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GOOD WORDS

FOR THE

JOURNEY

AHEAD

by Stephen H. Anderson

M

y soon-to-be colleagues in the law, congratulations! You have successfully made it to the end of a long road, beginning back when you took the LSAT, sent out law school applications, and entered here as first-year students. As an understatement, I suspect that traveling that road you had some occasional stress. Since misery loves company, you probably shared your stress generously with family and friends. Because of that and many other things—especially overwhelming pride in your accomplishment—this is a joyful day for all of them as well. On your behalf, I recognize, congratulate, and express gratitude to spouses, parents, other family members, and friends for their loving, long-suffering support and sacrifice. In a very real sense this is their graduation, too.

You have received a first-rate education from a first-class law school. Graduates and others associated with this school grace the law nationwide. For a proximate example, former BYU professor Dale Kimball and alumnus and adjunct professor Dee Benson compose half of the four active judges of the federal district court for Utah.

Two of my favorite lines come from Chief Judge Benson. Some years ago Judge Benson had to have surgery to remove a growth just inside his skull. The night before the operation, the surgeon visited his hospital room to discuss the procedure. Judge Benson asked if the surgery would require the removal of any brain tissue. The surgeon replied, yes, it was necessary to assure adequate margins around the growth. Judge

Benson responded quite cheerfully, "Good, take the part where the bar review course is stored. It hasn't been a bit of use to me since the bar exam."

Then

after a moment's reflection, he added, "And if you have to take a whole lot of tissue, that's okay, too. Then I'll be qualified to sit on the Tenth Circuit!"

I want to repeat what I said a few years ago on a similar occasion. I know what you are thinking: *I'm outta here!* Of course, the problem with being "outta here" is that you are into "there." "There" is not a bad place to be right now. In Greenspan-speak, you are entering a vibrant economy and a robust job market. That market has demonstrated remarkable elasticity in demand for people trained in the law.

According to American Bar Association market research, over 90 percent of 1998 law school graduates were employed as of February 1999. That marked the fifth consecutive year of increased overall employment of new JD graduates.

The largest number of you will be in private practice, but positions abound in government, public-defender work, public interest law, business, and other sections of the economy. Wherever you go, the field of law has never been as important and as fascinating as it is right now.

Globalization of commerce has increasingly internationalized the practice of law, creating enormous opportunities. The exploding universe of information and communications technology, computer hardware, software, delivery systems, emerging marketing cultures, and more are ushering in a new age of law as well. Genetics is another vast new frontier. More and more clients and employers will deal in these areas and will need sophisticated and innovative legal advice.

Just to touch on a few other subjects, by way of further example: problems of aging, including estate and disability planning and surrogate decision making; multiculturalism; the environment; water sharing; energy; transportation; all aspects of civil rights laws; the behavior of major corporations

The following speech was presented at the J. Reuben Clark Law School commencement on April 21, 2000.

tions; delivery and recourse in medicine; and much more are all evolving areas of the law requiring skill and new thinking.

The courts are changing as well. The senior partners in the law firm I joined took the train to Denver to argue before the Tenth Circuit. Now the judges can sit in Denver and hear entire daily calendars by way of videoconference from remote locations so that lawyers don't have to travel at all. When the court files an opinion, it is immediately accessible on an electronic bulletin board. Electronic filing and computer access to court dockets are increasingly available.

It may amaze you young folks to know that some judges of golden years have put their quill back in the goose and do e-mail and other computer stuff. And if *you* are not amazed, I am! Opinions, comments, arguments, and revisions circulate back and forth between chambers with the speed of, well, e-mail.

On every hand there is change and innovation. All of it amounts to a richly varied set of opportunities for you.

You may be wondering whether you will be happy in the profession. My first answer relates to a 1995 American Bar Foundation survey of 800 randomly selected Chicago lawyers, which found that the vast majority—84 percent—reported they were satisfied or very satisfied with their jobs. My second response is that, basically, the answer for you will depend on your values and expectations. Someone has said that happiness boils down to someone to love, something to do, and something to hope for. Add to that a foundation of faith and sound values, and I think you may find much truth in that statement. In any event, it would be a mistake for you to regard money as life's report card.

As you commence your careers, I urge a few things for your consideration. I have placed them in six categories.

First, keep sharpening your tools. Your schooling has given you tools of both knowledge and skill. Legal knowledge is a depreciable asset requiring ongoing capital improvements. During the past three years while you have been in law school, the federal courts, both trial and appellate, have decided more than a million cases resulting in about 275,000 pages of published opinions. State courts have decided tens of millions of cases. Congress has passed something like 1,200 bills; state legislatures, thousands. Federal agencies have added thousands of pages to the Code of Federal Regulations, and local governments have equaled that output in laws and ordinances.

