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COMMENCEMENT ADDRESS 1982*

*Patricia M. Wald***

I feel humble today, addressing a generation of lawyers thirty years younger than mine. Every generation of lawyers must find its own way, define its own crises and resolve or succumb to them, make its own contribution to the life of the law and move on. Now may be the only time you will have to reflect on your coming life in the law, before the terrible pressures of everyday lawyering and the terrible demands of everyday living close in.

What does it mean to be a lawyer? Are we so different, at best, from good plumbers, or carpenters, or mechanics plying an honest trade; are we just hired guns or advance men for the real power elite, our clients? In my legal lifetime, which has spanned McCarthyism, the Civil Rights Movement, the Vietnam War, Watergate, and the New Conservatism of the 1980's, I have found that the questions constantly change, the answers shift. For most of you, lawyering will be your *only* career; if you have an effect on the times you live in, it will be through your skills, dedication, and choices as a lawyer.

History has treated our profession unevenly—and often cruelly. Recall the temple scribes denounced by Jesus in the Bible; remember His words in St. Luke, chapter 11, verse 52:

Woe unto you, lawyers! for ye have taken away the key of knowledge: ye entered not in yourselves, and them that were entering in ye hindered.¹

In Anglo-Saxon England, we find little trace of a legal profession at all. Only after 1066 did advocates begin to appear in place of the called-to-account subjects of the king and in typical lawyer fashion gradually gain a *monopoly* in the tribunals of justice.² By Shakespeare's time, a character,

* This address was delivered as the Commencement Address at the Columbus School of Law, The Catholic University of America on May 22, 1982. The text appears substantially as delivered.

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1. *Luke* 11:52 (King James).

2. See R. POUND, *THE LAWYER FROM ANTIQUITY TO MODERN TIMES* 77-93 (1953); T. PLUCKNETT, *A CONCISE HISTORY OF THE COMMON LAW* 224-30 (5th ed. 1956).

albeit a nasty one, in Henry VI, part 2 proclaimed: "The first thing we do, let's kill all the lawyers."³ And Hamlet's famous graveyard soliloquy included the lament:

Why may not that be the skull of a lawyer? Where be his quiddities now, his quillities, his cases, his tenures, and his tricks?⁴

In early Colonial America, there were few, if any, professional lawyers. Some colonies forbade the practice of law altogether; the ban continued in some post-revolution states. A century later, frontier justice went through much the same evolution.⁵

Despite our own enormous self-esteem, we have *not* been beloved through history. In nineteenth century America, the legal profession took on a highly individualistic, market-oriented gloss. It was assumed that the good of the profession and its members would be accomplished best by pursuing gains for clients through mastery and exploitation of the laws and the legal process. The advocate bore no responsibility for the result so long as he (it was a *he* then) advanced his client's cause in any *lawful* way. The bar was an ancillary service industry for emerging business.⁶ In 1888, Lord Bryce decried its inability to deal with the overriding political and social issues of the times.⁷ In 1905, Louis Brandeis echoed the same sad theme: the bar's unwillingness to assume its fair share of responsibility for the public interest.⁸ Carl Sandburg wrote bitterly:

Why is there always a secret singing
When a lawyer cashes in?
Why does a hearse horse snicker
Hauling a lawyer away?⁹

The early twentieth century reforms in child labor and working conditions, and the later New Deal social programs came from the legislatures,

3. W. SHAKESPEARE, *THE SECOND PART OF HENRY VI*, Act IV, Scene 2, line 70 (The Complete Pelican Shakespeare, rev. ed. 1969).

4. W. SHAKESPEARE, *HAMLET, PRINCE OF DENMARK*, Act V, Scene 1, lines 91-93 (The Complete Pelican Shakespeare, rev. ed. 1969).

5. See R. POUND, *supra* note 2, at 129-74. See also LAW AND AUTHORITY IN COLONIAL AMERICA (G.A. Billias ed. 1965); Dennis Nolan, in his collection of essays on the history of the American legal profession, has described this period as "The Seventeenth Century American Colonies: Law Without Lawyers?" See READINGS IN THE HISTORY OF THE AMERICAN LEGAL PROFESSION 31 (D. Nolan ed. 1980).

