also acknowledge that you are enormously privileged people—privileged by birthright, by intellect, education, and opportunity, by good health, by love and friendship, and so much more.

The price of privilege is duty. The University of South Carolina School of Law expects of you that as you shape your career in or near the law, you will bear in mind the needs and the troubles of those upon whom fortune has not smiled. You are the ablest of your generation. Do not leave this Horseshoe without resolving in your hearts that yours will be a life that transcends selfishness, a life in which your talents are brought to bear continually to improve the lot of others and the world around you.

Today, I welcome you to the ranks of an honorable profession. Hopefully, the training that you have received has not only equipped you with a thorough technical knowledge of the law, but it has also imbued you with a deep and abiding sense of the importance of the work that lies ahead of you as you bear our law school's high standards into the world.

The values you hold as the goals of your life are within your power to create and achieve. It's up to you. On this, your graduation day, as Holmes once said—Sherlock, that is, not Oliver Wendell—“The game[’s] afoot.”<sup>24</sup> May God speed and bless that game for each of you. Thank you very much.

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24. SIR ARTHUR CONAN DOYLE, *THE ADVENTURE OF THE ABBEY GRANGE* (1904), reprinted in SIR ARTHUR CONAN DOYLE, *THE RETURN OF SHERLOCK HOLMES* 290 (J. Murray & J. Cape 1974) (1905).