



Welcome To The Fairfax Law Foundation

Timothy J. McEvoy, President 2009-10

It has been said that jokes about people mask more deeply seated feelings about competition, fear, dominance and many other emotions. In this regard, everyone likes a lawyer joke, and few other brands of humor unite people of every political, religious and cultural background.

In more difficult times, the joking has turned dark to the point of violence. Most people have heard the Shakespeare quote “the first thing we do, let’s kill all the lawyers.” The line probably got a lot of laughs from the audience of *Henry VI, Part 2*, and it still does today. Yet the words were spoken by a character named Dick the Butcher, not Shakespeare. The Butcher was a follower of an anarchist named Jack Cade, and his attitude reflects the Shakespearean message that it is not necessary to change the law if one can simply eradicate those who labor long hours, and with care, to support the law’s just administration.

With a few tweaks and amendments, the Butcher’s formula has been employed in almost every modern totalitarian regime and in some that merely adopt totalitarian measures on an “as needed” basis. For example, the Nazis sought out and killed thousands of lawyers and other intellectuals upon the annexation of Poland in 1939. Proscription lists were prepared and these prominent thinkers were hunted down and executed. Reflect on this the next time someone asks “what’s better than 1000 dead lawyers at the bottom of the ocean”? Lawyers often inspire respect, sure, but there is also a disturbing and recurrent hostility that finds expression in these kinds of jokes.

The Founders of our way of life understood the role of private attorneys as well or better than the demagogues and dictators. Yet they ensured that this country would follow a different path. Among the great accomplishments of the Constitution is the Ninth Amendment. While it tends to get relatively little attention, it guarantees to American citizens all the rights that the original colonists enjoyed as English citizens – the proverbial “rights of Englishmen.” By adopting this catch-all Amendment, the Founders assured the new Americans that the federal government had no intention of stripping away any of the freedoms of private or commercial life that had been fully secured through revolution.

The unwritten and overlooked subtext of the Ninth Amendment is that it assumes an organized Bar. Stop and reflect on this too. A great many of those who contributed to or ratified the Constitution and its original Amendments were trained as attorneys. They clearly understood both the philosophical and practical ramifications associated with preserving all pre-existing common law rights. Philosophically, the preservation of rights

meant nothing without free and fair-minded attorneys and judges to enforce them. A private Bar was assumed as a basic underpinning of the American system at its most elemental level. Practically, litigation and legal wrangling were already well-established features of the American scene by the time of the American Revolution, and it is unlikely that anyone who benefitted from the legal system, through legal fees or otherwise, had any intention of limiting their financial potential through the Constitution.

More recently, the United States has been rocked by scandal after scandal exposing questionable, if not criminal, corporate ethics and decision-making. The list is long and well known, including ENRON and, more recently, a host of frauds related to mortgage-backed securities. In all cases, the law was either deliberately skirted or so desperately stretched that the line between legality and illegality became unclear. Some enriched themselves at the often heartbreaking expense of many others. In the wake of these events, educated observers have come to decry the decay of corporate ethics and the relativism that caused so many to lose their moral compass. On a world stage, and within the American public itself, these scandals have severely damaged respect for the rule of law in the United States.

No one is in a better place to change this trend than practicing attorneys and judges. As professionals, and as people who work for a living generally, we are rare in that we follow codes of ethics and are subject to discipline for violating them. We understand like no others what the “Rule of Law” means – or at least we better. Saying no to clients when they are tempted to follow an ill-advised course of conduct, observing discovery rules when no one is looking, and generally being civil to our professional brothers and sisters is where it all starts. Most of us understand this and care deeply to preserve our professional culture. Regrettably, however, we lawyers are often poor marketers of what we do. Jokes persist, at least in part, because the public does not fully grasp what we are about or why we care. The fault is almost entirely ours.

The essence of the Fairfax Law Foundation is to teach the public, and especially our children, what it means to have the Rule of Law. The Foundation has many well-established and incredibly valuable programs in place for this purpose. These include the Court Tour Program, which introduces local students to the court system, and *pro bono* programs that assist persons in need with fundamental legal issues like housing. The Foundation also supports programs to heighten awareness of its goals, among them the annual *Jazz for Justice* program at George Mason University and the newly-launched Stitt Cup, a volleyball tournament that honors the late Hon. David T. Stitt of the Fairfax Circuit Court bench. Just as there is not a particular groundswell of private support for attorneys, so there is not necessarily support for programs run by attorneys. Thus, it is incumbent on us to be the volunteers to make these programs work. If not as volunteers, then as financial supporters. Or both.

After all, if not us, then who? Please look up the Fairfax Law Foundation at www.fairfaxlawfoundation.org and consider a contribution of time or money to help advance our common professional and civic cause.

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