

Law Quadrangle (formerly Law Quad Notes)

Volume 23 | Number 2

Article 6

Winter 1979

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Recommended Citation

Francis A. Allen, *Can One Retain Head & Heart & Be a Lawyer?*, 23 *Law Quadrangle (formerly Law Quad Notes)* - (1979).

Available at: <https://repository.law.umich.edu/lqnotes/vol23/iss2/6>

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Can One Retain Head & Heart & Be a Lawyer?

by

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[The following speech was delivered at the University of Detroit Law School Graduation on May 20, 1978.]

There is a false sophistication that scoffs at ceremonies such as this. Actually, however, we celebrate our rites of passage all too tamely. Instead of an hour or two on a Saturday afternoon, this celebration should extend continuously over at least three days. There should be singing, dancing, tom-toms, and colorful tribal costumes. The fruit of the vine should not be neglected. Tales should be told of heroic deeds in the past and boasts made about future triumphs. No doubt some members of this class have already begun private celebrations of this sort, and very likely sounds of revelry will be heard tonight throughout the metropolitan area. But many of us will claim to be too busy or, more to the point, are too self-conscious to mark this graduation with the uninhibited enthusiasm it deserves.

I do not need to tell the members of this class or their parents and spouses that there is much to celebrate. Liberation from the classroom and freedom from tuition bills are only two of the causes for celebration. And after nineteen

years or more of formal schooling, these will be recognized as real gains, even though we know that new travails and regimentations lie ahead. It is even possible that in the years to come some in this class will think back on their law school days as a kind of golden age in their lives. Nostalgia is fine, but in ceremonies of this sort we are concerned less with the past and more with liberation and prospects for the future.

And what of the future? I wish to speak not about the future of society or of western civilization. We are understandably preoccupied with these large issues, and members of this class will necessarily be deeply involved in their resolution. But I should like to focus today on more personal questions. This class is facing a great change in life. New issues must be faced, and already familiar human dilemmas will reappear, but in new and puzzling forms. For thirty years my avocation has been that of law-student watching, and in pursuing this hobby I have for a generation heard law students express their concerns about their futures, about their lives as professional persons. No doubt these fundamental anxieties, on the whole, have remained much the same. Yet there have been important changes in emphasis; and if I am not mistaken, I have heard more frequently in recent years questions about how young people entering the practice of law can preserve their integrity and autonomy while performing their professional roles. Is it possible to be a lawyer without large sacrifices of basic human qualities? Often the question is put something like this: How can I be a lawyer and hang on to my head? And sometimes, how can I hang on to my heart?

It is not only law students who are asking these questions. There is an unease in this society about de-humanizing influences at work in the modern world, an unease that has pervaded the thought, not only of the young, but also of their elders. Ultimately, of course, questions of this kind must be answered by each person for himself or herself. Solutions prefabricated by others are likely to be less than useless, which, of course, in an age of psychologism has not prevented the rise of a major industry devoted to the mass production of human happiness.

But even though, in the final analysis, achieving human status is the responsibility of each individual, it may be possible to identify false starts that some seem to be making. One of the things that appear to be of concern to my students (perhaps students at the University of Detroit are made of sterner stuff) is that lawyers, particularly young lawyers, are asked to work too hard. If I shall be required to work as much as I am told (students say to me), when do my own satisfactions get realized? How can I avoid becoming a human sacrifice on the altar of the work ethic? Confronted by such unease, some students are looking to leisure time for their salvation. In leisure one finds the periods of self-realization, it is said; the preemptory demands of professional practice must be resisted and held in check in the interest of human values.

It is certainly true that some lawyers work too much and that they would live longer and do better work if sensible programs of leisure and recreation were integrated into their lives. All lawyers need periods of refreshment and renewal, and an important item of self-knowledge comes with the discovery of those activities that most effectively produce this rehabilitation. Yet I cannot escape the judgment that many in our society, including some young lawyers, are placing altogether unrealistic demands on leisure as a solution to the problems of living. Indeed, the theory of salvation through leisure is a profoundly depressing one. It rests on the assumptions that satisfactions are not to be gained in one's job, craft, or profession and that self-realization is possible only when one is separated from the drudgery of his work. Existence is thus made up of long and

sterile periods of toil, lightened only by temporary escapes from the job when, and only when, human potentialities can be realized. In this view our lives are divided between the desert and the oasis, and, unless one is unreasonably wealthy, most of one's time will be spent in the arid regions.

