

Address

Presentation Ceremony for Graduates

Class of 2004

Norman Manley Law School

University of the West Indies, Mona, Jamaica

By

The Hon. Justice Adrian Saunders

Chief Justice [Ag.], Eastern Caribbean Supreme Court

Salutations ...

Congratulations to the class of 2004. You have weathered the storms of tests, exams and pop quizzes, stayed up late all night to meet deadlines and made do with inadequate funds to meet daily needs. In short, you have successfully completed student life, and you are here this afternoon on the threshold of your life as a legal practitioner. I know that at times, some of you may have been tempted, just as I was a little over 25 years ago, to give up. But you did not. So this afternoon, I say to you again, congratulations on your perseverance, your strength of character, and your discipline.

I know that there are many parents and guardians here as well. Without your tireless and unstinting support, this occasion would not have been possible for your loved ones. Behind every successful graduate is a parent ... often a heavily mortgaged parent, and in all cases a supportive parent ... So, I wish also to

applaud all the parents and guardians this evening. You deserve the profound gratitude of these former students.

Since 1975, this Norman Manley Law School has been producing men and women trained in the law, some of whom have made a sterling contribution not just to Caribbean society, but further afield as well. While we are extending plaudits, let us not forget this noble institution. May it continue to produce capable lawyers who are willing to use the skills learnt to make a difference in society.

The story is told of the law student who wrote on his exam paper, "Professor, if I had only an hour to live, I'd like to spend it in your class." The professor was quite flattered, but his thrill was somewhat short-lived, because on turning over the paper, he saw that the student had scrawled on the other side "That's because only you can make an hour seem an eternity."

I have no intention of addressing you for an hour, and I sincerely hope that no one here will consider the time we will spend together as an eternity.

It was on an occasion such as this that Dean Sullivan of Stanford Law School, in addressing a group of aspiring lawyers said to them, "Today is the turning point when you will cease studying law and start practicing it, stop simulating problems and start solving them, and stop paying for the law and having the law pay you."

I beg to differ on one significant point however. I would like to emphasise to you this afternoon that you won't ever stop studying law. If you do, it is the end of your law career. I do not know of any competent practising lawyer who can say that he or she has arrived at the point where it is no longer necessary to engage in the study of law. Marcus Tullius Cicero, the Roman author, orator and politician said that, "A mind without instruction can no more bear fruit than can a field, however fertile, without cultivation."

As society is dynamic and evolving, so too the law is dynamic and evolving. It changes. Globalization, the rapid revolution in the management of information, and the prolific use of the Internet have further heightened the inherent need for continued education, posing as they do new and radical challenges for practitioners. In today's world, a practitioner - a successful practitioner - has to keep on studying, albeit not in a formal classroom setting. So you may be disappointed to learn that your years of study of the law are in fact not over. Your need to study the law has, from today, merely entered a new phase.

When I was invited to make this presentation, I was told that I was at liberty to select any topic or theme or approach for this address. At the time, we had at the Headquarters of the Eastern Caribbean Supreme Court two law students involved in our annual internship program. As I expect them to be among next year's graduates, I decided to inquire of them what they would like to see included in their graduation address. Their response was that they wanted practical pointers - nothing esoteric - rather, practical things that they could remember and use. And, they hoped that the speaker would be brief. I am

addressing your class, not theirs, but I figured that I would follow their lead and speak to you about the hallmarks of a good legal practitioner.

People become lawyers for all sorts of different reasons. I know that not a few persons consider law to be a profession that can afford one a comfortable standard of living, and for that reason, they choose to become lawyers. Well, it is true that some lawyers make a lot of money. But I want to caution you about your approach to the law and to financial gain. There are affluent lawyers and affluent lawyers. There are some lawyers who have considerable material wealth, but regrettably, the same persons, in the process, manage also to acquire awfully poor reputations. There are, however, lawyers who are comfortably well-off and reputable and who can be held up as role models for new practitioners.

The big question is, which kind of lawyer do you wish to be? My own experience has led me to believe that, in the practice of law, you risk having a poor reputation if your goal is to acquire wealth in the shortest possible time. On the other hand, if your goal is to be as thorough, as diligent, as reliable as you possibly can be, if your goal is to satisfy your clients in keeping with the best traditions of the law, then not only will you, ultimately, if not immediately, be well paid, but more importantly you will be assured of a sound reputation. A sound reputation is one of the hallmarks of a good legal practitioner.

Unfortunately, we live in a world where we often expect instant results, instant gratification, and too often I have seen new lawyers too impatient to drive that new Porsche, too impatient to live the life of the wealthy. Such impatience often

leads to unethical conduct. Unethical conduct inevitably leads to a poor reputation and once acquired, a poor reputation is one of the most difficult things to shake off even from one generation to the next.

A good name cannot be bought. The Book of Proverbs tells us that "A good name is rather to be chosen than great riches".

What about your reputation for civility? I am often disappointed when I see counsel being rude to witnesses. There is a world of difference between cross-examining and insulting a witness. By all means, it is sometimes necessary to be forceful, insistent and persistent, when questioning a witness, but all of this can be accomplished without sacrificing basic civility and being obnoxious.

