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A LAW PROFESSOR ON BEING *FASHIONED*

Randy Lee*

Many who teach legal ethics insist that by the time a student reaches law school, it is too late to impact the student's moral fiber.¹ While I know and respect people who hold this view, I desperately hope that ultimately they turn out to be wrong. The position frightens me, and not only for the implications it has for me as a teacher. More profoundly, it frightens me for the implications it has for me as a person.

If one's character is set in stone by the time he reaches the age of twenty-two, then necessarily, I must be the same moral being I was twenty-four years ago when I was twenty-two. Even more sobering is the prospect that twenty-four years from now, I will be no better nor any wiser at seventy than I am today. I anticipate that it would be most difficult for me to live with myself as I am for two decades, or even more profoundly to live for half-a-century with the person I was at twenty-two. Rightly or wrongly, I have embraced the position that one can teach old dogs new tricks, and even the moral character of law professors can be improved. As C.S. Lewis's Puddleglum might say, this view may be no more than made-up, but if it is, then perhaps "the made-up things seem a good deal more important than the real ones."²

* Professor of Law, Widener University School of Law Harrisburg campus. This piece is dedicated to the author's multitude of mentors, professors, friends, coworkers, students, and family, who believe that I can be made better, but embrace me as I am.

¹ See, e.g., Edward D. Re, *The Profession of the Law*, 15 ST. JOHN'S J. LEGAL COMMENT. 109, 129 (2000) ("Although character is formed in the students' earlier years, nevertheless, ethical questions that arise in the practice of law, and the temptations to which lawyers are subjected in their practice, should also be presented, discussed and 'taught' in law school."). For further recognition of the prevalence of this view, see MARY ANN GLENDON, *A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY* 241 (1994); Thomas M. Mengler, *What's Faith Got To Do With It? (With Apologies to Tina Turner)*, 35 U. TOL. L. REV. 145, 147 (2003).

² C.S. LEWIS, *THE SILVER CHAIR* 182 (Scholastic ed. 1995).

If I am right that law professors can improve their character,³ then it follows that within a law school, professors are not only called to be models and mentors, but they are also called to open themselves up to be modeled and mentored too. They are called to see those they teach and those with whom they work as craftsmen called to form the law professor's character. As Saint John of the Cross put it:

[To] draw profit from every occurrence, you should think that all in the community are artisans—as indeed they are—present there in order to prove you; that some will fashion you with words, others by deeds and others with thoughts against you; and that in all this you must be submissive as is the statute to the craftsman who molds it, to the artist who paints it, and to the gilder who embellishes it.⁴

The most obvious mentors and models for law professors are other law professors. In my own career, I have had the good fortune to be fashioned by other law professors whose words, deeds, and thoughts have molded, painted, and embellished me. One learns to be gracious by watching graciousness and listening with the deepest level of interest to the thoughts of another. One learns to be fair and objective by hearing arguments that seek after truth more than power. One learns to care about the next generation of practitioners of one's craft when one recognizes that members of the previous generation took time to care about one's self. Thus, one learns best to be a law professor well by having the opportunity to interact with other law professors who practice our craft at the highest level.

Antoine de Saint-Exupéry recognized as much about pilots when he observed that pilots learn fellowship, courage, determination, responsibility, and a love of craft by watching other

³ For affirmation that even law professors can improve, see Marjorie A. Silver, *Commitment and Responsibility: Modeling and Teaching Professionalism Pervasively*, 14 WIDENER L.J. 329 (2005).

⁴ SUSAN MUTO, WORDS OF WISDOM FOR OUR WORLD: THE PRECAUTIONS AND COUNSELS OF SAINT JOHN OF THE CROSS 55 (1996) (quoting The First Precaution Against Oneself and the Shrewdness of Sensuality of St. John of the Cross).

pilots.⁵ It is no less true for law professors than it is for pilots that it is only through the human relations engendered within our craft do we learn "to take pride in a victory won by one's comrades, . . . to feel, when setting one's stone, that one is contributing to the building of the world,"⁶ or to feel bound by ties of love to the fruits of our creation.⁷

Yet, the law professor's character is fashioned by many in his community rather than just by other law professors. The doctor and poet William Carlos Williams was known to observe that his patients "healed him,"⁸ and so it is with a teacher and her students. While we might be content to observe that they expand our imaginations,⁹ they can do more than that: They can expand our characters.

Dr. Robert Coles observed as much when he followed a then six-year-old Ruby Bridges through her experience integrating the New Orleans public schools.¹⁰ Certainly Ruby's teacher taught her "letters" and "numbers,"¹¹ but as the teacher watched Ruby pass each day under federal guard through the angry mobs threatening Ruby's life and calling her "the worst names imaginable,"¹² the teacher observed the child's courage and came to realize that Ruby cared for and prayed for those who hated her, and the teacher, herself, came to appreciate the nature of character.¹³

Mentors like Ruby Bridges can be found within the classrooms of law professors as well. Several years ago, one of my students was diagnosed with an aggressive form of cancer. Fully

⁵ ANTOINE DE SAINT-EXUPÉRY, *WIND, SAND, AND STARS* 21-39 (Lewis Galantière trans., Time Reading Program spec. ed. 1965).

⁶ *Id.* at 38.

⁷ *Id.* at 39.

⁸ ROBERT COLES, *William Carlos Williams: A Doctor's Faith, a Poet's Faith*, in *HARVARD DIARY: REFLECTIONS ON THE SACRED AND THE SECULAR* 156, 157 (1990).

