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ETHICS, LAW FIRMS, AND LEGAL EDUCATION

*Milton C. Regan, Jr.**

A rash of recent corporate scandals has once again put professional ethics in the spotlight. It's hard to pick up the *Wall Street Journal* each day and not read that authorities have launched a new investigation or that additional indictments are imminent. Stories of financial fraud and outright looting have galvanized the public and shaken the economy.¹ What ethical lessons can we draw from these events?

Two explanations seem especially prominent. The first is a story of individuals without an adequate moral compass. Some people's greed and ambition were unchecked by any internal ethical constraints. For such deviants, no amount of money was enough and no level of consumption too high. One trader at Enron, for instance, reportedly paid \$6250 a month for an especially desirable parking space.² For people like that, the basic problem was flawed character. The lesson is that we need to make greater efforts to transmit moral values and sensitize people to basic ethical precepts.

The second story is of individuals who did have a sense of right and wrong, but who buckled under organizational pressure. Enron pushed its executives to devise ever more questionable schemes to keep apparent profits growing and its stock price high. Arthur Andersen auditors felt pressure to accept Enron's numbers in order to preserve millions in consulting fees from the company. In this story, some people knew the right thing to do, but lacked the fortitude to do it. The problem therefore was organizational corruption. The lesson is that we need to provide people in organizations greater protection from retaliation for sticking to their values.

Enron and Arthur Andersen have been perhaps the most visible organizations under the microscope. Inevitably, however, the investigation of misconduct by various companies has already begun to raise the question that *Business Week* has posed, "What About the Lawyers?"³ How could there be so much illegal activity by companies that paid their attorneys millions of dollars a year for legal advice? To the extent that lawyers engaged in misconduct, what ethical lessons can we draw for students on the verge of entering the legal profession?

There is, I think, a temptation to answer these questions about lawyers by drawing on the two explanations that I just described: flawed character and organizational corruption. Why? Because of the perception that law practice has become big business. Law firms, the argument goes, increasingly resemble the corporations they represent. The top firm in the *American Lawyer 100* last year, for instance, had gross revenues of \$1.25 billion. It stands to reason that the same dynamics that create ethical problems in corporations produce them in law firms as well.

* Professor of Law, Georgetown University Law Center. This Essay has been adapted from the Godfrey Scholar-in-Residence Lecture and is substantially the same version that was delivered on September 12, 2002.

1. For a compilation of stories on some of these events, see BEST BUSINESS CRIME WRITING OF THE YEAR (James Surowiecki ed. 2002).

2. Anita Raghavan, et al., *Full Speed Ahead: How Enron Created a Culture of Pushing Limits*, WALL ST. J., Aug. 26, 2002, at A1.

3. Mike France, *What About the Lawyers?*, BUS. WEEK, Dec. 23, 2002, at 58.

Consider flawed character. The argument is that some lawyers simply lack a good grounding in moral values and an adequate understanding of their professional obligations. Lawyers nowadays can earn more money than their counterparts a generation ago ever dreamed of. Too many people these days enter the profession in the pursuit of financial wealth rather than out of a desire to serve clients or society. This can leave them blind to the right thing to do when faced with an ethical choice. Indeed, they may not even recognize when a situation raises ethical issues.

Second, conditions are ripe for organizational corruption. Too many law firms have turned into business enterprises that put pressure on their lawyers to focus on the bottom line. Steadily increasing revenues and profits per partner have become standard law firm goals. This organizational climate puts pressure on lawyers to cut corners—to do what it takes to keep the profit machine running. Not surprisingly, not every lawyer can resist such pressure.

These two stories offer a straightforward explanation for lawyer misconduct. The problem is either bad people, or good people corrupted by bad organizations. The solution is for an individual to develop a robust moral compass and to have the courage to follow it.

This explanation is striking in its individualism. It treats lawyers and law firms essentially as antagonists. Ethics consists of individual lawyers drawing on their internal resources to make the right choice when confronted with moral decisions. Ethics means not selling your soul to the firm, keeping your distance, sticking by your guns, and being prepared to buck the system.