Such assumptions do not provide an appropriate foundation for living. In the future as in the past, one must find in his or her labor an important source of satisfaction and humanity. Without this capacity one, at the very outset, loses his grasp on both head and heart.

For the past decade and one-half, young persons have joined their elders in castigating the society of which they are a part. Objects for criticism, unfortunately, have proved to be in abundant supply. This thorough-going criticism of our civilization and its institutions was perhaps overdue; at least it was probably inevitable. But an age of criticism and weakening confidence is a time of danger, and one of its perils is a tendency to attribute to social and institutional failures defaults that are, in fact, matters of individual responsibility. In recent years I have heard many students complain that the world they are entering will force them to do things they know are wrong. Surely this is not a complaint that an autonomous human being can permit himself to voice. If we find ourselves saying "yes" when we should say "no," if we ignore or defy principles of right action in our professional and personal lives, the responsibility can not be transferred to some abstraction like "Modern Society" or "The System." The pressures and temptations are great, and the obstacles to the ethical life confronted by lawyers are especially formidable. But in what age and in what society have men and women participating actively in the life of their times been spared pressures and seductions? Why are we peculiarly entitled to a regime of morals-made-easy? One willing to attribute his default to forces acting upon his life from the outside compounds his immorality with a forfeiture of human dignity. For an evildoer who assumes responsibility for his wrong retains at least a modicum of dignity. One who seeks exculpation in external circumstances possesses none.

In considering how to retain head and heart even though a lawyer, some students have expressed still another concern. This, in my judgment, is a concern that should be more widely felt and articulated. Is there not a danger, these students ask, that caught up in the demands and excitements of law practice, we shall lose our intellectual curiosity and commitments? How can we avoid spending all our professional energies on the technical needlework of society, activity that may at times be engrossing and at times socially important, but which contributes insufficiently to fundamental understanding of the world of which we are a part? The questions are important. The law school, more than any other institution, is a training ground for leadership in this society. How can we be sure that lawyers know enough about the right things to perform adequately the tasks of leadership? Take one example: The future, like the present and past, will be profoundly molded by the rise of new knowledge. The new genetics, psychotropic drugs, computer technology, electronics, new sources of energy, are creating a society replete with potential and peril. How do we as lawyers think about these issues, anticipate their nature, and make wise provision for their resolution? One may be tempted to delegate these problems to the universities and the law schools, and certainly they do confront legal education with serious issues of scope and method. One contribution of great significance that young lawyers can make is to support in the schools from which they graduate a conception of legal education broad enough to make significant contributions to basic understanding of the world in which the lawyer performs his professional role. But the responsibility is not simply that of the universities.

No law school can provide complete preparation for the tasks of understanding and leadership. And if we are to have lawyers capable of providing wise direction in these times, it will be because some lawyers have accepted the onerous obligation of continuous self-education, an effort at understanding going well beyond that required to satisfy the immediate demands of law practice. Where does time and energy come for this task? They must be found. That with sufficient effort they can be found is demonstrated by the fact that we encounter lawyers every day who, although caught up in vigorous and successful law practice, have earned for themselves this broader understanding and something approaching wisdom. What is at stake are not only matters of social concern. Retaining broad intellectual commitments is essential to individual satisfactions, to hanging on to one's head.

This class is graduating when, as usual, the legal profession is under attack. As usual the profession has earned criticism and, also as usual, the criticism expressed is in large part uninformed, including that emanating from public figures of some prominence. These adverse judgments have created discomfort and unease in many law students. It would be irresponsible to ignore the critics of the profession. They should inspire both thought and action directed to professional self-improvement. But they ought not unsettle graduating seniors unduly or cause them to question their vocational choice. It is not easy to hang on to head and heart and be a lawyer. But this is not easy regardless of what career one undertakes. Holmes, you recall, came to the conclusion as a young man that "it is possible to live greatly in the law." He said "possible," not "easy." Certainly he did not say "inevitable." This is not a world in which good things are easy or inevitable. The possible is the best that we can expect. It is possible to be a lawyer with head and heart intact. It is possible, in the wonderful phrase of Sir Francis Bacon, to enter the profession dedicated to "the glory of God and the relief of man's estate."



Francis A. Allen