An Old Curmudgeon Looks At Professionalism Or Are We Really Sure We Want To Be Professionals?

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10. An Old Curmudgeon Looks At Professionalism

Or
Are We Really Sure We Want To Be Professionals?

Thomas A. Harrell
Professor of Law, Emeritus, L.S.U. Law Center.
Baton Rouge, Louisiana

I was asked at the end of the meeting of the program committee for this Institute if I would deliver the paper on Professionalism today. The meeting had been long, I was about asleep and said, without much thought “sure” – it seemed to me anyone could say a few words on such an amorphous subject. I was then told by Glynn Pellegrin that the Supreme Court required the presentation to be an hour long. I was appalled. How the Supremes would believe that anyone, who had no better sense than to talk for an hour to a bunch of lawyers about how they should act, was worth listening to, I do not know. But here I am. After giving the matter very little thought I decided that I simply would not spend an hour of your time – and mine – discussing civility, courtesy or courtroom decorum with you this morning for a number of reasons.

First, unless you have been admitted for less than five years, you have already listened to at least five hours of lectures on the subject and I am not likely to add much to your store of knowledge, except boredom. Reviewing the programs of the past several Institutes I found that among others, Jerry Slattery, Judge Hicks and Joe Giarrusso with their usual combination of erudition and thoroughness assembled a set of materials that address some of the pragmatic problems and dilemmas in maintaining our professional standards in today’s world, I saw no reason to duplicate their efforts.

Second, I grew up in the country – on a chicken farm in Beauregard Parish – and, as is the case with most of us – even at my advanced age – my views about life and how it should be lived are almost indelibly impressed with the teachings of my father, mother and grandparents who had definite ideas on the subject. And so it occurred to me that if your momma did not teach you not to chew with your mouth open, that a man should stand up when a lady enters the room, to remove your hat when you come inside, respect your elders and otherwise conform to the courtesies of civilized conduct, then I really don’t see how I can be of much influence at this late date.

Third, when I observe the conduct by a few of our colleagues that apparently is intended to represent a modern standard of zealous advocacy, I am reminded of what my father told me one day. After we had moved to Louisiana and we had built the barns, chicken houses and other facilities necessary to eke out a living in the piney woods, dad
could not afford to buy a tractor. So, instead he got several work horses (all mares) and a vigorous jack named Charlie.

Now Charlie lived an envied existence — or so it seemed at first. His only job was to seduce the mares so that in due course they would produce a healthy mule, which in my father’s opinion, made the best work animal since it enjoyed the worst traits of both of its parents — as placid and docile as its work horse mother and as dumb as its jackass father. And in this regard, Charlie was above all a prime example of a jackass. In fact he was so incompetent in attracting the mares with his amorous advances that he was hauled off one day — to where I can only speculate. Perhaps, he may have entered the legal profession and became the glue holding the covers on your set of the Southern Reporter, first edition. I just don’t know.

In any event while he was with us Charlie had one particularly disturbing trait. Every evening, at about feeding time, he would come trotting up to the barn and engage in the loudest and most raucous cacophony of braying and snorting that you can imagine. He frightened the chickens, disturbed the milk cows and pranced around generally making a nuisance of himself. I asked my father, why in the world Charlie acted as he did. Dad said he assumed Charlie thought that by engaging in that conduct he would get more of the food than the horses. I said, that was silly, since dad put all of their food in the same long trough. To which Dad replied, “You’re right son — but you have to remember he’s just a jackass, and probably doesn’t know any better.”

So, when I observe the posturing, pouting, shouting and generally raucous conduct of a few of our colleagues in court, in meetings and now on television hawking their wares, I simply remember Charlie and go about my business.

But of course, we still have the problem of what to do with the Charlies of the world. People, for the most part act in a manner that is deemed acceptable to others and that appears to be expected of them. After all, much of what we are talking about — how you treat your clients, your adversary in a lawsuit and his client — and more importantly, your fellow members of the bar generally is perhaps more properly a cultural matter than anything else.

