
Professionalism Committee

David W. Long, Chair

Can a View from the Past Guide Us Now?

By Daniel S. Johnson

Before the *Revised Rules of Professional Conduct* (effective 1997 & 2003), before the *Rules of Professional Conduct* (1985), and even before the *North Carolina Code of Professional Responsibility* (1973), attorneys in this state practiced under the *Canons of Ethics and Rules of Professional Conduct*. These Canons may be found in the official North Carolina Supreme Court Reports at 221 N.C. 592 (1942).

While no longer a source of enforceable ethics rules, it is submitted that a number of these Canons from the last century still offer guidance, albeit in somewhat outdated language, to today's lawyers. Among the Canons that still has relevance to us today to provide guidance in "professionalism" or civility is Canon 18.

18. Treatment of Witnesses and Litigants

A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking on his own behalf.

This Canon's text speaks particularly loudly and clearly when it says: "The client cannot be made the keeper of the lawyer's conscience in professional matters." How many of us have surrendered our civility to the lure of a client's anger or revenge?

This Canon stands as a reminder for us today that the lawyer can, and must, fully represent his or her client's interest without surrendering the lawyer's internal sense of morality and decency. Ultimately, a legal career in which the lawyer obeys his or her conscience ought to be less stressful than a career conducted otherwise.