This reflects a broader pattern in American life over the past generation: the increasing disaffection of individuals with social institutions. Many see such alienation as the price of individual freedom. The result, however, as Robert Bellah and his colleagues observe, is that:

It is hard for us to think of institutions as affording the necessary context within which we become individuals; of institutions as not just restraining but enabling us; of institutions not as an arena of hostility within which our character is tested but an indispensable source from which character is formed.⁴

To the extent that law students view institutions with such suspicion, we should be concerned. A large percentage of law graduates choose to practice in law firms. They are ill-equipped to function in that environment if they believe that ethical issues arise only in stark moments of moral choice. They are unprepared to help shape the ethical climate of law firms if they view the firm mainly as an external force that threatens to compromise their integrity.

* * *

I believe that students—and the rest of us—need a richer account of the ethical lives of law firm lawyers than either of these explanations provide. Flawed character and corrupt organizations are not the only reasons for unethical behavior. We need to appreciate the importance of individual character and courage, but also how it can be shaped for good or ill within particular kinds of environments. We clearly must be sensitive to the competitive economic pressures that beset law

4. ROBERT N. BELLAH ET AL., *THE GOOD SOCIETY* 6 (1991).

firms. We also, however, need to realize that ethical behavior can consist not simply of resisting organizational pressure. It also can involve helping to shape organizational structures that influence the habits, incentives, and values of the people who work within them.

This requires that students cultivate ethical imagination: the appreciation that some decisions that on their face do not seem to raise ethical issues in fact may have profound ethical implications. Ethics is involved not simply in making choices between two courses of action in an atmosphere of high moral drama. Decisions that we may not typically think of as freighted with ethical weight—law firm policies on hiring, promotion, and compensation, for instance—can subtly help shape the ethical environment of a firm in ways that its leaders may neither appreciate nor intend. This perspective allows us to think of ethics in terms of the trajectory of a career: what kind of life is possible for lawyers to live within particular law firms? That is, what kinds of individuals do various institutions help produce?

We need, in other words, to think of ethics as the intersection of individual character and organizational structure. Let me now describe some of the steps that I take to incorporate the study of law firms into my courses on legal ethics, in the hope of helping students develop this form of ethical imagination.

* * *

First, very early in the course, we examine the history of the legal profession in the United States. We pay particular attention to the changes that have shaped law firm practice in the past twenty-five years or so. These are familiar to any practicing lawyer. Students, however, are not necessarily aware of them nor how they compare with previous times.⁵

A shorthand way to describe these changes is that law firms now face more intense competition for both clients and lawyers. It is rare now for corporations to give all or most of their business to one law firm. In-house counsel often solicit proposals from several firms regarding individual transactions or lawsuits. Corporate legal departments monitor the work of outside lawyers, scrutinizing costs and reviewing decisions. Firms now aggressively market themselves in ways that were unthinkable a generation ago. They grow not simply by promoting associates to partners, but by lateral hiring of lawyers and entire practice groups, as well as through merger with other law firms.

Paying partners based on lockstep—that is, primarily according to seniority—is fading. How much revenue a partner generates is now a critical factor in determining compensation. Partners who do not pull their weight may be asked to leave. Pressures such as these have caused firms to rationalize their operations more explicitly along business lines. All these developments cannot help but have significant consequences for legal ethics. It is difficult, however, to trace their impact in straightforward fashion.

A common reaction to these changes is to lament that law practice has changed from a profession to a business. We read an excerpt from Sol Linowitz's *The*

5. For an overview, see Milton C. Regan, Jr., *Law Firms, Competition Penalties, and the Values of Professionalism*, 13 *Geo. J. Legal Ethics* 1, 6-12 (1999).

Betrayed Profession that reflects this view.⁶ As we examine Linowitz's argument closely, we begin to recognize that the idea of law as a profession in fact invokes several different values.

One value is that lawyers put the welfare of their clients first, rather than looking to their own interest. *Devotion to the client* thus is an important dimension of professionalism. Linowitz refers to a second value when he says that law practice historically has been "a calling that sought the good society."⁷ That is, lawyers have seen themselves as *stewards of the legal system*, not simply as client advocates. This is captured in the notion, for instance, that the lawyer is an "officer of the court"—someone who bears some responsibility for maintaining the integrity of the legal process. Finally, Linowitz maintains that traditionally lawyers have seen themselves as "independent." By this he means that they are not simply hired guns who do whatever the client asks. A lawyer should conduct her practice in accordance with the standards of the profession, not simply of the market place. A third professional value is thus what I call *professional autonomy*, the ability to exercise discretion and judgment in performing one's work.