If those of us who, unlike Charlie, think that the mark of a professional is not found in how loud we bray or prance around but how well we attend the business of our clients with diligence, effectiveness and a minimum of cost to them, we ultimately will prevail. If we do not, then the conduct of the Charlies of the world will prevail and we, perhaps, will sign up for dancing lessons.

In the meantime, about all any of us can do is to conduct ourselves as we believe we should and indicate our disapproval of those others who believe effectiveness is equivalent to obnoxiousness by refusing to rise to
their bait, return their obnoxious conduct in kind, or respond to their
stupid threats.

I have never understood a lawyer who believes that threatening me
by claiming his client will sue mine might sway my thoughts or force me
into some concession I would not otherwise make. Of course his client
may sue. That’s why he went to a lawyer in the first place. Is the threat of
suit supposed to strike terror in my heart? Am I so dumb as to not
recognize that some day we might be in – of all places – court?

But enough of that. What are we supposed to do for the rest of our
time together? Remember the Supreme Court has mandated that we must
consider the subject of professionalism for at least an hour – if not here –
then somewhere else.

Well, I do believe that there is some value in considering the subject
but I would like to think that it involves more than just courtroom
conduct or courtesy or even ethics in particular. After all, the fact that we
refer to the ethics of a profession implies that there is something more to
the profession than mere conduct.

Interestingly enough the Supreme Court has not directly stated what
it meant by professionalism when it dictated its study, and we are to
some degree left to our own devices to decide what it is and what, if
anything we should do about it. It is true that the court has promulgated a
“Code of Professionalism in the Courts” which declares it is:

designed to encourage us, the judges and lawyers, to meet our
obligations to each other, to litigants and to the system of justice,
and thereby achieve the twin goals of professionalism and civility,
both of which are hallmarks of a learned profession dedicated to
public service.

The Code then further notes, apparently in fond hope of not making
matters worse, that its standards are not to be “used as a basis for
litigation or sanctions or penalties.” However, on the whole the Code is
concerned only with conduct in the course of litigation.

Now one of the problems with our profession (whatever it may be)
is that we deal mostly in language – with the expression of ideas, ideals
and rules of conduct in words – which as we all know, are slippery little
rascals at best. The nouns, verbs, adjectives and so forth, that are the
symbols by which we express our work just won’t stay hitched to a
single meaning and change color, flavor and importance depending upon
the settings in which they find themselves. So it is with the terms
“profession” and “professional” themselves.

One of the best definitions of a profession in the classic sense of the
word is in the Merriam-Webster’s Third New Unabridged International
Dictionary – which is now about forty years old. I have reorganized it
slightly but, in substance, it defines a profession as a calling that:

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1. Engages in a kind of work which has for its prime purpose the rendering of a public service;
2. Requires specialized knowledge and often long and intensive preparation in the skills and methods of the occupation . . . ;
3. Requires high standards of achievement and conduct;
4. Commits its members to continued study and
5. Is maintained by force of organization or concerted opinion.

I might note that to declare one is a professional in the sense used in Webster’s refer; more to who a person is rather than what they do. However, with the tremendous rise in the popularity of so called “professional sports” the term “professional” has come to be directed, in the popular mind at least, more to an activity conducted for compensation, than to what it consists of. As a result the term has been appropriated by almost everyone who engages in an activity for compensation and, perhaps, is thought to imply that in the conduct of that activity, they exhibit a higher level of competency than the rest of us mere mortals.

Thus a short and casual trip through the internet produced:

The Canons for the “Professional Practice And Ethics In Massage.” The second canon of which is entitled: “How is being a professional masseur different from being a grocer?”

The International Parking Institute welcomes the public to its Parking Profession homepage and begins with the statement that “people often wonder what a parking professional really is.” As I am sure you have.

Ms. Suzanne Roth announces that she has produced a work (in paperback) entitled: “On The Reality Of Professional Pet Sitting: A Candid Look At A Growing Profession.”

