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All That Glitters

Roger J. Miner '56

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APPELLATE DIVISION THIRD DEPARTMENT

1/22/91

Judge Miner:

Thanks again for speaking
at an Admissions Ceremony.

Yours was one of the best
addresses I've heard (and I've
heard a few). Best regards.

Mike Morach



ADMISSIONS CEREMONY

**NEW YORK STATE SUPREME COURT
APPELLATE DIVISION
THIRD JUDICIAL DEPARTMENT**

CONVENTION CENTER

**GOV. NELSON A. ROCKEFELLER STATE PLAZA
Albany, New York**

TUESDAY, JANUARY 22, 1991

Noon

JUSTICES
of the
APPELLATE DIVISION, THIRD DEPARTMENT

HON. A. FRANKLIN MAHONEY

Presiding Justice

HON. JOHN T. CASEY

HON. LEONARD A. WEISS

HON. ANN T. MIKOLL

HON. PAUL J. YESAWICH, JR.

HON. HOWARD A. LEVINE

HON. THOMAS E. MERCURE

HON. D. BRUCE CREW III

HON. NORMAN L. HARVEY

CLERK OF THE COURT

MICHAEL J. NOVACK

*"Membership in the bar is a privilege
burdened with conditions."*

CARDOZO, J., *Matter of Rouss*,
221 NY 81, 84 (1917)

*Benjamin N. Cardozo (1870-1938) served as an Associate Judge and Chief Judge
of the New York State Court of Appeals and as an Associate Justice of the United
States Supreme Court.*

Program

MICHAEL J. NOVACK

Clerk of the Court

Convening of the Court
Reading the Roll of Attorneys
Administration of the Constitutional Oath of Office

FORMAL REMARKS

by

HON. ROGER J. MINER

Circuit Judge, United States Court of Appeals for the Second Circuit

ADJOURNMENT OF THE COURT

"Young men and women who feel drawn to the legal profession may rest assured that they will find in it an opportunity for usefulness which is probably unequalled elsewhere."

LOUIS D. BRANDEIS, Interview

by Ernest Poole, 71 American

Magazine 493 (1911)

Louis Dembitz Brandeis (1856-1941) served as an Associate Justice of the United States Supreme Court.

THE LAWYER'S DUTY

Every lawyer owes a solemn duty to uphold the integrity and honor of the profession;

To encourage respect for the law and for the court and the judges thereof;

To observe the Code of Professional Responsibility;

To act as a member of a learned profession, one dedicated to public service;

To cooperate with other lawyers in supporting the organized bar through the devoting of time, efforts, and financial support as his or her professional standing and ability reasonably permit;

To conduct oneself so as to reflect credit on the legal profession and to inspire the confidence, respect, and trust of clients and of the public;

And to strive to avoid not only professional impropriety but also the appearance of impropriety.

*From the A.B.A. Code of Professional
Responsibility adopted by the
New York State Bar Association
effective January 1, 1970*

ADMISSIONS CEREMONY

NYS Supreme Court, Appellate Division,
Third Judicial Department
Convention Center
Gov. Nelson A. Rockefeller State Plaza
Albany, NY
Tuesday, January 22, 1991
Noon

"All That Glitters"

On behalf of this Court, the legal profession and the judiciary, I extend congratulations to each of you who has just taken the attorney's oath. To make your participation in this ceremony a reality, you have completed a long and difficult course of study, passed a grueling bar examination, and demonstrated the character and fitness necessary for admission to the bar. We acknowledge with joy the accomplishment of your goals. Congratulations are also due your families and the "significant others" who have made this day possible through their encouragement, support and understanding. We are well aware that substantial financial sacrifices preceded the taking of many of these oaths.

To each of you, I also say, with great enthusiasm, "Welcome!" Welcome to the finest profession and the greatest occupation on earth. We have been waiting for you. There are many hopes and dreams we wish to share with you, along with many problems and burdens. We also expect you to share with us, in full measure, our commitment to the service of our fellow citizens. The legal profession has been described as the pursuit of "a learned art [and] a common calling in the spirit of public

service, its work no less a public service because it is also a means of earning a livelihood." You now are privileged to practice law as a member of the legal profession, but your responsibilities are commensurate with the privilege. By taking the oath today, you have accepted some life-long, inescapable obligations -- obligations to your clients; to the courts; to your sisters and brothers at the bar; to your employers, be they public or private; to opposing parties; and to your fellow citizens.

It seems to me that the number and variety of problems facing the legal profession are more overwhelming than ever before, and we urgently need your input for solutions. I believe that there is no problem that cannot be solved by lawyers working in association with each other. But problems there are. Some of them bear on no less an issue than the preservation of the bar as an independent, self-governing profession, supervised by the courts of which lawyers are the officers.

Among other things, you will be confronted with proposals for mandatory pro bono work and mandatory continuing legal education. You will appraise the value of new disciplinary rules governing disclosure of client confidences, reporting another lawyer's unfitness, withdrawal from representation, statements to the media and lawyer advertising. Because you recently have completed your academic training, the increasing distance between the law school curriculum and the needs of the practicing bar will be of special concern to you. I know of no better source

than new lawyers to guide the development of law school courses relevant to the practice of law. To provide this guidance, you should maintain close ties to the law schools through adjunct teaching, participation in alumni affairs and association with law professors in bar-related activities.