When we use this analytical framework, we can see that what Linowitz describes as the business model can threaten to undermine each of these values. Consider *devotion to the client*. An emphasis on law firm profits and growth may lead lawyers to pad their bills, drop one client for a more lucrative one, or fail to disclose conflicts of interest. Next, focus on the value of lawyers as *stewards of the legal system*. The desire to gain business in a competitive market for legal services may incline lawyers to seek out loopholes consistent with the letter but not the spirit of the law, to conceal information in discovery, or to press for advantages that may cause harm to society as a whole.

Finally, lawyers can lose a sense of *professional autonomy* over their work as they become mere instruments of their clients or profit centers for their firms. They may file papers at the insistence of clients that are intended primarily to harass adversaries, or prepare opinion letters based on questionable legal analysis in order to reach a desired result, or become slaves to ever-increasing billable hour requirements.

But, I ask my students, is there an argument that the changes that Linowitz describes could enhance, rather than undermine, professional values? Consider devotion to the client. Law firms no longer have a virtual monopoly over the legal services they provide to particular corporations. Competition can make them more efficient in providing these services and more accountable for results. There is less opportunity to take advantage of the client, because large companies now have sophisticated legal departments to monitor the work that law firms perform.

What about the lawyer as a steward of the legal system? Lawyers now are less dependent on any one client. As a result, they may be less willing to go along with clients whose objectives threaten to undermine the integrity of that system. More subtly, a more distant relationship between client and law firm may reduce the extent to which lawyers subconsciously internalize the worldview of the client. This may give them an opportunity to provide more detached advice.

6. SOL M. LINOWITZ, *THE BETRAYED PROFESSION: LAWYERING AT THE END OF THE TWENTIETH CENTURY* 21-46 (1994).

7. *Id.* at 22.

Finally, consider professional autonomy. One might claim that the more active lateral market for lawyers nowadays affords attorneys much more control over their work lives than in previous years. In addition, recruitment, promotion, and compensation decisions arguably are more meritocratic and less subject to the prejudices that prevailed when large law firms were comprised almost exclusively of white males from certain social backgrounds.

At this point in the class discussion, my hope is that students are beginning to appreciate that the concept of professionalism is more complex than they thought—and the relationship between professional and business aspects of law firm practice more complicated.

Profound changes clearly have swept through law firm practice over the past twenty-five years. Their impact is not preordained, however, and firms are not monolithic in their reaction to them. The crucial question is how a *particular* firm responds to the dynamics of this environment. Does it seize opportunities to nurture all professional values? Or does it tend to subordinate those values to the bottom line? These questions highlight that ethical law practice consists not simply of choosing between good and evil conduct. Rather, it involves thinking hard about how organizational structures and policies shape the ethical culture of the firm.

* * *

In order to make these ideas more concrete, students engage in several exercises that require them to make decisions as partners in law firms. I will describe two of them. One exercise uses Michael Kelly's book *Lives of Lawyers*.⁸ This book is based on fieldwork at several individual law practice organizations. It contains a chapter profiling a large San Francisco law firm given the pseudonym of McKinnon, Moreland, and Fox.⁹ McKinnon has made the decision to play in "the big leagues," and has restructured itself accordingly.

The firm has, for instance, rejected lockstep compensation in favor of an emphasis on productivity. Senior leaders regard one important element of firm cohesion as the perception that the compensation committee's decisions are transparent and fair. This underscores that compensation plays a crucial role in motivating lawyers in the firm. The meritocracy extends to associates as well. Differences in salary based on performance are instituted as early as after the first eighteen months of an associate's employment. The firm has benefited financially from such changes; its profit index is high in the *American Lawyer* rankings.

One of the major decisions confronting the firm is how to respond to Cravath, Swaine, and Moore's recent twenty-five percent salary increase for associates. Many of the reasons that Cravath has given for the increase are not as applicable to McKinnon, such as the desire to keep associates from going to work at investment banks and the high cost of housing in New York. If McKinnon wants to stay in the big leagues, however, must it match Cravath? To explore this issue in some depth, I deputize one group of students to play the role of the McKinnon executive committee deliberating about how to respond to Cravath. The remainder of the

8. MICHAEL J. KELLY, *LIVES OF LAWYERS: JOURNEYS IN THE ORGANIZATIONS OF PRACTICE* (1994).

9. *Id.* at 25-52.

class represents the rest of the partners who must vote on whatever proposal the committee recommends.

