



By J. Douglas McElvy

## The Most Powerful Profession

"The first thing we do, let's kill all the lawyers."<sup>1</sup> These familiar words from Shakespeare's *Henry VI* are most frequently cited by those deriding lawyers or the legal profession. In reality, Shakespeare was paying an amazing tribute to the function and importance of lawyers in a society that values individual liberty and freedom. In the play, set in the 1400s, Jack Cade has been hired by the Duke of York to stir up trouble. There was a struggle for the throne, and the Duke thought that if he orchestrated a revolt, he could use the army under his control to still the rebellion and seize the throne. So, Jack is planning this revolt with fellow miscreant Dick the Butcher. Dick suggests that the first thing on the agenda, the top priority, must be to get rid of the lawyers. They knew that for a revolt to succeed, they must eliminate those who are charged with safeguarding the most basic civil rights, freedoms and liberties, which are the foundation of an orderly society.

Shakespeare recognized what Alexis de Tocqueville saw when he visited our country in 1831 to see what a great republic was like. De Tocqueville found

citizens had a great respect for the law, and the authority and influence given to lawyers formed what he called, "the most powerful barrier against the lapses of democracy."<sup>2</sup> This observation still rings true today. We are members of the most powerful profession. Even though in Alabama, as elsewhere, the bar comes together as a diverse group, we are all united by our common responsibility to seek truth and justice and to protect individual freedom and liberty.

Lawyers have played this important role throughout American history. At the time of our nation's birth, lawyers played a pivotal role. The Declaration of Independence was written by Thomas Jefferson, a lawyer. Twenty-five of the 56 signers were lawyers.

James Madison, a lawyer, credited with drafting the Constitution, used his lawyerly skills of research and reflection to help him compose this brilliant document. It was said that his greatest strength during the Constitutional Convention was in preparations he made beforehand, spending countless hours researching and studying the issues before they came up for debate. Other lawyers were at the

Convention as well, debating and hammering out the issues to arrive at the final product that is still the law of our land, 215 years later. Twenty-two of the Constitution's 39 signers were lawyers.

After it was signed, the Constitution went to the states for ratification. Here we see lawyers hard at work again. James Madison, John Jay and Alexander Hamilton—all lawyers—wrote the Federalist Papers to convince the states to ratify the Constitution. They were putting into practice the persuasive writing skills they learned in their years of legal practice.

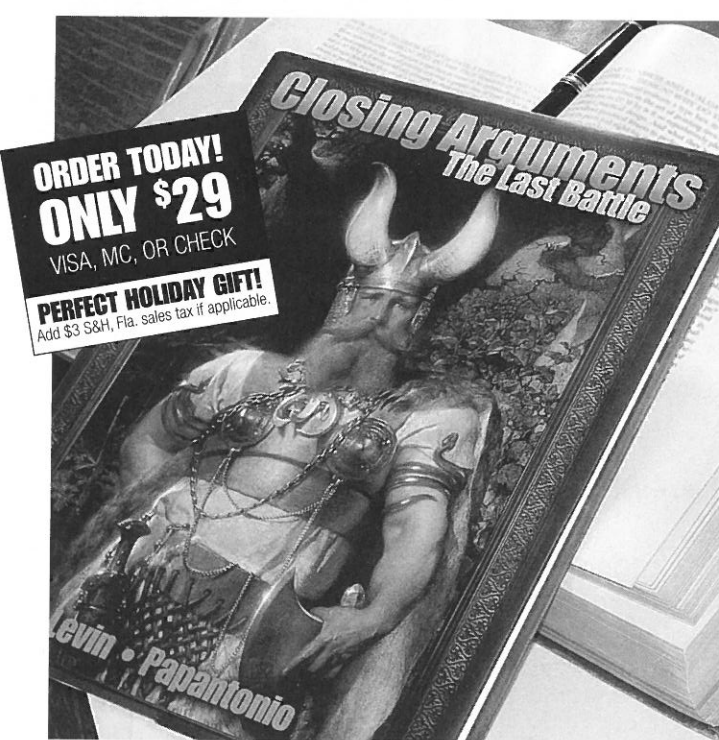
The members of the legal profession of that day realized what a crucial time of history they were living in, and they worked and studied and sacrificed and fought for a cause in which they believed.

John Adams wrote to a friend, "You and I have been sent into life at a time when the greatest lawgivers of antiquity would have wished to live."<sup>3</sup> They realized the importance of their mission. They wanted to get it right. And they, along with others, succeeded in creating the longest standing democratic republic in the history of the world.

The nation grew, and there at the helm were many other lawyers, such as John Marshall, Joseph Story, John Quincy Adams and Daniel Webster. Then there was Abraham Lincoln, another lawyer, who wrote the Emancipation Proclamation, recognizing that all people, whatever their skin color, were entitled to the "unalienable rights" of liberty guaranteed in our founding documents.