And then there is the Women’s Professional Rodeo Association whose members engage in barrel racing, which they describe as “racing around a cloverleaf pattern and running back across the finish line” – on horseback, I assume. Their website has a full page devoted to the all-time world champion professional barrel racer – a Ms. Kappy Allen. Interestingly enough, her biography also notes that in addition to being a professional rodeo contestant she is an attorney at law. It does not indicate which profession she believes contributed the most to her skill in running around in circles.

Now, I don’t claim that these persons are misusing the English language or engaging in false advertising. What I am suggesting is that when we refer to our “profession” and call ourselves “professionals” we may not be communicating to the public or even to ourselves, the concepts that we have in mind as being included in the terms. Nor can
we even be certain as to what images the terms evoke in the minds of the various members of the Supreme Court who are the impelling cause for you and I being here today.

I also suggest much of the unhappiness about the state of our profession may not really be caused by colleagues who are discourteous, impolite or raucous. Actually, they have been with us since the beginning of time. Nor do I see any deterioration in the quality of the bar. As you may know, I had the great good fortune of teaching law to almost two generations of law students at LSU. I observed very little difference in them through the years or from those that were members of the bar when I first joined it. For the most part they have been intelligent, highly motivated and on the whole, nice people wanting to have a good life and to do good things with it.

What I have noticed is a significant evolution in the value system and expectations that they (and as a matter of fact that all of us) have undergone through those years. If I may wax somewhat philosophical, I suggest that our profession has suffered, and perhaps is suffering, some of the same growing pains that our society as a whole is and has been experiencing.

First let me say that under no circumstances are any of my remarks this morning to be taken as a cry to go back to the good old days or an expression of discontent with the present. Although I did have a happy childhood and have, so far, enjoyed a wonderful life, I don’t remember the good old days as being all that good. I was born just before the great depression and my father and mother went through it. Before they became farmers they ran a restaurant and worked 12 to 14 hours a day, six days a week and half a day on Sunday. Mother died at an early age of a disease that could easily be cured today. My father died when he was 65, following an operation, of complications that today would be serious but not fatal. Otherwise good, generous and sincere people honestly believed the races were meant to be kept separate, and economic conditions made it almost imperative that women tend the house while their husbands worked. My life and the lives of my children are infinitely better now in almost every respect than they were forty or fifty years ago, and I would not go back for anything.

On the other hand all change, even when it is for the better, necessarily engenders problems and requires adjustment to our institutions and way of doing things, if we are to preserve their substance and perpetuate the basic values upon which they are founded. I would therefore submit that many problems of our profession – and for that matter of our society – are a consequence of the rapid and dramatic developments, in virtually all aspects of life that we have enjoyed during the last fifty years or so.
Several of these directly influenced the composition and nature of our profession. The first was the enormous expansion in the number of lawyers that began in the 1970s. LSU's alumni directory discloses that in the ten years between 1970 and 1980 it graduated more lawyers than in the previous 62 years of the school's existence. The same was true of virtually all of the law schools in the country, and the trend has continued unabated, although I did notice an article last week that implied enrollment has cropped in the last year or two. In any event, however, the infusion of so many new members in such a short period has put an enormous strain on the profession.

Law schools have really never been equipped or expected to produce accomplished practitioners and for much of the life of the bar, there was an effective, if informal, system of postgraduate education. The number of lawyers fresh out of law school who hung out their shingles and began practicing alone or with another recent graduate was insignificant. Almost everyone went to work for an established firm or formed an "office sharing" or similar arrangement with an existing practitioner who was expected to pass on the "nuts and bolts" of the profession. While many later became solo practitioners or formed firms with other lawyers, most had some sort of opportunity to work with an experienced practitioner. In the established firms the proportion of those with less than, say five years, experience was small and always there were several older, more experienced members to watch over and guide the younger ones for a period.

This system had almost completely collapsed by the late 1970s or early 1980s. More and more, new lawyers, fresh from school, had to reinvent the wheel and discover fire for themselves. More importantly as a newcomer they not only lacked training in those basic skills and techniques that can only be learned by practice and observation, there also was a failure to pass on the traditions, practices and courtesies the bar had developed over the years for the conduct of our business.