6. For a comprehensive account of the 19th century American legal profession see L. FRIEDMAN, *A HISTORY OF AMERICAN LAW* 293-566 (1973).

7. F. MARKS WITH K. LESWING & B. FORTINSKY, *THE LAWYER, THE PUBLIC, AND PROFESSIONAL RESPONSIBILITY* 27-28 (1972) (citing LORD BRYCE, *THE AMERICAN COMMONWEALTH* 673-76 (MacMillan ed. 1917)).

8. *Id.* at 28-30 (citing L. BRANDEIS, *BUSINESS—A PROFESSION* 321, 323 (1914)).

9. C. SANDBURG, *The Lawyers Know Too Much*, *SELECTED POEMS OF CARL SANDBURG* 199 (R. West ed. 1954).

not the courts.¹⁰ In fact, it was the activist intervention of the courts which for a time threatened their survival. In the 1930's and 1940's, a new kind of lawyer emerged—the government lawyer whose job was to implement new legal reforms, who worked in theory not for a single client, but for the people of the United States. More often than not, he (and gradually *she*) confronted the private lawyer in court or in the legislative corridors.

I do not want to seem preoccupied with the selfishness of our profession. Legends of generosity and heroism have always been part of our tradition: John Adams' passionate defense of the British soldiers accused of murder in the Boston Massacre—the original unpopular clients; Charles Evans Hughes' representation of Socialist legislators denied seats in the New York Assembly in 1920 at the height of the Anti-Red hysteria;¹¹ Clarence Darrow's defiant courage in the Scopes trial;¹² de Tocqueville's prophetic comment in 1835: "There is hardly a political question in the United States which does not sooner or later turn into a judicial one."¹³

Within my own era, the 1950's-1980's, came the legal services program in which—not incidentally—the Columbus School of Law's contribution of talent and resources was enormous; your former Dean, E. Clinton Bamberger, Jr., was the *first* Director of the Office of Economic Opportunity's Legal Services Program. We saw the emergence of public interest lawyers, who perceived their role as dauntless Davids facing the Goliaths of big law firms, big business and big government. It was a shock for many idealistic career government lawyers who had entered the public sector in the 1930's to find themselves the burnt-out foes of the young idealists of the 1970's and the tyrannical enemies of the young conservatives of the 1980's.

Yet, in the decades between 1930 and 1980, major agencies of government *did* take on many of the most disconcerting characteristics of the institutions they came to regulate—rigidly bureaucratized, mindlessly hier-

10. The Fair Labor Standards Act of 1938, ch. 676, 52 Stat. 1060 (1938) (codified as amended at 29 U.S.C. §§ 201-219 (1976)), for example, prescribed minimum wage rates, discouraged "overtime" employment by requiring premium rates for overtime work, and prohibited the use of child labor. Similarly, the Public Contracts (Walsh-Healey) Act of 1936 required government contractors to meet specified wage, hour, and child labor standards, 49 Stat. 2036 (1936) (codified as amended at 41 U.S.C. §§ 35-45 (1976)).

11. For an account of Hughes' defense of five Socialist Party legislators before a specially appointed committee of the New York General Assembly, see I M. PUSEY, CHARLES EVANS HUGHES 391-93 (1951).

12. *See Scopes v. State*, 152 Tenn. 424, 278 S.W. 57 (1925). The court of appeals upheld Scopes' conviction, but reversed the trial judge's imposition of a \$100 fine. *See Scopes v. State*, 154 Tenn. 105, 289 S.W. 363 (1927).