What are the options? First, adopt an increase, but more modest than the one embraced by Cravath. One argument is that this will allow the firm to attract associates who are interested in more than just money. An important aspect of the McKinnon culture, however, is high compensation based on elite firm pay rates. It is not clear that, at least at this point, McKinnon has other distinctive cultural features that might also be important to prospective associates. Will the firm begin to lose the best and brightest because it is not willing to pay top salaries? Will it come to be seen as hiring inferior lawyers? Will the firm look like it has financial problems, which could have a serious impact on its ability to attract both clients and lawyers?

A second option is to match the Cravath raise, and increase associate billing rates to pay for it. This may not place the firm at a competitive disadvantage, since other top firms may be willing to do the same. But corporations are extremely cost-conscious consumers of legal services, and are unlikely simply to accept the increase in rates. They likely will shop around, and may find firms that have chosen other ways to pay for the increase in salaries.

Further, even if all top-tier firms increase billing rates, there likely are firms in the upper second-tier who are hungry for business and prestige that would make a play for clients' business. Just as McKinnon made a recent move into the big leagues, the next McKinnon may be out there waiting to take advantage of an elite firm's misstep. The fluidity of competition among firms means that rankings are unstable and firms must always be looking over their shoulder.

A third possible response is to match Cravath and fund the increase through a reduction in partner compensation. This might signal to recruits that McKinnon is a firm that genuinely cares about associates. But profits per partner is an important figure in ranking firms in the legal and financial press. That ranking is crucial to the perception that a firm is in the big leagues. If this figure drops, so may the stature of the firm. Furthermore, with a competitive lateral market, some rainmakers may decide to seek opportunities with other firms where they can get more money. This in turn would hurt the firm's revenues and reputation.

A fourth option is to increase associate salaries, but promote fewer associates to partner. This would maintain McKinnon's reputation as a firm that pays top dollar, and would ensure that talent continues to come in the door at the entry level. But what will be the effect on associate morale? Will a larger number of associates just take the money, get their ticket punched, and then move on before the firm would like them to? Will this create an associate culture of alienation? Will it lead to a scarcity of senior level associates, who are especially valuable sources of profitability for law firms? Furthermore, will those who stay to compete for a smaller number of partnerships jockey for work with the most influential partners, rather than for work that the firm needs done? Will they cooperate with one another?

A fifth possibility is to match the Cravath increase and increase associate billing targets by 200 hours a year. If fewer associates are interested in staying long enough to make partner these days, then the firm should accept the fact that the relationship with their associates is basically an economic exchange: a handsome salary in return for a demanding schedule for a limited period of time. You want a

high salary, you work long hours. But will this give the firm the reputation as a “sweatshop?” Two hundred more hours equals twenty-five more eight-hour days. Will emphasis on billable hours lead to padding hours? Will it reduce the opportunity for associates to learn valuable legal skills from mentors, since most of them will be regarded as not worth long-term investment by the firm?

Finally, the firm might peg associate salaries to the number of hours billed. This tends to be the approach that students most often devise. It would allow those who are willing to work more to earn more without forcing everyone to do so. But will there be a stigma in the eyes of partners for those associates who choose to work fewer hours? Are those associates effectively foreclosing themselves from the start from serious consideration for promotion to partner? Will the policy have a disproportionate effect on associates with young children, especially women? How much “choice” does an associate have if he or she wants to leave open the possibility of being considered for partner some day? Is this option really a sweatshop masquerading as a choice?

Ultimately, as we’re told in the book, McKinnon reluctantly decides to match Cravath’s increase and pay for it through a 200-hour increase in associate billable hour targets. The exercise of analyzing the firm’s alternatives nonetheless provides a valuable way for students to get an idea of some of the trade-offs that firms must consider when making decisions like this.

It also can prompt them to reflect on the possible ethical implications of what we tend to think of as purely administrative matters. What will be the impact of different choices on the commitment of associates to the firm? Will associates’ relationship with the firm become primarily economic and short-term? If so, how much concern will associates have about the effect of their actions on the reputation of the firm? Will the firm be able to promote compliance with ethical responsibilities by prompting associates to internalize a sense of obligation? Or will it have to rely instead mostly on monitoring and close supervision? What might be the effect of raising billable hour targets on the accuracy of the time records that associates submit? If a culture of padding billable hours develops, will that develop habits of dishonesty that may eventually shape how lawyers act in other situations, such as responding to discovery requests or advising clients on disclosure obligations?