Similarly, respect towards opposing counsel should not be ignored or slighted. Apart from being an ethical obligation, much dividend can be reaped, if this is adhered to. You may be surprised to learn that fellow counsel often serve as a major source of referrals for practitioners. Collegiality is important in forging and maintaining your network with fellow practitioners.

A good attorney is one who always has the client's interest at the forefront of his or her mind. What you say and do or fail to say and do will often determine the outcome of your client's case. The need to focus on your clients' best interest is imperative. Let it be written of you as the Gleaner wrote of the Rt. Hon. Norman Washington Manley at the conclusion of *Rex v Walker* (27 September 1926),

"Mr. Manley must be congratulated as a barrister on the persistent and brilliant fight he has made for the liberty as well as the life of Louise

Walker ... In a private case his remuneration would probably have been three or four times as much ... but if his remuneration had been ten times as much he could not have worked harder, more conscientiously, more brilliantly ..."

A good attorney is always prepared. I have seen many a lawyer enter the courtroom ill-prepared for adequate representation of their client to the detriment of their client. Preparation cannot be overemphasized. I refer again to Norman Washington Manley.

Vivian Blake in the foreword to Jackie Ranston's book, *Lawyer Manley: First Time Up*, Volume 1, writes:

"Norman Manley's career in the law was distinguished from the start. His painstaking and thorough research into every aspect of his cases, his meticulous analysis of all the relevant factors, his knowledge of human nature and his passion for the idea of the law all combined to make him a most complete and formidable advocate."

As new practitioners, you share the responsibility for changing the stereotypical views that lawyers are "tricksters" and "liars". Many jokes have been told at the expense of lawyers. I am sure that you have heard a few in your time. Sadly there are instances within the Caribbean, and world wide, where lawyers have been accused of misappropriating clients' funds, collecting fees and not doing the work for which they were commissioned, and in some cases, the accusations have been proved. It is incumbent on you to strive to perform your professional duties with honesty and transparency.

Unimpeachable integrity, candour, thoroughness , respect for judges, especially when they rule against you, respect for fellow practitioners and respect for all who work and function in the justice system are all hallmarks of a good, solid lawyer.

Lawyers of integrity are not only assets to their families and communities but also assets to the justice system. They inspire confidence in the justice system of which you, when admitted to practice, will be an officer.

I urge you to concentrate on practising the law with integrity and to the best of your ability. If you do so, financial reward will follow, in due course.

The Courts too must from time to time look at themselves, their reputation and their role in improving the administration of justice. The Eastern Caribbean Supreme Court started doing exactly this in the mid-nineties, and as a result, in 1996, embarked on a rigorous reform program. The three pillars of the Program are Procedural Reform, Administrative Reform and Judicial Quality Reform.

Many of you may already be familiar with our most significant procedural reforms to date which are embodied in our Civil Procedure Rules, 2000. One of the hallmarks of CPR 2000 is Mediation as an alternative dispute resolution mechanism. Court-connected Mediation programs are now up and running in Saint Lucia, the British Virgin Islands, Antigua and Grenada (but I am sure that you are all aware of the devastation in the latter territory, which will halt activities

for some time). Court-connected Mediation will come on-stream in the very near future in the other jurisdictions served by the Eastern Caribbean Supreme Court.

We are presently forging ahead with reforms of the administrative structures of our courts. We started with the Criminal Justice System. The Court currently has in place a Pilot Project in Saint Lucia with a view to eliminating the endemic delays that plague the system. Our research has shown that delay in the disposition of indictable matters is, in part, attributable to the Preliminary Inquiries held in the Magistrates' Courts. We are presently looking at doing away with the traditional form of Preliminary Inquiry and having all the steps in an indictable matter, except bail hearings, heard by a High Court judge and case-managed under judicial supervision.

Even more significantly, we have already taken steps in the context of the Pilot Project to unify the criminal courts. There will be a single administration dealing with summary and indictable matters, and all criminal matters will be case-managed.

Standards are being set and procedures are being put in place to achieve the goal of having summary trials held as early as 7 weeks but no later than 3 months after the complaint or charge is filed, and of having indictable matters completed as early as 3 months but no later than 6 months after the charge is filed.

The reforms will eventually see a unification of the civil and family divisions of our courts.

Our Judicial Quality Reforms can be seen in the establishment of our Judicial Education Institute and the orientation and continuing legal education programs it conducts for judges and other officers. We have also introduced new selection criteria and procedures for judges.

Judicial Quality and the other reforms will go a long way in assisting us in fulfilling our mission of "Delivery of justice independently by competent officers in a prompt, fair, efficient and effective manner."

But the court cannot do this alone. The justice system also includes attorneys. Attorneys must see themselves as a key component in any improvement to the system, and the Bar Associations must fulfill their role in promoting and maintaining professional and ethical standards for attorneys.