13. A. DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 270 (J. Mayer ed. 1969).

archical, impervious to change or to “people’s” concerns.¹⁴ For young lawyers disillusioned with both private practice and government service, public interest law promised a dynamic, idealistic option. They brought class actions to reform rigid institutions—for consumers, not producers; for environmentalists, not industrialists. They demanded real structural changes in our educational, mental health and health care systems. They employed “big case” tactics: probing discovery and depositions, extensive factual investigations, all-out trials and complex decrees involving years—decades—to implement.¹⁵ Closely allied to the public interest lawyers were the special movement lawyers—for blacks, Hispanics, migrants, women, children, the handicapped, the mentally ill and developmentally disabled, every heretofore forgotten minority.¹⁶ They *identified* with their clients’ causes, intimately plunged into the strategy and merits of their clients’ cases. For a period, at least, they shook the legal terrain. Often they fought both big business and big government, and they won enough times to make it a very heavy and heady scene. A few weeks ago, “summing up” the post-war years in the New York Times Magazine, Teddy White wrote: “By the early 1970’s . . . it had become quite clear that for people who sought a new social or political goal, it was far more efficient to go to the courts than to go to the voters or move through Congress”¹⁷

Yet their triumphs were often short-lived. By the 1980’s, most public interest pioneers were gone; the survivors struggled in a system that now considered them counterproductive, or worse, boring. Today, public interest lawyers, who are generally paid through foundation grants, retain only a fraction of their numbers and influence of a decade ago; civil rights advocates appear to be fighting more losing than winning battles; the Legal Services Corporation battles extinction.¹⁸

Your generation of lawyers will determine if *my* generation’s innovations were misbegotten, badly structured, overblown, transitory—or worth modernizing, updating, and preserving. You will decide what to keep, what to improve, what to salvage, what to fight for and what to discard. But your generation cannot simply draw on mine; you must set your own

14. See THE CRISIS OF THE REGULATORY COMMISSIONS (P. MacAvoy ed. 1970); ABA COMMISSION ON LAW AND ECONOMY, FEDERAL REGULATION, ROADS TO REFORM (1979).

15. See Rabin, *Lawyers for Social Change: Perspectives on Public Interest Law*, 28 STAN. L. REV. 207 (1976).

16. Among the advocacy groups constituting these “special movement lawyers” are the American Civil Liberties Union, the NAACP Legal Defense and Education Fund, the Environmental Defense Fund, the National Welfare Rights Organization, and the Children’s Defense Fund. See also B. WEISBROD, PUBLIC INTEREST LAW (1978).

17. See White, *Summing Up*, N.Y. Times, Apr. 25, 1982, § 6 (Magazine), at 42.

18. See Cramton, *Why Legal Services for the Poor?*, 68 A.B.A. J. 550 (1982).

agenda and succeed or fail in solving the problems you define for your time.

Oliver Wendell Holmes Junior said: "I think that, as life is action and passion, it is required of a man [or woman] that he should share the passion and action of his time at peril of being judged not to have lived."¹⁹ Avoid the action and passion of your *times* and you face the same peril.

Only a few of you will spend your entire lives as lawyers in the service of the poor or downtrodden, or as the indefatigable advocates of some special human or political causes. Several years ago, your former dean, Clinton Bamberger, urged graduating lawyers to devote themselves to peoples' law. He spoke of two sectors of the bar—law firms that serve impersonal institutions of wealth and power, and lawyers who serve people.²⁰ The first he found to be "as did life to despondent Hamlet, 'weary, stale, and unprofitable'" (in a human sense);²¹ the second like "walk[ing] against the wind," "more strenuous, more difficult, more demanding and more compensating" than any other kind of lawyering.²² He said:

Banks that lose cases don't cry or bleed. There's not much exultation either. Corporations that win merger battles don't smile, and hug, and love. Except for the joy of the craft there's not much satisfaction, and that joy is rarer. Narrow specialization which confines the craft to nine paragraphs of the Internal Revenue Code stretches the joy too thin to feel.²³

Those are the words of a rare man whose idealism through twenty years has not flagged. We are not all so heroic; my advice is more modest. Many, if not most of you, *will* end up in private practice, probably a large portion of the time working for institutional clients. But this *should* not and *does* not mean that your life in the law cannot be a source of immense good, not just to your clients, but to the profession and to the role of law in our society. Through the *quality* of your work, through the *ethical* standards you set for yourself, your colleagues, and even your clients, through the personal commitment you make to pro bono work, and through the efforts you make to resist and repel the corruption of our profession and to preserve those timeless values that have made the legal system the bedrock