It is impossible, of course, to answer these questions with a high degree of confidence. It is vital, however, to ask them.

* * *

A second exercise we do is based on Larry Fox’s book *Legal Tender*.¹⁰ In a chapter entitled “Slip-Sliding Away,” Fox chronicles the evolution of a fictitious Philadelphia law firm—Caldwell & Moore—over the course of three decades.¹¹ Michael Burns, a lawyer who has been with the firm during that time, describes what in retrospect seem like significant events over that period, which have led to a day that he regards as disastrous.

10. LAWRENCE J. FOX, *LEGAL TENDER: A LAWYER’S GUIDE TO HANDLING PROFESSIONAL DILEMMAS* (1995).

11. *Id.* at 3-30.

The event that so distresses Burns is a recommendation from the CEO of the firm, corporate mergers and acquisitions partner Howard Wilner. Wilner focuses on a recent *American Lawyer* survey that indicates that Caldwell & Moore's profits per partner are almost \$100,000 lower than peer firms in both Philadelphia and the nation. This creates the danger, he says, that high-producing partners may leave the firm for more lucrative ones, that the firm will find it difficult to hire lateral partners who can bring in more clients and strengthen certain practice areas, and that law students will forsake Caldwell & Moore for firms where the financial rewards are greater.

Caldwell has already taken significant steps to reduce its costs and improve its bottom line. Its profits, however, remain relatively stagnant. As a result, Wilner suggests, if you can't "increase the numerator" in the profits per partner equation, you have to "reduce the denominator."¹² He therefore argues that twelve partners with billable hours and average revenues that lag behind other partners be asked to leave the firm. This would increase profits per partner by thirty percent, which would narrow, although not eliminate, the gap between Caldwell and its peer firms.

Burns strongly opposes this recommendation. As he reflects on how the firm arrived at this point, he describes the incremental changes that he believes launched the firm on the path to this proposal. The class discussion consists of a presentation by small groups that have been assigned to argue on behalf of each of these changes at the time they were considered, and discussion by the entire class of whether to accept their recommendations.

We begin with Caldwell in 1959 when Burns arrives. The firm has twenty-six lawyers. All entering associates are told that the firm expects everyone who is hired to be made partner, and the firm commits itself to provide the mentors and training that makes this possible. The partners meet for lunch each week, and all of them are deeply involved in firm governance. Compensation is based on the lockstep system—that is, seniority—until age fifty-five. At that point, the more senior partners agree to accept slightly declining compensation because many of their family obligations have diminished by that point.

The first step on the journey leading to Wilner's recommendation occurred in 1974, when the firm hired ten associates in one year. This was prompted by the increasing workload created by the firm's clients. It also, however, was a much larger entering class than Caldwell had ever hired, and significantly affected the scale of the firm.

This led six years later to the next important decision: to pass over three of the eight candidates for partner from the 1974 class. This was based on the desire to keep the size of the partnership manageable and collegial. It also, however, broke the compact that the firm had always had with its associates. Burns believed that all the associates had met the standard for partnership, but that considerations other than merit had determined their fates.

The next significant fork in the road was hiring the firm's first lateral partner, Howard Wilner. Wilner was a very successful corporate lawyer who brought a large roster of clients and substantial revenues to Caldwell. At the same time, he clearly was a superstar who billed considerably more hours than anyone else in what had always been a fairly egalitarian firm. Wilner operated in an area of prac-

12. *Id.* at 29.

tice more aggressive than those in which Caldwell traditionally had been involved.

Burns then describes how Caldwell's long-standing client First Philadelphia Trust increased the power and influence of its in-house legal department. The bank's general counsel brought much of its legal work in-house, requested detailed billing records from outside lawyers, and shopped around for legal services on a matter-by-matter basis. Although a Caldwell partner had always served on the bank's board, none was appointed when the current partner's term expired.

