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Are Lawyers ‘Wonderfully Made’?*

Kenneth G. Elzinga**

I. INTRODUCTION

One part of the mission statement for the Pepperdine University School of Law reads: “[K]nowledge calls ultimately, for a life of service.”¹ With such words in its mission statement, an economist such as myself can predict that an affirmative answer to the conference question – Can Religious Faith Serve as a Source of Meaning in the Legal Profession? – is not going to be frowned upon.

The second reason I can predict an affirmative answer to the question being raised at this conference is my personal acquaintance with the organizer of the conference: Professor Robert Cochran. To me it seems just a few years ago that Professor Cochran was my attorney in Virginia. I was one who urged our conference organizer to leave private practice and go into the teaching of law.

Now, this was not because Professor Cochran was a bad attorney. He was an excellent attorney. But I thought he had unusual insights into combining law with his faith commitment and I thought this deserved a broader audience. Since coming to Pepperdine University, Professor Cochran has shown in several ways “[t]hat knowledge calls ultimately, for a life of service.”²

* Pepperdine University School of Law, February 6-7, 2004. “Opening Reflections”

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1. Pepperdine University, Mission Statement, at <http://seaver.pepperdine.edu/about/mission>.

2. *Id.*

II. NOT A LAWYER JOKE

When I told my colleagues in the Department of Economics at the University of Virginia that I was going to be the only economist at a conference of lawyers, they asked me if I was going to tell any lawyer jokes. I told them no, that was like shooting fish in a barrel.

Instead I am going to tell an economist joke. These are rather rare.

A person goes to their doctor for an annual checkup. Nothing unusual. The person feels fine. And prior checkups never turned up a problem of any sort.

Nothing shows up during the exam, but a few days later the person is asked to come back. The lab results brought up some questions. The person returns to the doctor, but this time with an element of stress.

The doctor tells the patient some more lab work is probably called for – so additional blood is drawn, another urine sample is taken. The person is told to come back in a week.

The week passes by and the patient returns. And the doctor says, “I am afraid I have some very bad news. You are seriously ill and have only six months to live.”

Well, the person is stunned. A couple weeks ago, he was feeling fine. Now, news like this.

Then the person says, “Well doctor, I’m shocked. Isn’t there anything that can be done?”

The doctor replies, “Well, you could marry an economist and move to Iowa.”

And the person says, “I don’t understand. How will that change anything?”

And the doctor says, “Oh, you’ll still only live six months, but it will seem a lot longer.”

My apologies to any conference attendees from Iowa. You must understand that the joke simply does not work as well if you substitute Malibu for Iowa.

III. VOCARE

Can the practice of law be a religious calling? That is the question before the house. And this question reminded me of a Supreme Court antitrust opinion. Antitrust opinions are the only ones with which I have any acquaintance, since my research interest is antitrust economics. The case is

Goldfarb v. Virginia State Bar.³ The opinion was written by Chief Justice Burger.⁴

The state and county bar associations in the Commonwealth of Virginia had set a uniform fee schedule for particular legal services.⁵ Mr. Lewis Goldfarb was a buyer of legal services who wanted to pay less than the fee schedule.⁶ But of the dozens of attorneys he approached, none would compete off the schedule.⁷ No attorney would cut him a reduced fee.⁸ So Mr. Goldfarb brought a private treble damage class action suit under the Sherman Act claiming the fee schedule was a restraint of trade.⁹

In its defense of the fee schedule, the bar invoked the *learned profession exemption*, claiming that the practice of law was immunized from the commercial world of antitrust because lawyers did not practice law for the money but rather to insure justice.¹⁰

When my students read the *Goldfarb* opinion, and encounter this defense, every year they ask me the same question: "Was this defense put forward to the Court with a straight face?" Rumor has it that the Justices had trouble keeping the tourists in the Court that day from laughing out loud when the defense was raised.

So, "is the practice of law a *religious calling*," is a tough sell. It will meet a skeptical audience. "Could the practice of law be a religious calling" might be an easier sell.

Notwithstanding the skepticism an economist (and his or her students) might bring to the question before the house, I found myself connecting at a deep level with the readings for this conference. And I found myself connecting at a deep level with the words of the speakers yesterday morning. Professor Lee Hardy wrote that professions such as law were instituted

by God Himself as his way of seeing that the needs of humanity are met on a day-to-day basis. Through the human pursuit of vocations . . . the hungry are fed, the naked are clothed, the sick are healed, the ignorant are enlightened, and the weak are protected. That is, by working, we actually participate in God's ongoing providence for the human race.¹¹

This brought me back to my days as a new Christian in graduate school.

3. 421 U.S. 773 (1975).

4. *Id.* at 775.

5. *Id.* at 773-76.

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.* at 773.

10. *Id.* at 786.

11. LEE HARDY, *THE FABRIC OF THIS WORLD* 47 (1990).

I was fortunate to be mentored by a young pastor, himself fresh out of seminary, who was very intelligent. His intellectual horsepower was very reassuring to me, since the culture I was in often seemed to suggest that if you became a believer in God, you had to check your brain at the door. This particular pastor, I now realize, had a Reformed view of earning a living. He told me that one could be *called* to be a professor just as one could be *called* to the ministry.