The rapid increase in our numbers also made it more difficult to maintain that sense of collegiality - of membership in a profession that stood together and apart from the public and our clients - which was the foundation for much of our profession's structure. This disintegration of collegiality and fragmentation of the profession was enhanced by the rise of specialization. Until perhaps the late 1960s the majority of our number could be classified as general practitioners. If we were divided at all it was between the criminal and civil bar, with the latter perhaps being divided, although much more loosely than today, between personal lawyers and the corporate or commercial ones. But there still were many lawyers, even in the larger towns and cities, who did a little bit of everything.
Incidentally, before going further I should confess that I am almost completely ignorant of the nature and problems facing that branch of our profession that primarily handles criminal matters. My experience in that field directly involves only one felony case to which I was appointed, although with my usual lack of modesty, I should note that I met with stellar success in it.

It consisted of an appointment as counsel in a murder case in which my client left a local bar and grill, got his revolver, returned, met and shot the victim, who had himself just left the bar with his girl friend. My client then held his gun on the crowd that erupted from the bar until six policemen arrived, having received a report of a riot. He thereupon handed the pistol to one of officers and announced in a loud and distinct voice to the six policemen and 27 onlookers, including a recently arrived newspaper reporter: “Here it is, I did it.”

I am proud to say I managed to convince the DA to accept a plea of manslaughter, without promise of any particular sentence. At sentencing the judge admonished my client that one should not go around shooting people, but then observed that he understood why it happened and handed down a sentence of three years with credit for time served, making him immediately eligible for parole.

I was so elated that I considered undertaking a criminal defense career – envisioning myself as a latter day Clarence Darrow or something. At least I did until a little later when the judge was diagnosed as having a brain tumor that caused him to have brief periods of irrationality. It was during one of these in which he apparently confused my client with a minister who shot a felon recently released from Angola after serving a term for previously assaulting the minister with a deadly weapon and who threatened to “finish the job” and kill the preacher the next time they met.

Other than that, my criminal experience has been limited to defending my children, grandchildren and their friends on a variety of traffic tickets and violations. I might mention however that even there I have an unblemished record. I have succeeded in getting every one of the little scoundrels convicted. With a fine just sufficient to cause them to think more seriously the next time about trying to do wheelies when leaving an intersection and the obligation to perform community service thereby expunging their conviction and keeping their parent’s insurance premiums only slightly exorbitant for having teenage drivers in the coverage.

And as long as we are somewhat remotely considering professionalism, I think I should mention that those lawyers whom I have come to know that are engaged in the practice of criminal law, both as prosecutors and defense counsel come closer, perhaps, than do the rest of
us, in exemplifying the traditional mark of a profession as a calling which has for its prime purpose the rendering of a public service.

To deal constantly with those who comprise, for the most part, the broken and sometimes forgotten fragments of our society and to try to reconcile the public desire, which I believe most of us share, for rehabilitation and reconciliation of those committing criminal acts with the concrete pressures from those three most destructive of human emotions – anger, fear and hatred – that frequently infect those who are involved in a particular case, requires, it seems to me the highest degree of dedication, compassion and realism. I find that those who engage in that practice generally exhibit those qualities to a degree that I know I would have difficulty achieving were I faced with what they meet day after day.

But to return to my premise – that many of the problems of our profession arise from the challenges it faces in maintaining its sense of collegiality, service and dedication to justice in the presence of pressures of a changing society over which we have little or no control.

In addition to problems caused by the increase in our numbers and the fragmentation of the profession because of specialization, I think we must also recognize that the practice of law is almost infinitely more complicated now than it was even two generations ago. As was typical of my generation, my activities as a practitioner were more varied than one could imagine today. I did bankruptcy, tax and utility work; handled financing of office buildings, apartments and shopping centers, did collection work for a bank and one of the large automobile financing agencies; acted as general counsel to a bank and an independent oil company, handled a few successions, did title work and gave advice to oil and gas exploration companies and served as back-up to our firm’s insurance defense counsel.