The next event on which Burns muses is Caldwell's decision to move from its older, traditional office building to a new skyscraper that was the tallest in the city. This was an effort to make Caldwell more visible, and to promote the idea that it had changed from a stodgy old-line firm to an aggressive, entrepreneurial, cutting-edge one. It also, however, significantly increased overhead costs, which created pressure for higher profits.

Next was the change in compensation away from a lockstep system. With a more active lateral market, this seemed necessary to keep highly productive partners from being lured away by other firms. Some feel, however, that it also has prompted more competition, and less cooperation, among lawyers in the firm. It also may have aggravated the instability produced by lateral movement of partners, by providing them with supposedly precise measurement of their value in the marketplace.

The next decision was how to handle a potential conflict between an existing and a prospective client. The existing client was a small subsidiary of a large steel company. Caldwell did regular work for it, which was modestly profitable. The prospective client was a wealthy investor who wanted to mount a hostile takeover of the steel company as the first step in a series of such moves. Under the circumstances, ethical rules permitted the firm to avoid a conflict of interest by dropping the subsidiary as a client so it could represent the investor. This promised substantial future revenues for the firm. In the eyes of some, however, the firm was disloyal because it put its own financial interest above that of a long-standing client.

Finally, we arrive at Wilner's recommendation essentially to fire twelve partners. Up to this point, many students have accepted most or all of the decisions that have been made over the years. Yet most now are unwilling to adopt Wilner's proposal—even if arguably is the next logical step in the evolution of the firm. Wilner sees the financial future of firm in danger; Burns worries that the soul of the firm is in danger.

This exercise brings home the point that decisions that we might think of as purely administrative also can have ethical implications. Issues relating to entry-level hiring, promotion, compensation, overhead expenses, lateral hiring, and acquisition of new business all send messages about the firm to people within it and outside it. This happens by default, regardless of the intentions of individual partners.

For instance, how will Caldwell's adoption of productivity-based compensation affect partners' willingness to spend time serving as mentors to younger lawyers? Will the partners regard the opportunity costs as too high in light of their need to generate business? If so, will associates striving for scarce partnership slots have both the incentive and opportunity to cut corners in their practice—by misrepresenting legal precedent, or withholding incriminating documents, or signing off on client practices they know are questionable? Will persistent lateral hir-

ing make it difficult to foster a unified firm culture that acknowledges the importance of non-economic values? Will acquiring competence in fields of practice by laterally hiring entire practice groups result in separate profit centers with only attenuated ties to other lawyers in the firm? Will these groups follow their own separate norms on matters such as conflicts of interest or advice to clients on regulatory compliance?

Again, there is no easily identifiable cause and effect relationship between specific organizational features and the answers to these questions. At the same time, regardless of what the firm says formally about such issues, its culture implicitly will disseminate its own messages. Enron is only the most recent example of the lesson that organizational culture can profoundly affect ethical climate. Culture helps shape the prosaic habits and incremental daily choices of individuals' working lives, which accumulate and acquire their own momentum over time. Eventually those forces can make it impossible to turn back from a course that we might not have selected had we seen it clearly beforehand—or lead us to cross a line that we never could have imagined stepping over.

* * *

Students who are aware of these dynamics are better equipped to identify and confront ethical issues in law practice. They see ethics not simply as a matter of personal virtue but also of organizational structure. On the one hand, they ideally will retain enough critical distance to avoid simply absorbing the values of those around them. On the other hand, they will not shrink from the hard task of helping design an environment that is congenial to ethical reflection. They will realize that their own moral development will be shaped by that environment.

The nineteenth century novelist George Eliot had an especially keen awareness of the complex relationship between character and circumstance. In her novel *Romola*, she remarks on "that inexorable law of human souls, that we prepare ourselves for sudden deeds by the reiterated choice of good or evil which gradually determines character."¹³

Character, in other words, is shaped by the choices that establish habits. And habits are shaped day to day by how we respond to incentives, confront pressures, and choose among the paths that are available to us. For many lawyers, these incentives, pressures, and paths are largely determined by the law firms in which they practice.

Legal education can help enhance future lawyers' appreciation of this process. It can highlight the ways in which decisions that on the surface do not seem to involve ethical issues in fact can have profound ethical implications. It can aspire, in other words, to produce lawyers with ethical imagination.

13. GEORGE ELIOT, *ROMOLA* 287 (Andrew Sanders ed., Penguin Books 1980) (1863).