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Beauty of Law

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BEAUTY OF LAW

The Honorable Thomas J. Moyer †

Speech given at the
Ohio State Bar Association Annual
Meeting on May 15, 2008

I would like to take you back in time for just a brief moment this morning. Not far back.

Not to ancient times or even back a few hundred years ago when great minds struggled to shape a country with a quill pen, a sheaf of parchment, and bold ideals.

I want you to step back to yesterday or maybe the day before . . . to the last time you stayed at the office well past dinner so that a filing would be on the clerk of court's desk early the next morning, or the filing of that persuasive brief would comply with the guillotine-like precision of the filing rules of the Ohio Supreme Court.

Step back in time when you struggled to craft the right words for a client's business contract . . . or the time you practiced the art of courthouse diplomacy that reshaped a conflict into consensus.

Step back to all those client phone calls. Those partner meetings. The late nights in the office.

Why?

Why did you do it?

Why did you become a lawyer?

† The Honorable Thomas J. Moyer is the Chief Justice of the Supreme Court of Ohio. He was elected to the court in November 1986. Justice Moyer received a B.A. from The Ohio State University and graduated from The Ohio State University Michael E. Moritz College of Law. Justice Moyer previously served eight years as a judge of the Tenth District Court of Appeals in Franklin County, four years as executive assistant to the governor of Ohio, and eight years in the private practice of law in Columbus. In August 1995, he was named president of the Conference of Chief Justices for a one-year term. Since becoming Chief Justice in 1987, Ohio has been a leader in providing substance abuse treatment to nonviolent offenders. He also is working with leaders of the judiciary and the General Assembly to develop family courts, a comprehensive approach to resolving criminal and civil issues confronting families. Justice Moyer also is in the forefront of efforts to improve the method of selecting judges in Ohio and has worked with all interested parties to develop legislative proposals to increase the reporting requirements for contributions made to judicial campaigns, and increase the minimum professional qualifications required of judicial candidates.

It is a rewarding profession, I believe, and it can be a frustrating one as well.

The easy answer is the money. A partner's share is certainly an enticement, but to borrow the words of the Beatles, money can't buy you love, and certainly it cannot keep you at the office night after night after night.

Our motivation is grander, much grander than that.

It is because the law touches us. It excites us. It is because the law reminds us that we follow in the footsteps of the masters—the greats such as Locke, Montesquieu, and Jefferson. We are lawyers because the law brings order from chaos. Like a brushstroke on canvas, law brings form to cloudy images of the mind.

We are lawyers because of the beauty of the law.

Our president, Rob Ware, wrote about the beauty of law in the January 2008 edition of *Ohio Lawyer* magazine. He wrote, "There are certain qualities that are common to most judgments of beauty. Among these are order, harmony, proportion and purity. Thus it has been said that beauty is the perfect reconciliation of the sensual and rational parts of human nature."

He concluded, "We see the elements of beauty reflected in law. There is harmony and symmetry: Law is both consistent and evolving; coldly logical, yet alive. Underneath it all is a pursuit of justice and truth."

Rob, you are an artist, and you inspired me to amplify those sentiments for this early morning beginning of the day.

The beauty of law is found in the text of our long-held beliefs in liberty, freedom, and fairness. It is found in the contract that brings shape to the hope and promise of a new beginning. The beauty of law, in my humble opinion, is that it is the product of the ages—wrapped in the opinion of the moment. The law takes from Aristotle, Cook, and Aquinas and is applied to the disorder and unruliness of mankind, just as an artist borrows from Michelangelo, Botticelli, and Van Gogh.

Law is our seamless connection with the past.

The most visible symbols of the beauty of the law are the centerpieces of our communities, our courthouses; some are ornate like a Rembrandt painting and others strong as a Wagner opera. The broad marble halls of many of our historic courthouses are typical of the architectural symbols of our civil aesthetics—symbols that remind us that the rule of law anchors a civilized society. The ornate stonework of courthouses in Harrison and Miami Counties, like many others across Ohio, talks to us about the high regard that generations of citizens have held for the rule of law, a regard I think all of us here this morning still hold.

One of Ohio's finest examples of the blend of art and law is now the home of the Supreme Court of Ohio, the Ohio Judicial Center. It was not designed as a courthouse, but the governor and leaders of the Ohio General Assembly, when it was constructed in the early 1930s, directed that it should be a monument to the greatness of the people of Ohio. Sixty-one original murals reflect the industry and commerce that made Ohio the breadbasket of the nation. Oversized paintings depict the sweat and back-breaking work encouraged and protected by our laws.

Since moving into the facility four years ago, I have worked with leaders of the Ohio State Bar Association and the Bar Foundation to add artwork that reflects the work of the judiciary. On behalf of my colleagues, I thank you for your support. Soon, a large, stainless steel gavel will be mounted in the south pool—a profound piece of sculpture that will identify the building as the home of Ohio's judicial branch in the state capital. Bold granite lettering in the north reflecting pool remind all who pass by of the fundamental values of justice—honesty, reason, compassion, and trust. And commissioned murals that reflect the milestones in the development of the law through the centuries have been added to the law library.

Thomas Aquinas determined that beauty has three elements, “conditions” as he called them—integrity or perfection, proportion or harmony, brightness or clarity. Aquinas's conditions had lost a bit of their luster when applied to Ohio law. That is, until forty years ago this year, when Ohio voters approved the Modern Courts Amendment granting the judiciary the authority to direct the business of the courts. Until then, the courts had the symmetry and proportion of an Escher drawing, with a mix of rules of evidence and procedure. A constitutional amendment adopted in 1912 required a super majority of the supreme court to declare that a statute offended the Ohio Constitution, which effectively allowed a minority to establish the constitutionality of a law.

