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BE THERE

*Benjamin H. Hill, III**

Dean Lewis, distinguished members of the faculty, parents, and graduates and friends of graduates — it is a privilege for me to participate in this very memorable occasion and to speak to you on behalf of the 47,242 lawyers who are members of the Florida Bar.

Each of you is extremely fortunate. You have attended and now are about to graduate from one of America's finest law schools. You have worked with and learned from a committed and very professional faculty. And, you have had the support of your families and are now ready to begin the practice of law.

I am reminded of a story of which I recently heard of a small town family. The parents were very proud when their daughter left Bartow to enroll in the New York University School of Law. Of course they were apprehensive of the life that she would experience in the big city, particularly in Greenwich Village. After all, Washington Square is nothing like Imperial Polk County's Court House Square in Bartow. Their daughter went off to school and they did not hear from her for over six months. Then, the letter came:

Dear Mom and Dad:

I am sorry I did not write sooner. My broken arm is on the mend and the cast will be removed soon. My baby is due in September and there are no complications. I can't wait for you to meet Mike, but he will not be paroled until October. He will be an excellent father, even though he does not believe in ceremonial marriage.

*Benjamin H. Hill III delivered this commencement address on May 16, 1992 to the graduating class of the University of Florida College of Law. He received his B.S. from The Citadel in Charleston, S.C. and his J.D. from the University of Florida. Mr. Hill is currently the 1991-92 president of the Florida Bar and a founding partner of the Tampa law firm of Hill, Ward & Henderson, P.A.

See you soon,

Love,

Mary

P.S. None of the above is true, but I did make a D in Contracts and I hope this letter helps to put it into perspective.

During my time with you today, I am going to try to put into perspective your challenge as a member of the legal profession.

We are entering what many are calling the golden age of our profession. Notwithstanding the rhetoric of many that there are too many lawyers, society's need for an independent legal profession is greater today than ever before.

In our studies of history we see example after example of civilizations fighting for freedom. However, we do not need to study ancient history to list examples of that fight. The fall of apartheid, and the battles in Tiananmen Square have all become recent symbols of the struggle of freedom. Closer to home, civil rights, women's rights, children's rights, and the rights of minorities are but a few example of battles which have occurred and successes which have been achieved. But, although progress has been made, the struggle is not over. Daniel Patrick Moynihan in his recent book, *On the Law of Nations*, said: "The long twilight struggle is ending; we appear to have prevailed. It is not too soon, then, to ask by what rules we expect to conduct ourselves in the next century."

Central to every struggle in the fight for freedom is the formulation of rules and the application of those rules. As Americans, our rules flow from our Constitution. But our rules are of little value if no one is charged with the responsibility of using and applying them. That is the charge of the profession which you are about to enter.

Each of you here today have received a unique education to prepare you to become a warrior in the battle for justice. No, you will not receive marksmanship badges or citations for your ability to accomplish a military objective. Instead, you have received the tools you will need to help maintain justice and to seek justice for the oppressed. A lawyer with a book, a pen and a voice can provide checks and balances against excesses from government and can correct wrongs in our society.

You will be faced with great challenges when you enter our profession. Notwithstanding the criticisms which are politically in vogue, the legal profession is the key in a democratic society to success in the struggle for freedom. Sure, Vice President Quayle and others will argue and receive applause when they say there are too many lawyers

or that lawyers have cost America its competitive edge. But, try telling those in the civil rights movement or that lone man in Tiananmen Square holding a tank at bay that there are too many lawyers. You will quickly learn that as long as there are rights to be protected and justice to be achieved, there will be a need for good lawyers.

For our profession to succeed, it must be independent. The independence of the American Lawyer, as former Attorney General Benjamin Civiletti observed in a speech to the Florida Bar in 1989, is the axle around which the rule of law and the fair administration of justice revolve.

There are many forces at work to destroy the independence of our profession. You will quickly become part of the resistance to those forces and the success which you experience will be the key to the future of civil rights, women's rights, children's rights, and all of those rights that have been established and now need to be protected. To be a part of the team to protect that independence, you should set at least three goals.