19. O. HOLMES, "MEMORIAL DAY," THE OCCASIONAL SPEECHES OF JUSTICE OLIVER WENDELL HOLMES 6-7 (M. Howe ed. 1962).

20. Address by E. Clinton Bamberger, Jr., University of Pennsylvania School of Law Commencement (May 18, 1981).

21. *Id.* at 1, 8 (quoting HAMLET, PRINCE OF DENMARK *supra* note 4, Act I, scene 2, line 133).

22. Address, *supra* note 20, at 11.

23. *Id.* at 8.

of our democratic society, you *can* make a lasting contribution, wherever you practice law.

It is an ancient truism that we are "a government of laws, and not of men."²⁴ The creators and the guardians of our laws are lawyers. They codify the standards society agrees on, formulating rules which regulate the way people deal with each other in a multitude of situations. The precision with which our laws specify those rules determines the orderliness, the civility, and the *survivability* of society. The fairness with which our laws are administered determines our capacity to govern. The future is shaped by the sensitivity and flexibility of our laws to meet changing circumstances and newly emerging problems. In making and applying our laws, lawyers define our society.

Lawmaking is both an exhilarating and a dangerous business. Ways of doing things—in commerce, in the workplace, in the home—must be abstracted, conceptualized, and reduced to a formula of words—words that identify the goals of regulation, the proper uses of regulation, the targets of regulation, the escape hatches from regulation. My colleague, David Bazelon, recently said: "[t]he concept of law as an ideal implies the capacity of human societies to shape their own reality through the sheer power of words."²⁵ Laws govern what police can do with suspects;²⁶ how strip mining may be conducted;²⁷ what rates of return a sagging railroad industry or public utility can charge;²⁸ how people will be picked for government jobs.²⁹ Right now we hear rendered again and again a strident chorus: "We are overgoverned, overprotected, overregulated, overlawyered"—and there is some truth in it. But when we consider the purpose of law—governing the incredibly complex and powerful forces that everywhere intersect our lives: nuclear power, transportation beyond the speed of sound, telecommunications and data transmission, energy ventures, industrial waste, urban blight, pollution of our air, water and soil, contamination of our food—the issue can never be *whether* to have laws but only *what kind* of laws.

So we must have lawyers, like it or not. They conceive the laws; they

24. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163 (1803).

25. Address by David L. Bazelon, University of Haifa, Haifa, Israel 2 (March 29-April 5, 1982) (available from the Catholic University Law Review).

26. *See, e.g., Miranda v. Arizona*, 384 U.S. 436 (1966).

27. *See* The Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, 91 Stat. 445 (codified at 30 U.S.C. § 1201 (Supp. I 1977)).

28. *See State v. Pennsylvania R.R.*, 324 U.S. 439 (1945); *see also FPC v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

29. *See* The Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111 (codified in scattered sections of 5 U.S.C. (Supp. II 1978)).

draft the laws; they administer the laws; they attack the laws; they defend the laws. Thus every lawyer who participates in the process must ask himself: "Do I have a responsibility to a society based upon *law* beyond my clients' or constituents' special interests?" If our answer is other than an unequivocal "yes," we court disaster; indeed, we assure it.

Laws are made to contain and resolve conflicts. But if the people feel laws are selfishly motivated, inherently unfair, arbitrarily applied or selectively enforced, they will settle their conflicts outside the law—peacefully on occasion but ultimately with violence. Those of us who have lived through the last three decades have learned this well.

Lawyers dominate the process of lawmaking; they are in reality the process. If the name of the game is statesmanship, but the game itself is manipulation, dissembling, obstructionism, intimidation, camouflage, and disguise, we are in deep trouble. Our profession certainly is in danger; worse still, our nation itself is in jeopardy. Badly conceived and executed laws generate mischief, misery and, ultimately, grief.