The law you know today will be partly dated by tomorrow and mostly dated in 10 years. In addition, you will probably change jobs or areas of practice emphasis at least three times during your career. So keep learning. We are all students of the law, always. Continuing legal education programs, seminars, sections of the bar devoted to specialties, and other sources of knowledge are important to you. Use them.

The skills you have learned are more durable tools. You have learned how to think like a lawyer. I've heard some graduates say they don't know what that means. It means you know how to look at a problem analytically from the standpoint of legal precedent and text, sifting out what is not relevant. In that context you have learned a new view of what is salient in approaching human conflict. You have learned that asking the right question may be the most important thing. As I tell my clerks, ask four questions: What is the issue? What are the relevant facts? What is the law? What is the solution? The first question is always the most important: What is the issue?

Law is relentlessly, sternly, unforgivingly detailed. Yet, as in the graphic arts, you must labor over the smallest detail while simultaneously knowing and never losing sight of the big picture.

The best finished product is the easiest to comprehend. Abraham Lincoln said of Stephen A. Douglas, "He can compress more words into a smaller idea than any man I have ever known." There is another saying: "When ideas fail, words come in handy." In law, that failing is called "juris-babble." The true legal artisan takes the raw material of legal complexity and fashions a powerful concept into words so simple and descriptive that they rival the skill of a poet's insight. There is elegance in clarity, in making the complex simple.

You have the necessary tools now. Keep sharpening them. They will serve you well—in law, in business, or in whatever activity you might engage.

Second, avoid isolation. Get out and serve and participate. Specialization, job demands, firm budgets, and similar forces tend more and more to cut lawyers off from full participation in the legal community and the community at large. Lawyers have traditionally worked within and through the organized bar to improve the administration of justice. Members of the bar support law-related education in the schools, night small-claims courts, free legal advice through the Young Lawyers Tuesday Night Bar, and many other programs, plus serving on committees established to study and improve the effectiveness of the legal system. These voluntary, public-spirited services are part of what makes law a profession, not a trade. For some role-model examples, I will name just a few: President James E. Faust

of the First
 Presidency of the
 Church, past president of the
 Utah State Bar; Eugene Hansen, president of the Salt Lake Temple and past president of the Utah State Bar; Elder Dallin H. Oaks of the Quorum of the Twelve, former executive director of the American Bar Foundation; former Governor Scott Matheson, past president of the Utah State Bar; and Dean Reese Hansen, currently an ex officio member of the Utah Bar Commission.

Beyond service in the bar, there is community service and vigorous participation in the political process. Traditionally, lawyers have been fully involved in organizations and projects that seek to make the community a better place to live. Serve in these ways. Participate. You will make lifelong friends and find your profession extraordinarily more rewarding, while being part of the solution to society's problems.

Third, know the difference. I have some advice for you based on my 40 years in the law. Some lawyers have the motto that the breakfast of champions is not Wheaties, it is the opposition. I suppose that's okay. But, if I may put it bluntly, there is a difference between being a good

lawyer and being a jerk. You don't have to resign from the Church or the human race to be brilliantly effective and successful as a lawyer. In sports we are fond of labeling some players as being a class act in addition to being a superstar. The same is true in law. You can be a great lawyer *and* a class act. I know some great lawyers who I have never heard swear or seen lose their self-control or cut an ethical corner.

There is a difference between being a realist and being a cynic, between being intense and being mean, between being probing and being cantankerous, and between being a retailer of negatives and difficulties and being a creator of solutions and results.

You do not have to become someone's mad dog to be their strong advocate. I don't know of anyone who wants their epitaph to be "Here lies lawyer so-and-so, one of the meanest people in town."

Seek and prize qualities of civility and integrity. Develop advocacy based on brilliant reason, deep learning, honest hard work, and fair presentation. These are marks of the true professional.

Fourth, respect your oath. Law is

the only profession that is not licensed by the executive branch of the government.

Lawyers are regulated by the judicial branch of the government. And law is the only profession that requires an oath as a condition of licensing. The lawyer's oath you will take incorporates by reference specifically enumerated duties and the Rules of Professional Conduct. The duties, among other things, require you to tell the truth; to not delay, obstruct, or subvert the legal process; to not knowingly prosecute a false action or act maliciously or deceitfully; to be loyal to your client; and to charge fairly for your work. Just as important, you will undertake a separate duty as an officer of the court. This duty and responsibility extends to the court and the rule of law in a democratic society.

Your oath is serious business.