Although during the time of my active practice, I considered myself an office lawyer, and not a “litigator,” as the term is used today, I appeared at one time or the other in nearly every district court within a hundred miles of Shreveport, the Second Circuit Court of Appeal, and Supreme Court of Louisiana, as well as all of the state’s federal district courts, the U. S. Tax Court, the Court of Claims, the Fifth Circuit and twice in the U.S. Supreme Court.

I, of course, had the advantage of being with one of the largest firms in the state – we had 12 lawyers – were a little envious of that giant in New Orleans, Phelps, Dunbar that had 30 – and could not understand how that mega firm in Houston, Vinson and Elkins, could even function with a hundred lawyers. Neither am I suggesting that my practice was unique or particularly unusual. It was representative to a greater or lesser degree of the nature and extent of the practice of most commercial lawyers in the larger firms at the time.
Today it would be impossible to even attempt such a practice, as you of all people know. The complexity of our legal institutions and the velocity of their change make it almost impossible to remain competent and active in even the narrowest of disciplines. Some of this can be demonstrated by a simple illustration. In the twenty years between 1880 and 1900, twenty-six volumes of the Southern Reporter were issued. A century later, between 1980 and 2000, West emitted 761 volumes. To keep current a lawyer was faced with reviewing a volume every nine months in the 1880s; one every two months in the 1960s and almost one a week in the 1990s. Today, I believe they are coming out at an ever accelerating rate. From a slightly different perspective, to keep up with the Louisiana decisions in the last twenty or so years, you will have had to read as many volumes of the reporter as were read by your predecessors over the eighty years preceding that time. None of this of course takes into account the Federal Reporter System, and the extent to which the federal government has intruded on things that would have been considered entirely a matter of state law a half a century ago.

The challenges to our profession caused by the factors I have just mentioned are further compounded by the evolution of several more generalized attitudes and values in our society. All of us are influenced to a greater or lesser degree by the culture in which we are immersed. We like to think we, as a profession, have considerable influence in how the system of justice is constructed and administered, but in fact, we, like everyone else are bound and constrained by social bonds that are not of our making and that restrict our freedom and inhibit our actions.

Most of the changes to which I am referring are by-products of this wonderful industrial and technological world in which we live, for with it has also come a disintegration of community and isolation of individuals. Some of you may be old enough to remember Mr. Beasley, the postman who faithfully delivered the mail to Dagwood and Blondie Bumstead over the years. We who read the strip and all of the characters in it knew him and still do. What is the name of the postal employee who delivers your mail? Do you know the name of even two of the cashiers at Wal-Mart, much less its manager? The chef (if I may use that word) at your McDonalds? How about naming all of the residents on either side of the block in which you live or the apartment in which you dwell? How many of your parents, children or grandchildren now live in the same city or town as do you?

The automobile has created a wonderfully mobile society, in which we can find our friends and acquaintances across town or even in a different state, but have little or no contact with those who live close to us. The small business man has almost been eliminated. Those who do remain are likely to serve not just a few people in a concentrated area
who know him by name – but with his panel trucks and cell phones he traverses the entire city or parish.

Now this would not be particularly significant were it not for what, a few years ago would have been expressed as the “if we can put a man on the moon, why can’t they ___?” syndrome. We are so enamored with the wonderful things we can do that we are much like a five year old who first blows up a balloon and releases it and then thinks he has created something when it flies around the room.

Unfortunately, our faith in our own ability and that of our technicians has led us – not to delight and wonder – but, to a belief that we somehow should be insulated from the ordinary vicissitudes of human existence. This has, in turn, made us into a society of the most self-centered and judgmental of people. I do not say we are selfish – given the right impetus we can be incredibly generous and thoughtful. But our belief in the omniscience of science and technology coupled with the anonymity of many of the people with whom we deal has created a culture impatient of imperfection and intolerant of human frailty. “Zero tolerance” is an expression that appears to be all the fashion in some circles today. If I understand the meaning of the word “zero” the term is a synonym for “intolerance.”

