

Albany Law Commencement Address, May 30, 1998

Gov. George E. Pataki, "More Law Versus Good Law"

Graduates, in the simplest possible terms, let me just say that you have my deepest respect. I've been where you've been. I know how difficult it is. I know how tired you are. And, above all, I know you want me to be brief. And I will be.

But please accept my sincere and heartfelt congratulations on a job well done. Today, you take the first step in what truly is a rewarding, honorable and exciting journey.

It's a journey that, throughout our history, has led great Americans to great destinations -- from the floors of courtrooms to the floor of Congress -- from small courthouses in rural communities to the White House in our nation's capital.

Of course, you must still undergo the small formality of taking that little exam. But now -- with the degree you have earned today -- you have officially crossed the threshold into the proud institution of law that has given America some of its greatest Presidents, patriots, guardians of truth and defenders of liberty and justice.

Yours is a noble calling -- a powerful force for good. Each of you has the ability and the opportunity to make it even more noble -- to make it an even more powerful force for good.

I am not overstating things one bit in saying that you have now come face to face with the opportunity to join ranks with those who have changed the course of world history. Having said that, I must confront you with this simple piece of reality: The legal profession has its critics. You probably didn't know that, but this is why I am here: To enlighten you.

Likewise, in 1977, the humorist Art Buchwald was asked to enlighten the graduating class of Catholic University's Columbus School of Law. Flattering his audience, he chose to do it with these words:

"It is an honorable calling you have chosen. As lawyers, you will see to it that whether you represent General Motors, Coca-Cola or the telephone company, the little fellow will get his day in court."

As a lawyer myself, I can tell you that this is the kind of humor you will be subjected to for the rest of your life. And since it is customary in commencement addresses to give advice, my advice is: Get used to it. Learn to laugh about it. And most importantly, do your part to make it invalid. And it is invalid.

I truly believe that those of you who decided early in life to pursue a career in law share a unique quality. It's a genuine sense of purpose — a willingness to fight for deeply held principles, and a strong inner desire to use the law as an instrument to improve the world we live in.

Most doctors would accuse me of being foolishly naive on that point. That's because, with the possible exception of used car salesmen, lawyers -- and, yes, politicians -- are the targets of more cynicism than any other profession.

And although this cynicism produces jokes that are actually quite amusing, it is by no means entirely benign. For it suggests that good people are driven by bad intentions. I was not inspired into public service by Spiro Agnew. And I don't believe for a moment that you chose a career in law because of something you witnessed in the Simpson trial.

More than likely, you came here full of idealism, believing that there is a just cause worth defending or fighting for. Hold tight to that idealism. Never lose sight of the sense of purpose that guided you here.

When confronted with cynicism, remind the cynic that it was a lawyer who ended segregation.

Remind the cynic that it was a lawyer who wrote: "We hold these truths to be self-evident -- that all men are created equal..."

Remind the cynic that your profession is the one that produced Abraham Lincoln.

And if that doesn't work, sue the cynic for slander.

Like Lincoln, each of you has the ability and the opportunity to use law for the greater good of human kind. The philosophy he brought to the legal profession is consistent with an important point I'd like to make today.

One of the reasons Lincoln was a great lawyer, a great president and a great American is because he had the wisdom to recognize the importance of being a great arbiter.

When a law student asked Lincoln for some words of advice, Lincoln told the young man: "Discourage litigation. Persuade your neighbor to compromise whenever you can. As a peacemaker, the lawyer has a superior opportunity of being a good person. There will still be business enough."

A century-and-a-half later, I not only believe that Lincoln's advice still has merit, I believe it has more merit than ever. I say that for the simple reason that we have far more laws today than we did 150 years ago -- far more laws, far more complex laws and far more litigation.

And although many of those laws have improved our lives and strengthened our society, a great number of them have had the opposite effect. They have perpetuated unnecessary litigation, which in turn has fueled public cynicism.