Our lawmaking processes provide the final civilized forum for resolving society's dilemmas: how to deal with our poor, our elderly, our under-classes, our disabled; how to keep business flourishing while protecting consumers from unconscionable exploitation; how to preserve national security without disarming its critics; how to maintain our martial strength and civil freedom. Our laws do not just articulate common values; they bind us to them.

Thus, to you, will fall the perilous task of preserving this heritage of a law-governed society and the integrity of the process by which those laws are made and applied. In that role, words will become both your greatest ally and most devious foe. Lawyers write the words that compose the laws, laws that flood our courts with issues of interpretation and proper construction. We are told to hold with the "plain meaning" or "plain language" of the statutes, but in too many cases the meaning and the language are far from plain. The syntax is convoluted; surplusage and redundancy abound; participles dangle, phrases twist aimlessly in the wind. Litigants and courts wrangle interminably about what the drafters intended. But I am afraid the problem often arises because the lawyer-draftsman did not know how to express a meaning in precise language. Not many law schools teach simply writing, let alone legislative drafting. They should. Statutes dominate our law today—much more so than common law case-by-case jurisprudence. In writing laws, lawyers have a craftsman's responsibility to think and write clearly so as to leave as little doubt as possible about what the law means.

My old law school professor, Fred Rodell, wrote some fifty years ago:

Dealing in words is a dangerous business Dealing in long, vague, fuzzy-meaning words is even more dangerous business, and most of the words The Law deals in are long and vague and fuzzy. Making a habit of applying long, vague, fuzzy, general words to specific things and facts is perhaps the most dangerous of all, and The Law does that, too.³⁰

The purpose of language *is not* yet, thank God, to convey ideas from machine to machine, but from person to person. The best language conveys ideas clearly and completely. The language of the law seems often designed to confuse and muddle the ideas it purports to embody. Precision in words and precision in thought are partners. We see too little talent for either among even our brightest young lawyers who may well end up making and drafting our laws. There is no substitute for the hard-hewn skills of lawyering—rigor, logic, practical sense, exact thought, clear language. The less prestigious or powerful your client, the more you and he and our legal system generally need those skills. The road to legal limbo is paved with good intentions, sloppily articulated.

Allow me, too, the parochial admonition that as lawyers you owe a profound and continuing duty to the judicial system—to treat the courts as a rare and irreplaceable resource not to be wasted on minutiae, foolishness or pettiness that can and ought to be settled elsewhere. Every day in our federal courts we see lawsuits that would never have been brought if there were even a modicum of common sense, good will and concern for the system. I might note that the government is as guilty in this as private parties. It is a natural instinct of lawyers to preserve their investment of time and energy in disputes, whatever the cost to the system. But the extra billable hour to the lawyer means many extra unbillable hours to the judge, the court clerk, and the litigant next in line. A ten percent chance of success may be enough for the client, but these marginal lawsuits are strangling our judicial system.

Too many lawyers operate according to unsettling ground rules: find some theory or argument to backstop the client's position no matter how it contorts the law. Maybe it will get by, or fool some judge, at least long enough to reach a settlement. Go ahead and file a complaint, and later perhaps something will show up in discovery. Take an appeal, buy time, make the argument—no matter how ridiculous—and let the judge decide. Use the courts for strategic business reasons: file a lawsuit to gain time to play the market; or, file a lawsuit to let off steam because a client or an

30. F. RODELL, *WOE UNTO YOU, LAWYERS!* 39 (Berkeley ed. 1980).

employee or a competitor is mad about losing a business deal or over any one of the thousands of inequities that affront us every day. Life isn't fair, but the answer isn't always in a lawsuit. One of the most promising recent social developments is the indication that more and more people believe positively that legal action is not at all the solution of choice.

Still, the courts remain overrun, and justice suffers. Money should not define a litigant's place in the line for justice, but, unfortunately, it now does. That surely is something for your generation of lawyers to work on. Real legal wrongs need to be remedied promptly. Today the glut in our courts blocks that goal. We can only reverse the process by instilling in our lawyers a measure of tolerance and self-restraint to keep trivia from paralyzing the courts.