Forty years ago, you bought your Ford or Chevrolet from a local dealer with whom you may have attended church; got your gas and oil from a station owner whose wife was president of the PTA where your children went to school, and when the darn thing needed repair (which was fairly frequently) you took it to the local mechanic who may have also been a client.

If the car developed a weird noise, you first took it to the station owner who listened to it and allowed as how it was probably the timer chain hitting the fan belt. So you took it to the mechanic, who after three or four efforts, admitted it was beyond him, although he was certain it weren’t the timer chain – thought at first it was the distributor but changed that twice without success and was out of ideas. You then took it back to the dealer. Although the six months warranty had expired he had his folks work on it two or three times. Finally, they announced that they too were bunfuzzled, but didn’t think it was serious, thought the motor was working about as well as expected and told you that if anything serious developed to be sure to bring it back. Since the dealer was a friend he might offer to refund of a couple of hundred on the price, despite the expiration of the warranty, or maybe a new set of tires the next time you needed them. You might well thank him, but refuse his offer, knowing that he too had done his best.

Sixty thousand miles later, when trading it on a Chevrolet this time, you explain to the dealer who quoted you a trade-in price, that the
knocking sound really wasn’t that serious. To which he might reply: “Yep, that model had a lot of that.” And that would be that.

Now this is not to say you were not frustrated or disappointed in not having a knockless Ford or that you didn’t expect the dealer, station owner and mechanic to do their best, and perhaps even that Ford might do something after its warranty expired. But the one thing that was not implicit in the whole project was any thought of moral culpability because the object was not as perfect as you thought it ought to be—perhaps because you did not expect a perfect automobile every time you bought one.

Today, however, if someone buys an SUV that has a windshield wiper that does not work quite right, and the dealership cannot repair it, the ordinary reaction is not merely that Chrysler or whoever made it should somehow make it good—it is more likely to be, that they should be punished—for after all—surely anyone ought to be able to make a windshield wiper that will work and if they do not, it must be because they are ripping off the public with shoddy materials and poor workmanship.

And, a year or two later are you are not apt to get a notice that a windshield wiper class action has been instituted in Kalispell, Montana? Following that, a year or two later still, you may receive, if you did not opt out, a notice of settlement with certificate for a lifetime supply of blades for your wiper. The notice will also relate that the court has approved attorney’s fees for the entire bar of Kalispell, who have finally set Chrysler straight, which will assure each of them a lifetime supply of the SUVs with the defective wipers. And, somehow we are all supposed to believe that justice has been served.

While there admittedly are instances of deliberate fraud and wrong doing which must be addressed, have we not also, in our quest for a perfect society, elevated human frailty and ordinary carelessness to matters of moral depravity and criminalized the conduct of people for what in many cases represents no more than momentary inattention or the limits of practical accomplishment.

Furthermore, as far as I can see, our efforts don’t seem to be having the desired effect of creating a more sensitive, generous or compassionate society which I had always thought was behind the whole great American Experiment. At the heart of the matter is the perennial question facing a democratic society. How much injustice are we willing to tolerate to enjoy the freedoms that we so passionately desire? It is a problem that is never resolved and must constantly be addressed.

So what does this have to do with professionalism? Well, I would argue that the problems with our profession as serious as some of them may be, are really not much greater than some that faced us in the past, but that perhaps they are being compounded because we are applying the
same standards to each other that society now applies to the great, anonymous corporations that appear to be in control of so much of our lives. To put it more directly – to what extent are we complaining about the conduct of a few in our profession because we are truly concerned with the effect they have upon the profession – or to what extent are we simply unhappy because when the conduct of others sometimes falls short of perfection, it makes things more difficult for the rest of us?

Arbitrary, autocratic judges are nothing new. I have a friend who once was fined $50 for appearing before a notoriously crabby federal judge, wearing argyle socks instead of modest black or brown ones the judge thought to be appropriate courtroom attire. Disagreeable, overbearing, and generally obnoxious lawyers are not new either. What may be new, perhaps, is a belief that we should not have to put up with their kind of conduct and therefore that someone – the courts, bar association, or law schools, should have prevented it, or are just not doing their job. Do we also believe that by rules and regulations we can eliminate disagreeable conduct? If there is any truth in either of these, then to that extent I would suggest we are engaged in a useless and futile exercise. Professionalism cannot be forced upon anyone nor can perfect conduct ever be achieved by others or even ourselves.