Supreme Court of Canada judge Frank Iacobucci in his address to the 1989 Convocation of the University of British Columbia said,

"Lawyers are privileged in that they are a self-regulated profession, but that requires always striving to attain the highest ethical standards among ... its members." As has been said by an outstanding Canadian jurist:

"Without a true understanding of his professional responsibility a lawyer is worse than useless; he can be dangerous. Without it knowledge and practical skills count for nothing."

A well-run Bar Association is responsive to the needs of the society in which its members function; it is accountable for its members' performance. To this end, it should prescribe, maintain and strictly enforce high ethical and professional standards. A strong and accountable Bar Association is, to my thinking, one of the best means of upholding professional standards. We are all tarnished by the conduct of every unethical practitioner. A Bar Association that takes on responsibility for disciplining and if necessary, suspending or expelling persons who have demonstrated that they are not fit to continue as members of the legal profession, is a Bar Association of which you should be proud to be a member.

If the legislation in your jurisdiction does not permit your Bar Association to function as the disciplinary body that the public expects, you will be performing a public service if you lobby for the appropriate changes.

Get involved in your Bar Association. Do your part in ensuring that your Bar Association is one in which the public has confidence.

A strong, vibrant and accountable Bar Association is usually indicative of a Bar that values continuing legal education and that values the reputation of its members. Your Bar Association can be a platform for your continuing education; it can offer you, as new legal professionals, opportunities that may not be available privately and on your own. You will be able to enhance your knowledge base and keep abreast of the latest developments in your field. Your Bar Association can play an integral role in the development of your career; it can afford the opportunity of presenting papers and/or hosting seminars, locally,

regionally and internationally. And, it provides opportunities for networking and building relationships with other lawyers. There will be personal enrichment and the sense of belonging to a group that shares the same ideals and works towards the same goals.

I urge you to get involved in and support the professional lawyers' associations in the various jurisdictions in which you will practice law.

I would like to spend a few minutes focusing on public service.

It was Roscoe Pound, the American jurist, who said that "there are three ideas involved in a profession: organization, learning, and a spirit of public service."

Public service, is a feature of professional involvement and, if I dare say, development.

How can you serve the public?

- ✓ You can participate in traditional pro bono legal work, providing legal services to those who cannot afford them, and there are so many of those needy souls around.

A former Supreme Court justice in Southeast Asia borrowed an airplane, which he used to fly to distant villages to mediate disputes among people who had never seen, and could never afford to see a lawyer.

It may not be necessary for you to go that far.

- ✓ As I mentioned earlier, you can become an advocate for law reform. Some of you may have studied in Canada, the UK or the United States and therefore have seen and experienced first hand how these countries have tackled difficult situations with new legislation. An interesting example is the Civil Partnerships legislation in England. The law must address the needs and expectations of society. In many of your jurisdictions there are law reform groups. Some of these are affiliated with the Ministry of Justice or the Bar Association. These groups can only benefit from the energy and vision of fresh legal minds.
- ✓ As I have already urged, join your local Bar Association. Most Bar Associations have various committees, which would welcome the input of new lawyers.
- ✓ Join a service group or NGO. Many such groups offer assistance to indigent members of society.
- ✓ Volunteer at the Legal Aid Clinic.
- ✓ If you feel strongly about a particular issue, do not just engage in 'verandah talk'. Write letters to the editor of your local newspapers. Put pen to paper and share your thoughts and ideas with the nation. You could also write articles on legal topics for publication in the Caribbean Law Journal, the West Indian Law Journal or even further afield in the New Law Journal.
- ✓ You can also serve by practicing law in the Public Service of your jurisdiction. Thomas Jefferson noted that "there is a debt of service due

from every man to his country proportioned to the bounties which nature and fortune have measured to him", so consider working for your government. Many of you may, of necessity, be embarking on practice as sole practitioners. Do the cost-benefit analysis for yourself and you may be surprised to discover that you will be financially better off in the Public Service. After you have paid the rent for your Chambers, paid your clerk, paid your utilities, paid for the subscriptions that you need to stay up-to-date with legal decisions and trends, paid the loan for the computer and the photocopier, paid your student loan, how much will you have left for yourself?

Consider also that traditionally, lawyers in the Public Service are given important files far earlier than their counterparts who go into private practice in the larger firms.

Consider also the opportunities that are available to Public Sector lawyers to advise on government policies.

Consider further the opportunities that often exist to represent the Legal Department in local, regional and international fora.

Oliver Wendell Holmes said, "That, as life is action and passion, it is required of a man that he should share the passion and action of his time at peril of being judged not to have lived."

I urge you to heed this advice. Go forth with a passion for life, a passion to make a difference. Strive to be proactive and not reactive.

When you leave here today, I hope you will go out with the resolve to cure those evils that are within the law's power to cure. It is incumbent on each of us to

make an effort to regain the day in which law, and not fear - law, and not force - will shape our world.

You, class of 2004, can choose to sit passively by and watch, or you can choose to be a part of the solution - to make a difference.

I trust that you will choose the latter.

I thank you.