First, you need to join in the defense against the assault on our judicial system. In this state as well as in the nation, there is less and less respect and, therefore, less and less support for that third branch of government, our courts. Confidence in our courts has eroded for many reasons. Suspicions of the system by minorities, distrust from the people because of the tactics in judicial elections, misbehavior by judges, and the list goes on. Compounding these problems is the lack of recognition by our legislative leaders of the true role of the courts in resolving society's disputes. Too many of them view the courts as their enemy, as a body that forces them to open records, toe the line, follow the laws and respect the rights of the people. They resent the court's intrusion into their legislative and sometimes their executive lives and fail to remember that they, too, depend upon the courts for protection of their rights. The lack of respect for the courts is manifested in the woefully inadequate funding of the courts. You will be surprised to learn that less than 6/10ths of one percent of this state's budget goes to the court system. That is less than the amount of money spent in ten days to run HRS.

You must help restore respects for our courts. Almost immediately as you begin your practice you will have the opportunity to defend the courts from public criticism. By your example as you talk about our courts, participants in the judicial selection process, and participate in court proceedings, you will help promote the respect to which the judiciary is entitled.

I heard about a trial that took place in the DeSoto County Court House many years ago. For those of you who go back that far you

can remember that the court room was not air conditioned. The judge sat by an open window in which there was a fan directed towards him. One day during the middle of a bitterly contested trial, the judge began swatting flies that were coming in the window and flying around his head. He asked the old litigator that was appearing in front of him to approach the bench. This litigator had experienced a rather rough time from this particular judge during this trial and was, at least in his mind, not being treated fairly. The judge asked the old litigator, "what kind of flies are these." The litigator said, "your honor, those are circle flies." The judge asked, "What are circle flies?" the litigator responded and said "those are flies that generally are found circling around the rear end of a horse." The old judge became incensed, stared down at the old lawyer and stated, "Sir, you are not comparing this court to the rear end of a horse are you?" The litigator looked up and responded, "Oh, no sir, your honor, I wouldn't do that, but you sure can't fool a circle fly."

The old litigator, in his own way accomplished his purpose, but maintained respect for the court. I don't suggest that you follow his example, but I do suggest that when you appear before the court that you always treat the court with the utmost courtesy. The struggle for justice depends upon the availability of an objective and independent court, which has the respect of the population, to level the playing field between government and the people. If the courts are independent, then we, as officers of the court, will retain our independence.

The second goal in the struggle to maintain the independence of the legal profession is to make certain that justice is accessible to all. When you take your oath as an attorney you will pledge: "I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone's cause for lucre or malice."

Recently, The Supreme Court of Florida rendered a decision that will place Florida in the lead among the states with respect to the delivery of legal services to the poor. In a massive pro bono decision, the Court has embraced a plan proposed by the Florida Bar and the Florida Bar Foundation that will provide an opportunity for every lawyer in this state to give no less than 20 hours per year of free legal services to the poor. By approving this plan, the Court recognized that in the State of Florida alone there are 2 million unmet legal needs by people who are by definition living below the federal poverty level. As officers of the Court and members of a profession, we must make certain that even the poorest among us have access to our courts. The ultimate success in any society in the struggle for freedom is the ability of every member of society to fairly have an opportunity to

achieve justice. "Injustice for one person is a threat to justice for everyone."

As you enter into the legal profession, you must recognize that you are part of a privileged group of people in our society. You will have a license to represent others. You will be able to subpoena people away from their businesses, their private lives, and force people, by virtue of your power, to involuntarily appear in court or even in your office. You will be able to represent people before the courts, a privilege afforded only to members of our profession. In return for the grant of these privileges, you will be expected to give legal advice to those who need it even though they may not be able to afford it. And, because of your training and your unique way of resolving problems through the application of law, you will be called upon to serve your community. You must respond and give of your time. Particularly, in these times when so many of our cities are bitterly divided and experiencing serious problems, lawyers, by virtue of their education and training, must be involved. We are trained to identify the issues and to plan a course of action to address those issues. When you work to provide access and to solve your community's problems, you will not only benefit our society, but you will promote a better appreciation of the role of our profession and, our independence will be maintained.