My view is that the legal profession -- and society as a whole -- would be better off if politicians — not lawyers, but lawmakers -- abandoned the old mantra that says: If some

law is good, more law is better.

A few years back, there was a letter in the newspaper from a woman. She was criticizing her local Congressman for his stand on a particular issue. Several days later, the Congressman wrote a letter of response.

He defended himself against the criticism by pointing out that he had sponsored more than 45 separate pieces of legislation in just one year -- and 32 of those bills were signed into law. What he was saying -- in essence -- is that in a span of one year, he wrote 32 new rules and regulations that his constituents are now forced to obey.

If they fail to conform to the edicts he has imposed on them, they will be subject to the coercive power of government. And for this public service, the Congressman thought his constituents should be thankful.

In some cases, perhaps they should be. If the laws make their air cleaner, their streets safer, their schools better -- then yes, they should be thankful. But should they be thankful for the Connecticut law that says -- "In order for a pickle to be considered a pickle, it must bounce"?

Thomas Jefferson correctly pointed out that "The execution of laws is more important than the making of them." I would simply amend Jefferson's observation to say that the "the quality of laws is more important than the making of them."

Perhaps it is bold to take liberties with Jefferson's words -- no pun intended -- but Jefferson could not possibly have known that it would one day be illegal -- in the capital of his home state of Virginia -- to flip a coin to see who pays for coffee.

Theodore Roosevelt -- a lawyer and the President I admire most -- once said: "Where we permit the law to be defied or evaded... we are weakening the bonds of our civilization and increasing the chances of its overthrow"...

When he said that the defiance of law would lead to the overthrow of civilization, do you think he was referring to the Hartford law that makes it illegal to cross a street while walking on your hands?

They probably didn't teach you this here at Albany Law. But in New York State, it is against the law to throw a ball at someone's head for fun... Tell that to Armando Benitez of the Baltimore Orioles.

The defense strategy for this particular law seems fairly simple: "Your honor, my client admits throwing the ball at the plaintiff's head — but he insists he wasn't having fun."

Now, to some people, all of this may seem like harmless folly. But if all laws are created equal — and under the American system of justice they are — should these laws command the same degree of sanctity and respect as the law that

forbids murder?

In North Carolina, it is illegal to use elephants to plow cotton fields.

And in Baltimore, it is illegal to take a lion to the movies. From this we can draw at least one conclusion. At some point in Baltimore's otherwise rich history, some fool brought a lion into a movie theater, which prompted another fool to pass a law forbidding that practice in the future.

Granted, this and the other examples I've cited are at the far end of the absurdity spectrum. On this festive occasion, I have purposely avoided using horror stories to make my point -- which is that the proliferation of bad laws undermines the public's reverence for good laws.

I have no doubt that you will succeed in whatever you set out to do. I believe this because the caps and gowns you're wearing prove that a difficult and strenuous task is no match for the sheer strength of your determination.

But I'd like to leave you with a challenge. As you progress in your careers, you will be doing society and the legal profession a great service if you devote yourselves — as Lincoln, Jefferson and Roosevelt did — to being advocates of good law and not more law.

Embrace the moral spirit they brought to this profession, and the legacy they left behind.

Whenever you can, bring people together instead of pulling them apart.

Be guided only by the rule of law and the fundamental principles of right and wrong.

If you do that, the pride you feel today will sustain you throughout your careers and throughout your lives.

You leave here today with your idealism fresh and intact. Hold on to it.

Remain faithful to the deep principles and strong convictions that guided you here, for they are your greatest strength.

Not only will they allow you to overcome any degree of cynicism -- they are what will enable you to soar beyond the boundaries of even your own expectations and rise to the highest peaks of human fulfillment.

As a lawyer -- and as a Governor who is charged with ensuring that the laws of this state are enforced -- I have a deep and abiding respect for the legal profession. Today, I have faith in its future... because I have faith in you.

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