We shall look to you to restore the collegiality that is so important to the proper functioning of the legal profession. It seems to me that the duties lawyers owe to one another -- honesty, fair dealing, cooperation and civility -- have been much neglected in recent years. All too many lawyers have been condoning and utilizing practices involving the neglect of their duties to colleagues. Non-cooperation in such matters as the granting of extensions of time and adjournments is counterproductive and ultimately disserves the client as well as the legal profession. Professional courtesies are not the concern of clients and should be extended wherever possible, especially where they will serve to relieve overburdened courts from deciding petty issues.

We shall also look to you for assistance in the improvement of the relations between bench and bar. Misunderstandings between lawyers and judges have been growing for some time. Ever-growing caseloads, coupled with the increasing use of the power to impose sanctions upon lawyers for delay and frivolous lawyering have served to exacerbate the situation. To help improve matters, I hope you will perform what I consider to be your ethical duty to criticize the courts (respectfully, of

course). I hope that you will become actively involved in the identification and selection of those lawyers you consider qualified for the bench. I hope that you will participate in bar association and educational activities through which you can meet with judges and express your concerns about bench-bar relations and problems. And I hope that a fair number of you will have the interest in, and the opportunity for, a judicial service career.

A major problem of the legal profession is an increasing inability to communicate. This is a very serious problem for a profession that depends upon appropriate use of the written and spoken word. Yet, poor communication is near the top of the list of complaints that clients make about their lawyers. It seems that lawyers in all branches of the profession are afflicted with expressive deficiencies. As an appellate judge, I am constrained to consider some really awful brief-writing and oral argument. The transcripts of trial demonstrate a good deal of poor communication from lawyer to witness in the courtroom. The convoluted writing styles apparent in many judicial opinions, administrative agency decisions and statutory enactments have served to muddy up the law itself. Legal academic writing is well-nigh incomprehensible, and all legal writing is too voluminous.

And the worst condition of all is our inability as a profession to communicate with our fellow citizens. I cannot remember a time when the public has had less understanding of, and less sympathy for, the necessary role of lawyers. You must

assume the task of explaining to your fellow citizens how important lawyers really are to society. You should explain that the statement, "The first thing we do, let's kill all the lawyers," in Shakespeare's King Henry VI, was uttered by a reprehensible character with anti-social goals. Yours is the ongoing responsibility to impress upon your friends, neighbors, relatives and clients the message that lawyers are involved in preserving individual rights and protecting against the excesses of government, as well as in resolving private disputes and facilitating private transactions.

Why would any person want to take on all the problems and all the obligations that are the lot of an attorney practicing law in 1991? Some, of course, are attracted by all that glitters in the legal profession -- the high profile cases and deals; the big money; high drama in the courtroom; partnership in major law firms; the opportunity for significant government service; the power of the judicial branch; the glamor and lifestyles of celebrated lawyers. But all that glitters is not gold, and people generally are not attracted to careers in the law for these reasons.

Most of you already have begun some sort of legal employment and have found out that the legal profession is not at all like L.A. Law or Perry Mason. You have just begun the first step in a very long process designed to make you good, competent lawyers, worthy of your clients and of the profession. You know that the glitter, if it comes, is far down the road. What, then, is the

attraction? A recent survey by the American Bar Association reports that intellectual challenge, rather than money or anything else, drives the choice of a legal career. You will indeed find in this profession intellectual challenge in abundant measure. You will be challenged to solve the problems of your clients, your fellow citizens and your profession, and that is a lifetime of work for anyone.

But let me assure you that you will not find your satisfaction there. Judge Bork had it wrong when he said that he looked forward to service on the Supreme Court because it would be "an intellectual feast." And you are wrong too if you think that the principal satisfaction you will gain from the profession of law is intellectual challenge. The truth is that the satisfaction and fulfillment of your lives in the law will be derived from the opportunity that you will have to be of assistance to other people -- the opportunity to make a difference in their lives. Ours is an ancient, honorable and caring profession, whose first concern always is the welfare of others. Service to your fellow citizens is the real gold of the legal profession. It is the tie that binds us all together in this great calling.

As you begin your first year at the bar, I begin my 35th. Like you, I was admitted to practice before the distinguished Justices of the New York Supreme Court, Appellate Division, Third Department -- not these distinguished Justices present here today, of course. They are not that old. When I was admitted 35

years ago in a ceremony conducted in the Appellate Division courtroom then located in the Albany County Courthouse, the world was a different place and the legal profession was much smaller. But the purpose of the legal profession has not changed. Its purpose and reason for existence then, now, and as long as it continues, will be service to clients and to fellow citizens. As I look back on 35 years in the profession -- in private practice, in public service, as a judge and as a law school teacher, I do not think of the many intellectual challenges I have been offered or the great intellectual feast I have consumed. I think of the people I have encountered along the way and the grand opportunity I have had to be of service to them. This has been my satisfaction, and I guarantee that it will be yours as well. There is no greater fulfillment that anyone can have.

Remember always that the legal profession is the cornerstone of our democracy. It is frequently reviled, but no man, woman or child in the Republic would be safe without it. You now join us as guardians of a sacred trust. May we all be worthy of it.

Thank you.