This leads me to the third goal — a commitment to professionalism. This goal embraces the other two and so much more. It is the most important objective for all of us. You will quickly learn that the perception of the public of our system of justice is something we must never stop trying to improve. Sure, we will always have our detractors and, indeed, without lawyer jokes, society might even be considered dull.

What would we do if we attended a gathering and someone did not ask, "What do you have when you have a lawyer half buried in concrete? Answer, not enough concrete."

Learn to accept the jokes. Laugh along with the comedians. But, as you begin your practice you should refrain from engaging in activity that gives material to the joke writers. While it is not our objective to stop the jokes, if you are truly committed to professionalism, society will better appreciate the role of our profession.

Unfortunately, there are those among us that have helped in advancing that cause of injustice by virtue of their own actions. Rampant advertising, outrageous courtroom conduct, trying cases in the press, disrespect for clients, parties and other lawyers, are regrettably a part of the practice of a few in our profession. The common de-

nominator for many of those is the pursuit of the dollar. When one in our profession takes advantage of his or her privilege to practice law to make money at any cost, our profession will suffer. There is nothing wrong with making money, but if it results in a lack of civility it will compromise our profession and threaten our independence.

You should always remember that the public perception of our profession is formed by the impression we make in our daily lives. Fight hard, but treat the courts, the parties and witnesses, and each other with respect. I will never forget the early advice I received from one of my senior partners. He said: "Be nice to your fellow lawyer, for someday that lawyer may be a judge."

How can you be professional? The answer was set forth in a recent article by Justice Grimes of our Supreme Court. He said,

"Become knowledgeable in the law, skillful in its application, ethical and, if not humble, at least not arrogant. Strive to be a person who treats his or her fellow lawyers with respect; a person who honors the judiciary, not because they are better people or because they wear black robes, but because of the essential role they play in the administration of justice; strive to become a person who seeks to mediate disputes rather than to stir up strife."

Recently, I participated in a seminar on how to win professionally. One of the panelists offered a simple test which can always be applied in a situation in which you are trying to determine whether to act or to refrain from acting. He said, before you act, ask yourself this easy question: "Will your mother be proud of you because of the action you took?"

As a true professional you must set as your goals standards that far exceed the ethical requirements set forth in the rules regulating our profession. As we adhere to the concepts of professionalism, we will gain understanding from society that a lawyer's role in the administration of justice cannot be compromised. If lawyers have respect, the courts will have respect and justice will be possible for all. The independence of our profession will be maintained.

George Washington once said: "The administration of justice is the firmest pillar of government." The struggle for justice means laws must be enforced or they cease to be laws and rights must be defended or they will be lost. Lawyers have the unique role in society to insure that those laws will be enforced and those rights will be defended. The courts will fairly and reasonably interpret those laws and protect those rights. We cannot maintain a just society and we cannot preserve justice when we take them for granted. When we cease to be involved

in or cease to care about the struggle for justice, our society is doomed. Lawyers are different. We have been given a sacred trust and we must be certain that by our actions we do not lose it.

I would like to close by relating to you a story I recently heard about a high school basketball coach. He coached in Ocala more than 25 years ago. According to his players, the ole coach knew little about the tactics of the game. He therefore coined a phrase which he used for almost every situation — “Be there!” If one of his players shot the ball, “Be there” meant for the ball to go through the hoop. If an opponent was driving to the basket, “Be there” meant to close in on him and prevent him from scoring. If a loose ball was going out-of-bounds, “Be there” meant retrieve it. The players quickly learned that the simplistic approach by their old coach produced victories and gave them considerable insight not only in the game of basketball, but in the game of life. My message to you today as you take this important step towards becoming a member of the legal profession is: “Be there” to support our courts; “Be there” to give access to justice and to serve your community; and “Be there” with a true commitment to professionalism.

Congratulations and God bless each one of you.

