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A LOOK BACKWARDS: AN OPEN LETTER TO THE ARKANSAS BAR

*Phillip Carroll**

Having retired from law practice and been put out to pasture, I have been spending more time lately thinking back over the humongous changes that have occurred in the law and its practice during my adult life. The changes I have observed and will mention here have, for the most part, made our lives less complicated—but also sometimes more maddening.

Most of us set goals, and we all want to achieve success in our careers. My journey in the law began fifty-nine years ago when I received my license to practice law. It has been a long road, and many of my goals still seem out of sight. Goals are, by their very nature, moving targets because changes occur in our lifestyles, in discoveries, in technological advances, and, ultimately, old age slows us down. We experience triumphs and tragedies, gains and losses, happiness and despair. Changes inevitably occur in our relationships, in our laws, in unpredictable events in our lives, and in the ways we think. Change is just too broad a subject to cover in one or in a thousand sittings. In this short essay, I will mention just a few.

Lawyering has changed. Remember the typewriter, carbon paper, and the rubber eraser with the little brush attached? Remember that other woman in your life, your secretary, sitting posed with her shorthand notebook, waiting to take dictation? Don't let me forget that what was once a male dominated profession has been invaded by the opposite sex. As more and more women graduate from law schools, they may soon outnumber us guys. They have proven themselves to be formidable adversaries. There were only two women in my law class. They shared the honor reserved for one of their gender: every other year one of them would be pictured in the yearbook as "Law Queen."

I remember being dragged, kicking and screaming, into keeping and submitting a daily record of my "billable hours." And we all attended legal institutes where we were taught "marketing," which included learning how to solicit business from new and old clients and avoid the few limitations on advertising. Some of us still have not swallowed the advertising pill. Have you looked at the lawyer advertisements in the yellow pages of your phone

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book lately? Some are full or even multiple page ads proclaiming the talent of a law firm for hire, with color pictures of big trucks, and noting the victories in litigation against the road-hogging “eighteen-wheelers” that ply our nation’s highways. Have you suffered a “fender-bender” car accident and then received the deluge of solicitation letters from attorneys who want to handle your case? Ever heard the slogan, “If we don’t win your case, you don’t owe us a dime?”

The tools we use in our offices have improved. Making copies of documents has, until lately, been a problem. I remember being delegated to pour the odorous chemical in one of the first machines used to make reproductions of documents. A drop of it on your pants left a permanent stain. Changing that foul fluid was worse than Army latrine duty. Yes, it was that bad. Later, another type of machine was developed that used heat to burn the image of the document being reproduced onto a thin sheet of brown tissue paper. At least it didn’t require a weekly change of developing fluid. Finally, a series of constantly improved devices were invented, and today it seems impossible to imagine those days in the past when lawyers had to practice law having only books, pencils and pens, carbon paper, and typewriters.

The firm that employed me occupied an old building that was part of old historical Little Rock, just south of the jail and across the street and west of the old State Capitol Building. To the east on Markham Street was the Revilo (that’s Oliver spelled backwards) Hotel. The Revilo had seen better days. One day, the firm’s Senior Partner called me to his office and told me that a rat had apparently died in the basement underneath his office. I could smell it. He assigned me the task of getting rid of that rat! It never occurred to me to be offended at this intrusion upon my dignity as a college-trained counselor at law. He was as fine a lawyer and gentleman as I have ever known, and I would gladly dispose of that great man’s rodents today if he were here to ask me. Upon entering the basement, the odor led me straight to my prey, and the rest was easy. Still, it was not just my usual day at the office. I don’t think that incident is likely to happen today. Rats are largely under control. If it did happen though, I wonder if you young lawyers would find it beneath your pay grade.

Perhaps the greatest change in law practice has been brought about by the computer, which made the typewriter good mostly for a boat anchor. Computers have ushered in the Internet, electronic recording, electronic searching, electronic filing of pleadings, and, currently, electronic discovery. Lawyers must now learn the language of the cyber-world (i.e. URL, Jughead, Lynx, FAQ, HTML, and Gopher, to name a few of the words). Soon, real estate deeds and mortgages will be recorded electronically, thanks to a uniform law passed by the Legislature. Westlaw and Lexis-Nexis software have enabled their owners to downsize their book publishing businesses.

Lawyers' fees, and correspondingly lawyers' incomes, have risen considerably since World War II. I survived the war, graduated from the University of Arkansas at Fayetteville in June of 1950, and was hired by the Rose Law Firm. The Korean Conflict was raging by then and I was recalled to active military duty. Upon discharge in May of 1953, I returned to the firm. In 1954, my first full year after returning home, my take-home pay from law practice was approximately \$4800.00. I was married then; we bought a house with a one-hundred percent G.I. loan. We were paying for a second car, and a baby was on the way. Of course, a dollar was worth more then. We read often these days about lawyers who are multi-millionaires and who fly around in their own jet airplanes. Jury verdicts of more than one million dollars are relatively common and there have been a few awards for damages of several billion dollars. Punitive damages have been awarded in staggering amounts. All of us have read about the high salaries paid to the big-firm principals, and the number of billable hours the firms' associates are expected to register at hourly rates of \$250 or more. I read recently about a lawyer who says he charges \$1,000 an hour.

As I record these thoughts, our country and many other nations are suffering from a serious and worrisome recession. Some say our's has become a full-fledged depression. The Congress has passed legislation appropriating huge amounts of money to be distributed to banks and other large corporations that operate at the vortex of our financial system. Recently, corporate giants received billions in "bailouts," from which CEO's and officers who presided over the collapse of the behemoths helped themselves to multiple millions in bonuses. This has angered Congress, the President, and taxpayers. Meanwhile, thousands of Americans are losing their homes to foreclosure. Lawyers are being laid off by firms. Many of us are tightening our financial belts, buying less, looking for bargains, and worrying about the dive our 401(k) has taken. Yet there remains considerable optimism about the future. History tells us that the market periodically acts this way and has always recovered—it is a cycle that is repeating itself. Our mettle is just being tested again. It is clear though, that many folks are cutting back, and those concerned about their futures are suddenly less generous.

All in all, the last fifty-nine years have been a great ride for me. Lawyers live interesting lives. You'll find them among the leaders of the nation and the local community. They help people who are in trouble. Sure, there may be a few sour apples, but those are vastly outnumbered by the good lawyers who work at preserving justice and the rule of law. I've met and worked with a good many of them and I can count the sour apples on one hand.

My wish for my fellow lawyers is that when they approach their sixtieth year at the Bar, they will feel the pride I feel today in our profession.

I'll sign off now. Thanks for letting this old geezer pass the time of day with you.