The Modern Courts Amendment restored the integrity and proportion that Aquinas set as a condition of beauty. The third element, brightness or clarity, has been our responsibility. The judiciary, with the assistance of the bar, has administered the authority granted to the courts with dignity and respect, striving to create clarity in the rule of law in Ohio.

Those of us with years of practice have a well-trained eye for the beauty of law in its daily practice, in the well-crafted opinion or pleading. A skilled trial attorney arguing a case before a judge or jury can be a work of beauty.

Imagine if you sat in the courtroom as Clarence Darrow and William Jennings Bryan eloquently, artistically argued the *Scopes* trial in a brutally hot Tennessee courtroom. Darrow's skillful pleadings and Bryan's flair are an equal match for an F. Scott Fitzgerald or a Norman Mailer. The enduring qualities of the *Scopes* case were captured in the elegant reporting of noted journalist H.L. Mencken and again in the book and play, *Inherit the Wind*. Any good writer will tell you that a well-crafted story requires a compelling subject.

I present my case to you that the beauty of the law also is found in the written decisions of a court. *Marbury v. Madison* is a clear, concise essay—one with a beginning, a middle, and an end—that makes clear the authority of the judiciary.

The rules of grammar that guide exquisite legal writing are no different than the rules that guide authors of fiction or history. A contract, a public utilities decision should be written with the conciseness and clarity of a Joyce Carol Oates and Arthur C. Clarke.

When young students ask me what skills they need to become a lawyer, I tell them it's important to be an accomplished writer.

Judge Learned Hand is one of a long list of judges remembered for spending hours, even days, writing and re-writing opinions. He was also a gifted orator. Consider the speech he gave in New York City in 1944: "Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it . . . While it lies there, it needs no constitution, no law, no court to save it."

Judge William Bootle, a federal judge in Georgia certainly knew the law. He lived to be 104 and could remember opinions that he had not seen in more than seventy years. He combined a sharp legal mind with a great appreciation for the aesthetics of the legal profession. He once told an audience:

Pity the person, if such there be, who can go through life reading, studying, teaching and practicing law, and adjudicating cases without ever beholding the beauty of the work material or the grandeur of the work product. Such a person would be like the man who thinks he is just pushing a wheelbarrow, when in fact, he is building a cathedral.

To see beauty in the law, all one needs to do is witness a drug court graduation ceremony. A graduation ceremony may include a simple poem, even a song written by a graduate of the drug court program in which they have received counseling, overcome their habit, and regained control of their lives. This is real-life art and literature. It is beautiful courtroom drama. It's American storytelling, wrapped in an opportunity at redemption that would rival any Jimmy Stewart movie.

The law is beautiful when it reveals the human side, when lawyers demonstrate compassion and a concern for the greater good of society. Day-in and day-out in Ohio, attorneys help those in need, whether it is a family with a child who has encountered a law enforcement officer, or someone who needs help understanding a contract.

There are few examples of human conduct more pleasing to observe than the peaceful, mediated resolution of a dispute.

The beauty of the law is found in your efforts to provide free legal services to the thousands of families whose lives have been torn apart by foreclosure actions.

The billable hour might be the way we put food on our table, but it is compassion that feeds the lawyer's soul.

I would like to offer one last observation on the beauty of the law.

Law is beautiful because it works.

The law expresses the will of a nation's citizens to live in an abundance of freedom.

It protects and defends those values that, we as Americans, have held dear since our founding—freedom of expression, freedom of assembly, the freedom to seek happiness and to worship God as we will. The law works because it allows us to correct our mistakes. When it became clear that no man or woman should be de-valued as three-fifths of a person, the courts corrected a mistake. When separate but equal no longer could be disguised as lawful, the courts corrected a mistake.

The law helps the needy, it makes commerce possible, it protects us when we say something unpopular, and in its own gentle way it will encourage you to drive the speed limit on your way home.

Law. Law is beauty in motion.

Citizens seek solace, even comfort in the law.

Imagine the conflict in the House Judiciary hearing room in July 1974. As the committee prepared its vote on articles of impeachment, Congresswoman Barbara Jordan took her turn at the microphone to declare: "My faith in the Constitution is whole, it is complete, it is total."

More than a quarter century later, Al Gore conceded defeat in the 2000 election, acknowledging that he strongly disagreed with the court decision, but that the case was resolved "as it must be resolved, through the honored institutions of our democracy."

Clarity, order, coldly logical.

Law's beauty, indeed.

If you are still in doubt, come to the Ohio Judicial Center. You will be able to sit in the courtroom by yourself to feel the art and artistry

of the law. All your doubts will be removed as the mythic gods come down from the ceiling to mix with General Washington, Governor St. Clair, and the historic scenes along the walls. Sitting there, you will remember that the artists faithfully followed the directive that the building would be a monument to the people of Ohio, in much the same way that our laws and constitutions are a monument to our ideals. The abstract shapes of a Henry Moore, the bold story of a Harper Lee, differ in shape and form from the well-crafted pleadings of a Thurgood Marshall or a Clarence Darrow, but the elements of beauty exist in both worlds.

Lawyers, as artists, challenge the conventional view, while remaining true to the underlying values and principles of their craft. The artist and the lawyer share an eye for detail; the well-placed brushstroke is as important to the craft of the artist, as is the well-written brief. And the great lawyers share with the great artists a vision for the big picture, the entirety of society. The artist and the lawyer share a concern for life in its many forms, its successes and its failures.

As lawyers, we scrape away the stone, we shape the rock.

As lawyers, we use our sculptor's eye to reveal the beauty, the proportion in the rule of law.

As lawyers, we use our fine brushes, our colorful palettes to bring symmetry and order.

As lawyers, we are fortunate that this is our life's work.

Thank you. And have a beautiful life.