Thus, I send you no grandiose message about devoting your life selflessly to public service (God forbid; some of the most intransigent enemies of progress are, in their own eyes, the vigilantes of right and rectitude). I happen to think, if feasible, a lawyer's life should include both private and public work. I do not suggest you serve poor people forever; it is rewarding but it is also immensely draining. I suggest rather, whatever job you undertake, you remember you are part of an honored if flawed profession. You can do much to brighten the honors and correct the flaws. Lawyers in my time took on the causes of the poor and criminally defenseless, the civil rights activists of the sixties, even the left-wing sympathizers of the fifties. If you, in your time, are unwilling to hold out a hand to the un-touchables of your time, who will? Eugene Rostow said it simply and eloquently: "Without independent lawyers, capable of asserting the claims of the law in the courtroom without fear of reprisal, our legal system cannot be true to itself, and cannot hope in the long run to meet its basic social duties."³¹

John Kennedy used to quote the Chinese curse—"May you live in interesting times." You will, have no fear, interesting and frustrating and thrilling and terrifying times. There are those who would face the new problems by a return to old ways, ignore the halting—often unsuccessful—efforts of the past thirty years by redefining the problems themselves out of existence, retrenching into a turn-of-the-century world (that never really was) of white clapboard houses, village greens, chicken every Sunday, docile, obedient teenagers in jackets and ties and lace petticoats. Of course there are good things worth preserving from that earlier time, but there are good things, too, worth preserving out of the decades just past. In the rush to imprint a judgment of failure on all of those years and all of those ef-

31. E. ROSTOW, *THE IDEAL IN LAW* 148 (1978).

forts to do something, I hope that your generation of lawyers and leaders will be the true conservatives, selectively saving the real gains, acknowledging the signs that progress has been made, and doing at least some of the same things, but doing them better.

The unfinished work is monumental. The complex and explosive debate over how we control—without disabling—our economy is yet unresolved in the Congress. The poor are still with us, still exploited and neglected; so are battered children and women, forgotten old people, the homeless, jobless, sick, undernourished, and unloved; our prisons get bigger, more crowded, and more inhumane. Compassion cannot be allowed to go out of style, especially for lawyers.

I must admit that many of us who were a part of efforts to improve the lot of the poor, the aged, women, children, the mentally ill and retarded, to make the criminal justice or economic systems or our politics a little fairer, now look back and wonder if that effort was worthwhile; wonder whether the timid first steps we took, toward racial, sexual and personal equality, juvenile justice, and prison reform, whether the fragile structures we built and now see being ripped down around us weren't a gigantic waste of our productive years, better spent at making money to trickle down, or to invest up into the supply-side of the market.³² These reflections are in part what curb my envy for your youth. Like us, you will make mistakes, you will spend your precious guts on causes that lose appeal, programs that flounder, and processes that backfire. You will misdiagnose and mistreat social ills. Maybe you too will get "burnt out"—a fashionable syndrome of our time—and wonder why, or for what? The pendulum will swing many times during your lifetime—on subjects such as political parties and ideologies, economic and social theories, art, books, fashion, and cults, and each swing will carry with it some part of your life's blood and energies.

We already know that the activism of the sixties and early seventies will not be the model for the eighties. If there is one certain fact of life today, it is the rejection of the political and social techniques of one generation by the next. Your job will be to redesign the processes of democracy as you preserve its substance in an era when big money, intrusive media, runaway technology and restrictive ideologies can swiftly overwhelm you. Now is the time for all good skeptics to come to the aid of their country. I would counsel you to doubt that any ideology has all the answers, that any single political, social or even moral viewpoint has the right to pass judgment on the most intimate thoughts and actions of the rest of us. Humility and

32. See *THE RELEVANT LAWYERS* (A. Ginger ed. 1972). See also S. SCHEINGOLD, *THE POLITICS OF RIGHTS: LAWYERS, PUBLIC POLICY, AND POLITICAL CHANGE* (1974).

caution are not to be confused with weakness; the rhetoric of righteousness and arrogance too often masks the voice of hypocrisy that chants: "Do not look at what we do—only listen to what we say."

