

LAWYERS ASSOCIATION MEMORIAL SERVICE
MAY 15, 2009
THOMAS J. CASEY

May it please the Court.
Reverend clergy
Colleagues at the bar,
Ladies and Gentlemen:

We gather today, not for the purpose of grieving, but rather to celebrate the careers of, and to honor, applaud, and express our gratitude to, those members of the St. Louis bar who passed away in the last year.

It is entirely appropriate that this Memorial Service honoring the recently departed members of the Bar should occur in this room. This is Division One of the Circuit Court; the home of the presiding judge of this Circuit. This is the room in which so many young lawyers begin their careers. One of the frequent duties incumbent upon the presiding judge is the task of administering the Oath of Admission to young men and women who recently passed the bar examination. Some of those we honor today took the oath of admission in this very same room. Some of you may have been present and remember that ceremony.

The oath of admission ceremony is impressive. Typically, in an open session of court, the clerk asks if there are informal matters to be brought to the Court's attention. A member of the bar rises and announces, "I suggest to the Court that John Jones is among those recently having passed the Bar examination and other prerequisites to admission to the Bar. Therefore, I move that he be administered the Oath of Admission."

Parenthetically, when we speak of one admitted to the bar, do you all understand what is meant by the Bar; the bar of justice? It's this rail; and here is the bench; hence the bench and bar. It is an area traditionally

reserved to those who are licensed to practice; that is those who have been “admitted” to the bar.

By custom and tradition, the presiding judge then requests that **all** members of the Bar rise and approach the bench; that is to come forward within the bar. And then all the lawyers in the room remain standing at the bar while the judge administers the Oath of Admission in the immediate presence of their colleagues.

Why do all present members of the Bar participate in the enrollment ceremony? Because every lawyer, whether in the public or private practice of law, is deemed to be an “Officer of the Court”. As such, every lawyer is imbued with certain duties to the administration of justice and to the fair and impartial and efficient exercise of the judicial function. Sometimes our duty to the administration of justice conflicts with our own pecuniary interest, sometimes it conflicts with the best interests of our clients. But when that occurs, our first loyalty must be to the administration of justice.

Nowhere has the conflict between our duty of public service and to the courts on the one hand, and economic self interest on the other hand, been more apparent than in the area of lawyer advertising. Lawyer advertising was banned for many generations as being contrary to the dignity of the profession and inconsistent with our position s as officers of the court. Then, in 1976, the United States Supreme Court ruled that 1st amendment freedom of speech considerations trumped the profession’s need to maintain its dignity and ruled lawyer advertising could not be banned outright. That decision opened a floodgate of advertising over the next 30 years.

Recently retired Supreme Court Justice Sandra Day O’Connor commented on this conflict in a dissenting opinion in a lawyer advertising case, *Shapero v. Kentucky Bar Association* in 1988. She said:

“One distinguishing feature of any profession, unlike other occupations that may be equally respectable, is that membership entails an ethical obligation to temper one’s selfish pursuit of economic success by adhering to standards of conduct that could not be enforced either by legal fiat or through the discipline of the market. There are sound reasons to continue pursuing the goal that is implicit in the traditional view of professional life. Both the special privileges incident to membership in the profession and the advantages those privileges give in the necessary task of earning a living are means to a goal that transcends the accumulation of wealth. That goal is public service. “

The duty of public service to the courts, to our system of justice, to our community and nation, to the indigent, distinguish the law from every other calling. The duty of public service goes to the very essence of why the law is a profession and not just a trade or business like any other.

In business, profit is the premier motive and end to be sought. In a profession, however, the means to a livelihood is merely incidental to the duty of public service.

We abide voluntarily by a code of ethics that commits us to ethical standards far beyond what is technically “legal”. We are called upon not just to avoid impropriety, but to avoid even the APPEARANCE of impropriety.

One of the foremost legal writers and commentators of the 20th century, Dean Roscoe Pound of the Harvard Law School, said many years ago:

“There is much more in a profession than a traditionally dignified calling. The term refers to a group of men pursuing a learned art as a common calling in the spirit of a public service – no less a public service because it may incidentally be a means of livelihood. Pursuit of

the learned art in the spirit of a public service is the primary purpose. Gaining a livelihood is incidental whereas in a business or trade it is the entire purpose. A trade aims primarily at personal gain; a profession at the exercise of powers beneficial to mankind. The best service of the professional man is often rendered for no equivalent or for a trifling equivalent and it is his pride to do what he does in a way worthy of his profession even if done with no expectation of reward. This spirit of public service in which the profession of law is and ought to be exercised is a prerequisite of sound administration of justice according to law.”

By the very nature of the calling, lawyers are community leaders. Lawyers have served society in many ways and take a leading role in virtually every aspect of society. Every constitution ever framed for national government has been the creation of lawyers. Every statute and ordinance has been reviewed by lawyers before final passage. Most of our presidents have been lawyers and the law is the most prevalent vocation of member so of the congress and our legislatures. Every college, every financial institution, every insurance company and indeed every major corporation has lawyers serving on their boards.

The lawyer wears many hats during his or her career: advocate, counselor, peacemaker, advisor, public servant, and occasionally psychiatrist. They chair civic boards. They serve on bar committees. They contribute time and money to the needs of the indigent for legal services. How many of those we honor today spent untold hours performing work for the public good-- pro bono work; not out of a desire for compensation or other self reward, but rather out of a sense of public service and professional obligation.

Most lawyers enter the profession with idealistic goals and altruistic spirit. Sometimes, we become distracted by those lofty goals in the face of the daily demands, frustrations, and the deadlines of the practice. It is therefore fitting that today, as we mark the end of the career of these our departed colleagues at the bar, we reflect on the many

contributions to the public welfare made by them and rededicate ourselves to those ideals that impelled them to the noble profession of law in the first place.

Let us leave here not with a sense of loss but with a sense of gratitude for the services to society which they rendered.