⁹ *Id.*

¹⁰ ROBERT COLES, *The Hero Without and Within*, in *HARVARD DIARY: REFLECTIONS ON THE SACRED AND THE SECULAR* 113-17 (1990) [hereinafter COLES, *The Hero Without and Within*].

¹¹ *Id.* at 114.

¹² *Id.* at 113.

¹³ *Id.* at 114.

aware of her prognosis, she chose to remain in school and literally race the disease to the bar. She died shortly after graduation.

As a regular member of the admissions committee, I had read many personal statements that represented that their authors would give their lives to be lawyers, but this student was the rare case called to live out the promise. Able to spend her final days with anyone doing anything, she chose to spend them with us at the law school pursuing a path the rest of us took too easily for granted. Even now, I continue to be fashioned by the statement her life made about her vision of the community of lawyers and the nature of the legal profession.

Our community of mentors does not stop, however, with the colleagues we emulate and the students we teach. Dr. Coles, himself a teacher at Harvard, would add that we may also be fashioned by those with whom we work who are not professors. In fact, Dr. Coles would count among his mentors a food server at Harvard with a particularly keen eye for character and human behavior.¹⁴

One might be tempted, however, to overlook those lessons to be learned from mentors outside our own profession. As Professor Richard Wasserstrom has observed, anyone, presumably even a law professor, who immerses herself in professional training and then emerges to participate in that profession, will come to believe that "she is a special kind of person, both different from and somewhat better than those nonprofessional members of the social order."¹⁵ Yet, when one remembers that the most valuable lessons to be learned often transcend the narrow focus of one's formal, professional training, it becomes much easier to embrace the modeling and mentoring opportunities that are provided by those

¹⁴ ROBERT COLES, *Teaching and Learning, Strutting and Conniving*, in HARVARD DIARY: REFLECTIONS ON THE SACRED AND THE SECULAR 201, 203-04 (1990).

¹⁵ Richard Wasserstrom, *Lawyers as Professionals: Some Moral Issues*, 5 HUM. RTS. 1, 18 (1975); see also Samuel J. Levine, *Professionalism Without Parochialism: Julius Henry Cohen, Rabbi Nachman of Breslov, and the Stories of Two Sons*, 71 FORDHAM L. REV. 1339, 1339-40 (2003) (describing the "parochial view of law as distinct from—and, in some sense, superior to—other occupations").

educators who, as Dr. Coles's mentor would put it, are least tempted to "sell themselves hard."¹⁶

Professor William Braithwaite has defined "genuine education" as "learning how to live, and learning how to live means learning how to distinguish the important from the trivial, the better from the worse, the permanent from the transient, the questions of paramount importance from those of passing interest."¹⁷ To embrace these lessons of a genuine education, one would be hard-pressed to have a better teacher than Cornelius Hobbs, for eighteen years a custodian and head custodian in the Bridgewater-Raritan, New Jersey Regional School District and the father of the law professor Steven Hobbs.¹⁸ When he retired, coworkers recalled Mr. Hobbs's "commitment to faithful service (loyalty) and high standards of job performance (competence)."¹⁹ They also recognized how Mr. Hobbs had

supervised his professional staff, encouraging their growth and development and ability to exercise initiative (independent professional judgment). Many commented on the fact that he always had a cheery hello or good morning for both students and staff (civility). He went the extra mile to help the Parents Teachers Association succeed with its programs (zealousness). While not in his job description, some teachers shared personal matters with him and obtained pearls of wisdom (confidentiality).²⁰

Cornelius Hobbs had learned character "in the crucibles of life," having been fashioned in the fires of "a successful moving

¹⁶ COLES, *The Hero Without and Within*, *supra* note 10, at 204.

¹⁷ William T. Braithwaite, *Hearts and Minds: Can Professionalism Be Taught?*, 76 A.B.A. J. 70, 73 (1990); *see also* Thomas L. Shaffer, *On Being a Professional Elder*, 62 NOTRE DAME L. REV. 624, 629-30 (1987) (providing examples of "gentleman's morals" as "present and powerful in the professions").

¹⁸ Steven H. Hobbs, *The Lawyer's Duties of Confidentiality and Avoidance of Harm to Others: Lessons From Sunday School*, 66 FORDHAM L. REV. 1431, 1452 (1998). For a similarly compelling discussion of what a "simple" shoemaker might be able to teach lawyers about character, *see* Levine, *supra* note 15, at 1342-46.

¹⁹ Hobbs, *supra* note 18, at 1452.

²⁰ *Id.*

business which collapsed, significant periods of unemployment, critical illnesses, and several near-fatal car accidents. He wrestled with alcoholism, taming that demon" and kept it tame for decades.²¹ His had been a hard school, but he had emerged from it a wise and gentle teacher, and all who were smart enough to learn from him benefited from his example.

Perhaps, in the end, it is too late for me to be molded, painted, embellished, or even chiseled by the custodians, food service employees, secretaries, administrators, students, and law professors whom life puts in my path. Perhaps, in the end, it is too late for me to become any more than I am, and in this enterprise of self-improvement, I do no more than Puddleglum suggests, engage in a noble self-deception. But if it is too late for my character to be formed and fashioned, then, at least by paying close attention to those whose characters inspire feelings of awe, curiosity, and wonder,²² I may still learn to appreciate the light they bring to my world. And if it is not too late for me, then appreciation of that light may ultimately allow me to spend the remainder of my life living with a better person than I am today.

²¹ *Id.*

²² COLES, *The Hero Without and Within*, *supra* note 10, at 117.