Our most important institutions were structured and birthed by the debates and pens of lawyers. Other professions were represented, but the legal profession was by far the dominant group. Today the survival of American liberties and freedoms depends no less on the call to protect those freedoms under the precepts upon which our nation was founded.

When we look around Alabama, we see members of our profession involved in virtually every department of public and private life, not only offering our professional services of guiding and counseling, but also serving as heads of corporations and institutions of education, health, real estate, community organizations, and government. In fact, all but 16 of Alabama's 52 governors have been Alabama lawyers.



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Twenty-five of our nation's 42 presidents have been lawyers. It seems to me that no profession, other than perhaps the ministry, has had such a profound and wide impact on our society.

Yet, there is this confusing conundrum: the perplexing problem of public perception. According to a 2002 Gallup Poll, only two percent of those surveyed rated the honesty and ethical standards of lawyers as "very high." That was the same rating given to labor union leaders, real estate agents and stockbrokers, and just right above the one percent rating given to car salesmen and telemarketers.<sup>4</sup> A study commissioned by the Section of Litigation of the American Bar Association reports, "Americans say that lawyers are greedy, manipulative, and corrupt."<sup>5</sup>

Why are we such a vilified profession? Perhaps it's because we have a duty to represent unpopular clients and causes. Perhaps it's because almost every political and cultural question in the United States is ultimately resolved into a judicial question. Perhaps it's because the legal profession becomes the scapegoat for the so-called insurance, medical malpractice and other crises. Certainly other explanations exist, many of them unreasonable and unfounded, but the depth of the criticism gives rise to the need for self-examination. We may not have control over public perception, but we do have control over our own conduct and character.

Because we are a nation of laws, and not of men, and because attorneys are the guardians and protectors of that concept,

it is imperative that we have character that is beyond reproach. In no other culture do lawyers play such an important role. As Chief Justice Drayton Nabers has said, we must be "worthy stewards" of the rule of law. This requires that we have a zeal for truth and justice. The public has the right to expect from all members of the legal profession the highest standards of integrity and moral virtue. Often the most intimate and personal matters are entrusted to lawyers. Often a client's business and wealth are contingent on the character and virtue of a lawyer. The public, the courts, the bar, our clients—all must be able to trust us without reservation, no substitute, no qualifications, not negotiable.

Alabama has a rich history in the area of legal ethics. Our 1887 Code of Ethics

was the first in the nation, and it served as the model for many other states and even the American Bar Association.

The Alabama *Code of Ethics* was written primarily by Thomas Goode Jones, a man of integrity and character who served Alabama and the legal profession in many capacities: He was president of the Alabama State Bar, Governor of the State of Alabama, and a federal judge. When he wrote the *Code of Ethics*, he inserted this quote just after his first paragraph:

"There is certainly, without any exception, no profession in which so many temptations beset the path to swerve from the lines of strict integrity; in which so many delicate and difficult questions of duty are constantly arising. . . . High moral principle is [the lawyer's] only safe guide; the only torch to light his way amidst darkness and obstruction."<sup>6</sup>

We have tremendous responsibility, serving in this most powerful profession. We have a crucial position in society. We are entrusted with the stewardship of America's rule of law and we must be worthy stewards. Our skills and training provide unique opportunities for us to lead and serve in our communities and government.

For example, Alabama lawyers at one time dominated our state legislative bodies. We are once again needed, not just in state government but also on city councils, county commissions and other offices. I encourage each of you to use your talents and training as you continue serving on the front lines in our state.

The Alabama State Bar celebrates 125 years of professionalism this year. From its inception in 1878, the Alabama State Bar has been a leader among the nation's bars. May we keep up that strong tradition as our journey continues, and may we exceed every other generation of lawyers in honesty, integrity, dignity,

professionalism, and zeal for truth and justice as we fulfill our calling of service to clients, the community and our profession.

When I was growing up, my brothers and sisters and I were all made to believe that we had unique talents and gifts. We often heard this admonishment from our parents which I now share with you, "To whom much is given, much is required."

## Endnotes

1. WILLIAM SHAKESPEARE, THE SECOND PART OF KING HENRY THE SIXTH act 4, sc. 2.
2. ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 251 (Harvey C. Mansfield & Delba Winthrop eds., The University of Chicago Press 2000) (1835).
3. JOHN ADAMS, THOUGHTS ON GOVERNMENT (1776), reprinted in 4 THE PAPERS OF JOHN ADAMS 86 (Robert J. Taylor et al. eds., 1979).
4. U.S. DEPARTMENT OF JUSTICE, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 120 (2002) (quoting The Gallup Organization, Inc.).
5. AMERICAN BAR ASSOCIATION SECTION OF LITIGATION, PUBLIC PERCEPTIONS OF LAWYERS: CONSUMER RESEARCH FINDINGS 4 (2002).
6. GEORGE SHARSWOOD, AN ESSAY ON PROFESSIONAL ETHICS (1854) (emphasis added).

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