Most economics students do not have a working knowledge of Latin, as some lawyers do. The notion of calling comes from the Latin word *vocare*, to call, from which we get the word vocation.¹² I find it unfortunate that I live in a culture where *vocation* is now connected only with *vocational training* (e.g., learning to fix cars and air conditioners).

Vocation can actually mean called to many lines of work, including most certainly the practice of law (I trust *vocare* can apply to teaching economics as well). Martin Luther said, "God himself will milk the cows through him whose vocation it is."¹³ This means attorneys go to work, not just to make a living, but to walk worthy of a particular calling. It is a counter-cultural perspective that God himself desires to have contracts drawn up, disputes settled, and cases tried, by those whose vocation it is. But it is a perspective I have. And it is a perspective that is born out by this conference.

IV. A PERSONAL STORY ABOUT CALLING

One of the things you learn in teaching young people today is that they want to learn through stories in a way my student generation did not. So let me tell one story, and then I shall make a couple concluding observations. The story is personal.

Some time ago, I was in Washington, D.C. preparing to be an expert witness in an antitrust case. One of the senior attorneys I was working with would use the Lord's name as a curse. Over and over again he would, at least as I understand the Scriptures, "take the Lord's name in vain."¹⁴ It was part of his mode of discourse in what was a tense and challenging day. I finally found an opportunity to tell him that his language was distracting for me as a person who loved the Lord. He murmured a bit and told me he meant no offense, and that he was not even aware of his language. But he stopped. His mode of discourse changed.

Late that night, a young associate who works under this man called me at my hotel and told me he admired how seriously I take my faith. I was a bit surprised and asked him what he meant. He reminded me of how I took the risk of "calling his boss" on his language. But he went on to tell me that he had noticed that I prayed silently before eating my lunch and that my church was a part of my conversation. He observed that I did not work on

12. Webster's Third New International Dictionary 2561 (3d. ed. 2002).

13. Martin Luther, Exposition of Psalm 127 for the Christians at Riga XV 348.

14. *Exodus* 20:7.

Sunday, and that he could tell my life involved more than my work. He then told me that married life had not been easy for him, he had once been involved in a church but no longer was, and now wondered if, without some kind of spiritual life, his marriage would last.

This opened the door for a very frank discussion of how I was convinced that if it were not for my faith coming into my work, my own marriage would have ended years ago, and how I could not imagine a satisfying professional life apart from a spiritual foundation that gave life more meaning than making money and being successful on the job.

As I went to bed, late that night, I was reminded of my calling.

But this conference also reminds me that preparing a good lecture on demand elasticity, talking with a student who struggles with the material in chapter 3 of an economics textbook, and working on an article on the competitive effects of slotting allowances – these also are part of my calling – even if at times I cannot see the spiritual fruit of these tasks.

VI. STUDENTS AND CALLING

I spend a lot of time talking with students about their future careers. Many students in the Department of Economics at the University of Virginia are pre-law. Those of you who have been away from higher education for a while may not be aware of how career-oriented and career-nervous students are today. I did not have a C.V. (curriculum vitae) until I had my first job. Now, there are first-year students at the University of Virginia who work hard on their own C.V.s

What is difficult for some of my students to understand is that work *as a calling* can be liberating from the stress that shackles many of them. If work is a calling, this means we do not have to take a position we do not want if we are called to something else. This means work need not be a source of boredom or alienation if we sense what we are doing is our vocation. This means if our calling changes, we can leave our current occupation.

And if work is a calling, this means we are part of something bigger than our job. We can be part of what Jesus, in the Lord's prayer, calls making God's "Kingdom come" here on earth.¹⁵

Let me close with some questions from Cornelius Plantinga. These are questions I put to my students at the University of Virginia who want to think of their work as a calling:

To 'strive first for the kingdom' in choosing a career [means asking] . . . particular questions. Where in the kingdom does God want me to work? . . . Where are the workers few? Where are the temptations manageable? . . . How honest is the work I'm thinking of doing? . . . How smoothly could I combine my proposed career

15. *Matthew* 6:9-13.

with being a spouse, if that's also my calling, or a parent, or a faithful child of aging parents? How close would I be to a church [where I can] give and take nourishment? Is my proposed career inside a system so corrupt that, even with the best intentions, I would end up absorbing a lot more evil than I conquer?¹⁶

Sadly, these are not at all the questions my students will be asked when they go to my university's career counseling center. So I am grateful for schools like Pepperdine University, and this conference, where there is a freedom to put these kinds of questions on the table.

VI. CONCLUSION

Professor Cochran invited me to make opening remarks. I shall close these remarks by reading a portion of Psalm 139. It is a psalm I have always found edifying, but because of this conference this portion has a new meaning to me because I look more closely at the word *work*.

“For it was you who formed my inward parts; you knit me together in my mother’s womb. I praise you, for I am fearfully and wonderfully made. Wonderful are your works; that I know very well.”¹⁷

I take these words to mean that attorneys are “wonderfully made” with skills and talents that are intended to perform the wonderful works of God which will be a blessing to others.

I am grateful to you for letting someone from the dismal science participate in this gathering.

16. CORNELIUS PLANTINGA, JR., *ENGAGING GOD’S WORLD: A REFORMED VISION OF FAITH, LEARNING, AND LIVING* 118-19 (William B. Eerdmans Pub. Co. 2002).

17. *Psalm* 139:13-14.