It's your country and your legal system, the only one you've got, and, if you're going to get out and run it, confront injustice, press for change, you're going to need patience and toughness and tolerance and, most of all, durability. There will be periods—and they may seem interminable—when you and your deepest convictions will be out of sync with the times—when, as now, talk of compassion, human dignity, personal liberty, privacy, mutual respect and justice may seem unfashionable, even faintly subversive, when the temptation to retreat into your own life, lick your wounds, and let them have their way, or, worse still, to join the group and run always with the pack, will seem irresistible. It takes strength and endurance to live through it and keep going, to build and preserve and to survive in bad times as well as good.

Allow me a final sexist diversion: the women among you will forge new patterns of career and motherhood (I do not want to suggest that male graduates' lives will be the same as their fathers', either). Few will be immune from the frightening pangs of parenthood, the omnipresent feeling that you cannot be both parent and professional, the terror that the world and career will pass you by.

Family and career can interlock for twenty years—as many years again as you have lived. It is a tough, frustrating, sometimes destructive time. The price of failure is great in human terms. Our businesses and professions do not yet recognize and credit the relentless demands that life makes on women; they persist in talking about "choices" that no one should have to make. For all of you, men and women, no aspect of your lives will be more important than the middle years with your families and the way your careers support or corrode those relationships. Professional life, once the province of workaholic men and the wives and children they neglected or abandoned along the way, now has its counterpart population of women performing the same rite. The novitiate bent over the account books until three a.m. is just as likely a she as a he nowadays. Has she the patience to wait five years to enter the corporate scramble, or lose five rungs on the bureaucratic ladder, for the sake of her child? Whether one chooses to stay home for several years or to return to work almost immediately, the amount of time, energy, and emotional commitment children need from their parents is limitless and all-consuming. The balance that must be struck is different for everyone, but, for those who choose to drop out for a while, great patience, tolerance and self-subordination is required. My

only words to those of you who choose that course are, it can be done, it has been done, and I believe it is worth doing. I know few women who consciously made the choice who have not caught up with their peers and, more significantly, none who regretted the choice. The time is not wasted from a professional view; and certainly not from a human point of view. As women enter the mainstream of public and commercial life in increasing numbers, they need not clone the working habits and the personal traits of men who came before them. There are new career patterns and personal relationships your generation has to forge to conserve the gains women have made in the last decade without sacrificing the best parts of family life. You can build your own career ladders; you need not always climb the ones others have left in place.

As you grow older, you will, I think, tend more and more to trust your gut-instincts about what to do with your life, for example, going somewhere else when your spouse's opportunity is golden and yours is only brass. It is harder now than in my time. The stereotype of the successful couple—one worldly achiever, one loyal house-bound supporter—is no longer true. Both partners, now, want to achieve some; both have to support some. Sometimes I think the women's movement has concentrated too much on its superstars and achievers—by career standards—and not enough on the balances that must be drawn for women between the vital roles they play as wives and mothers and the need and right they have to participate in and contribute to the world around them.

Our profession, we are constantly reminded, is among the best paid not only in money but in power and ego-tripping. And at this point, the problems of men and women converge. We have yet to solve the equation of the decent human being and the competent and successful professional. My generation of lawyers may be beyond redemption, but a lot of the young lawyers seem to be blowing it, too. Lawyers should be the last Renaissance men and women—instead, they show promise of being the new technocratic drones. The law is a system for the solution of human and social problems; if the people who command that system fail themselves to meet the test of humanity, the system fails.

What our country needs from its lawyers is what my first boss, Judge Jerome Frank, called "patient genius": the talent to select worthy commitments and stick them out.³³ The dedicated and persistent inherit not only the law, but life. In this fine law school, you are "well begun." I hope you all now go forward from these auspicious beginnings to spectacular success.

33. Frank, Book Review, 61 *YALE L.J.* 1108 (1952).