Now this is not to say that we do not need reminding every now and then that we should get our house in order; that we constantly should try individually and as a profession to create an environment that encourages us to be better than we are and to communicate to those entering the profession the traditions and canons that have made it what it is. Neither do I suggest that we should tolerate unacceptable conduct as a continuing practice.

However, as far as I can see, given the pressures we have experienced in past few years, our profession is still distinguished by the first and last attributes mentioned in Webster’s definition. For we are still engaged in a calling which has for its prime purpose the rendering of a public service and your presence here is evidence that it is being maintained by force of organization and concerted opinion. I further believe that most of us, imperfectly though we may do it, do try to live up to those ideals which have given our profession its place in our society.

I am this year celebrating with a few other hardy survivors, the fifty-seventh anniversary of our graduation from law school and I can still affirm that, given the choice again, I would not choose any other profession. Even allowing for all of our human frailties and faults, which are many and with an isolated, selfish, crabby thoughtless exception or two, I still think that there is no better group of people to be a part of and to be associated with for a lifetime, than the members of our profession – people like you.
At one time, I thought of suggesting, because of the cheapening of the meaning of the word "professional" that we consider calling ourselves "amateurs." Now it is true that word also has gone through a considerable evolution from its original meaning. Bill O'Keefe, a former sports writer for the *Picayune*, once reported that he heard the legendary basketball coach, Adolph Rupp, castigating his players at half time and accusing them of playing like "amateurs" which, O'Keefe observed, was probably the worst epithet one could hurl at a modern big time college sports team.

But remember also the word originally referred to someone who engaged in an activity out of a love for it. And if anyone here does not truly love being a lawyer and fundamentally engage in it for that reason, he or she ought to head for the nearest exit, because you will have a miserable life. But, I have always thought that, like myself, most of you and our other colleagues love what we do and do it the best way we know how.

So it seems to me, in the final analysis about all we can do is to make certain that we ourselves strive to be professionals in the sense that we want others to be. Nor do I suggest that this is an easy goal to achieve, despite what the public may sometimes think. I have never lost a law suit, or in recent years, given a failing grade to a student, even when I knew the result was just or the grade deserved, without wondering whether the result might have been different had I worked a little harder or used a little better judgment.

Clients put pressure on us to do things we know we should not do. We are faced with the perennial problem of paying the rent and supporting our families. We sometimes face the inducements of big fees to represent clients who just don't quite seem right, of pressure from partners and employers, judges and clients, family and friends who all want us to do more than we reasonably can accomplish and still maintain our own standards of care and performance. We are criticized for losing hopeless cases and for juries that acquit obviously guilty parties or give extreme verdicts. We are the constant butt of uncomplimentary jokes and the object of anger and frustration when we succeed in achieving justice in the face of fear and the desire for vengeance. But so it has always been.

About all I can say about the matter is to remember a strip from my favorite comic "Pogo" who, you may remember if you are old enough, was a "possum" living in the Okefenokee Swamp with a bunch of other critters. One day Churchy la Femme, the turtle, got his head stuck in his shell and couldn't get it out. Pogo and the others were terribly concerned. They poured oil down the hole on his head, without success, considered, but abandoned, the idea of blasting, and were at their wits end when Porky, the porcupine, happened along. Now Porky was a rather dour
character who would have made a good senior partner in any hundred member firm. Upon seeing him Pogo, hoping for some useful ideas, said: "Churchy has his head stuck in his shell and he's gonna starve, if he can't get it out."

Porky's only response was: "Well, he shouldn't have took up turtling if he couldn't handle the job."

That's about all I can say about professionalism – if you want to be a lawyer – as a lawyer ought to be – then be one.