Today you sit here unified as graduates. When you pass the bar and take the oath,



We laughed! We bonded! There

you will stand unified as lawyers, as members of the legal profession. Then you will scatter in dozens of directions, some into corporations, some to government, some into big firms, some into small firms or a solo practice. Because you split up to go in different directions, do you suddenly become less or more of a lawyer than when you stood together to take the oath? Does the door you walk through to work diminish or enhance what your oath means? The answer is no. Your professional status means more than just a paycheck. You are never just an employee. You are a lawyer, a professional. While the legal profession may be a mile wide today, it is only one lawyer deep where you and your work as a lawyer are concerned. The health and regard for the rule of law in our society is not some other lawyer's responsibility. It is your responsibility. There are no free rides. You have worked hard to become a professional. Do not let the door you walk through to work make you less of one.

was real joy in that afternoon

Fifth, I commend to you the words above the entrance to the Supreme Court of the United States: Equal Justice Under Law. Everyone, not just the rich and powerful, deserves the full protection of and access to the law, just as we expect every American to obey the law. Commitment to equality under the law, embedded deep in the foundation of this republic, is not played out just in programs and more due process; it begins in the heart.

In the book *To Kill a Mockingbird*, Atticus Finch's daughter Scout was puzzling over how a jury could find a black man, Tom Robinson, guilty of raping a white woman when the evidence clearly showed he hadn't. Then it became clear to her. As she put it:

How could this be so, I wondered, as I read Mr. Underwood's editorial. Senseless killing—Tom had been given due process of law to the day of his death; he had been tried openly and convicted by twelve good men and true; my father had fought for him all the way. Then Mr. Underwood's meaning became clear. Atticus had used every tool available to free men to save Tom Robinson, but in the secret courts of men's hearts Atticus had no case. Tom

was a dead man the minute Mayella Ewell opened her mouth and screamed. [Harper Lee, *To Kill a Mockingbird*, (New York: Warner Books, 1960), 241]

The teaching to us and all other citizens was given two thousand years ago. It is the second great commandment: "Love they neighbor as thyself."

As a political summation, John Hancock, when urging the Massachusetts convention to adopt the Constitution, put it this way: "We must all rise or fall together. . . ." The true professional commits to a just society.

Finally, seek joy and balance. You can only live happily ever after one day at a time. We all know that life is not a trip to Disneyland, but too many of us are like Aunt Agatha, whose life was full of tragedies, only a few of which actually happened.

In his book *Leading the Charge*, Lee Roderick tells of Senator Hubert Humphrey, dying of cancer, returning to address the Senate a last time. Instead of words of sorrow or despair, Senator Humphrey still preached the politics of hope and joy and faith. These are good words for your journey ahead: hope and joy and faith—especially joy. If we look for it, it is everywhere.

While I was sitting at my desk with my brow furrowed a couple of weeks ago, I got a telephone call from my wife informing me that, due to a bizarre set of circumstances, I was the only logical one available to tend my seven-year-old granddaughter and my four-year-old grandson for several hours that afternoon. I had never been a starter in that game. I had come off the bench a couple of times, but only when the mother and grandmother starts were on the floor. Both of these grandchildren have been pretty reserved around me. I suppose it's because I am big, wear a black suit, and usually have my nose stuck into something to read. But I was game. I answered the summons. I put on old clothes and spent a couple of hours inventing ball games and playing tag and doing a lot of stuff sitting on the floor. The sun came out. The friendship between my grandchildren and me warmed to a degree never before experienced. We had a terrific time!

But more was yet to come. On the drive back to their parents' house, with the children securely strapped in their seat belts in the back seat, the seven-year-old ordered me to turn on the radio and tune it to 860, the Disney station. Shortly after that, the station started playing a song and my formerly shy four-year-old grandson shouted with glee from the back seat, "Grandpa, turn it up! This is my favorite song!" Then with absolute joy he began singing along in perfect pitch at the top of his lungs, "Hit the road, Jack, and don't you come back no more, no more." It was so infectious, the seven-year-old and grandpa joined in. Then, there were the four-year-old and the judge, belting it out with joyous abandon: "Oh woman, oh woman, why you treat me so mean, you're the meanest old woman that I've ever seen." We really rocked! We laughed! We bonded! There was real joy in that afternoon.

You have now and will continue to have all kinds of moments of joy, large and small, in your life. Seek them. Treasure them. They will act as counterbalances to life's difficult moments.

One of the best ways to position yourself for joy is to lead a balanced life. Working hard does not mean only work. Family and church and adventure and activity and learning new things and serving and sharing will be your greatest antidote to life's ills.

You may wonder what lies at the end of a 40-year career. I will tell you. Family and faith and integrity. Everything else fades into the background. Nurture your family and faith, and safeguard your integrity.

Take care of yourselves. Enjoy your family. Enjoy your friends. Take care of your health. You are wonderful people, intelligent, ambitious, dedicated, goal-oriented, and idealistic. We welcome you with all our hearts into the legal profession. We look forward to your creativity, intelligence, energy, and constructive contributions.

May God bless you is my prayer in the name of Jesus Christ. Amen.

Stephen H. Anderson has served as a judge of the United States Court of Appeals for the Tenth Circuit since 1985. He is a past president of the Utah State Bar.