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HONOR AS A DEFICIENT ASPIRATION FOR “THE HONORABLE PROFESSION”: THE LAWYER AS NOSTROMO¹

Robert F. Cochran, Jr.*

INTRODUCTION

Lawyers, as a group, seem to be much concerned with honor, prestige, and respect. Speakers at law school graduations and bar association dinners invariably proclaim that lawyers are members of an “honorable profession.”² This concern with honor was recently expressed by the American Bar Association President in his “President’s Message” in the *ABA Journal*, entitled “A Vision for Our Profession.”³ His vision includes: “[Seeing] the American legal

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1. Joseph Conrad, *Nostromo* (Keith Carbine ed., Oxford Univ. Press 1984). *Nostromo* is a character in Conrad’s novel who is particularly concerned about his reputation among the wealthy businessmen for whom he works. One of the businessmen gave him his name, apparently a “mispronunciation” of “nostro uomo,” Italian for “our man.” *Id.* at 43, 578 n.43.

BBC Films produced an excellent film version of *Nostromo* (1996), screenplay by John Hale, directed by Alastair Reid, and starring Claudio Amendola (*Nostromo*), Albert Finney (Dr. Monygham), Colin Firth (Charles Gould), and Serena Scott Thomas (Emilia Gould). The film was televised in the United States on Masterpiece Theater.

2. Joseph F. Anderson, Jr., *Lawyering in the New Millennium: Reflections of a Journeyman Trial Judge*, 49 S.C. L. Rev. 951, 956 (1998) (“Today, I welcome you to the ranks of an honorable profession.”); Michael J. Glazer, *Board of Governors Candidates*, Fla. B. News, Feb. 15, 1998, at 4, 4 (“I am proud to be a lawyer. Ours is a noble and honorable profession.”); Bill Houser, *Give your Placement Office a Call*, Tex. Law., Mar. 27, 1995, at 23, 23 (“[W]e are part of a most honorable profession.”); Gary L. Johnson, *Role, Ritual and Civility in Litigation*, Utah B.J., Apr. 1999, at 12, 14 (“Regardless of the jokes that you hear on late night television, we are part of an honorable profession with a great history.”); William A. Martin, *What is a Lawyer?*, Ark. Law., Winter 1995, at 15, 15 (“What is a lawyer? A lawyer is a member of an ancient and honorable profession.”); Dag Rowe, *President Rowe’s Challenge to New Lawyers*, Ala. Law., Nov. 1997, at 322, 322 (“The pride you feel in joining our honorable profession is justified.”); Eli Wager, *In Defense of Lawyers*, N.Y. L.J. Sept. 14, 1992, at 2 (“I simply bristle at the blunderbuss, mean spirited attacks upon this honorable profession because of politically motivated distortions of the role and performance of lawyers in this society.”).

3. William G. Paul, *A Vision for Our Profession*, A.B.A. J., June 2000, at 8, 8.

profession valued, respected and revered by the American people—as it ought to be—because after all, there is a nobility of purpose about the profession and about the work that it does.”⁴ Lawyers want to be honored for the more noble aspects of the profession, its pursuit of justice and the rule of law.⁵ The frequency with which lawyers, as opposed to doctors and the clergy, label their profession as “honorable” may reflect a bit of insecurity. It is undeniable that doctors and the clergy are honorable—they combat disease and sin. But it seems that too often lawyers combat justice and the rule of law.⁶

It is a sad irony that the profession that seems most concerned with its public standing has in recent years reached the bottom in public opinion polls. The legal profession is not honored.⁷ More importantly, it appears that it (or at least many of its members) is not honorable. Reports of lawyer corruption abound.⁸ One of the most

4. *Id.*

5. *See supra* notes 2-3.

6. This thirst for honor appears not to be merely an institutional desire. Law students and young lawyers scramble for jobs with the most “prestigious” law firms, despite well publicized reports of the harsh work loads and unhappy lawyers in such firms. The prestigious firms are also, of course, the firms that earn the most income and pay the highest salaries. Increasingly, it seems that their income and salaries are the source of their prestige. Many law students may be drawn to these firms by the money, but it is my sense that for many, the prestige is more important than the money. Lawyers who bill 2500 hours a year have little opportunity to enjoy their wealth and they often earn far more money for their clients than they earn for themselves.

7. The most devastating study of the public’s opinion of lawyers was one commissioned by the ABA itself. *See* Gary A. Hengstler, *Vox Populi: The Public Perception of Lawyers: ABA Poll*, A.B.A. J., Sept. 1993, at 60. Only 22 percent of those surveyed said that the phrase “honest and ethical” describes lawyers. *Id.* at 62. Forty percent said that this description does not apply to them. *Id.* “It seems that the more contact a person has had with lawyers, the less favorably he or she is inclined to feel about them.” *Id.* at 61. For the ABA’s response, see *infra* text accompanying note 133.

8. *See, e.g.,* Leslie C. Levin, *The Emperor’s Clothes and Other Tales About the Standards for Imposing Lawyer Discipline Sanctions*, 48 Am. U. L. Rev. 1, 12 (1998) (describing cases of two New York lawyers: the first spent one year in prison and was disbarred for participating in insider trading based on confidential client information; the second pled guilty to overbilling a client by \$550,000); June D. Bell, *Convicted Killer Among 6 Lawyers Disbarred by High Court*, *Fulton County Daily Rep.*, Sept. 18, 1998, at 1 (Georgia lawyer disbarred for murdering the estranged wife of one of his clients); *Conspiracy Conviction in Bankruptcy Case Sends Attorney to Prison*, *Bankr. Ct. Dec.*, Aug. 10, 1999, at 6 (Alabama attorney sentenced to three years imprisonment for conspiracy, including bankruptcy, fraud, and money laundering); *Disbarred California Attorney Arrested on Fraud Charges*, *Mealey’s Litig. Rep.: Ins. Fraud*, 6, No. 6, Nov. 1999, at 25 (Los Angeles attorney disbarred for renting the use of his name and attorney license to a non-attorney, and running an auto fraud practice, staging accidents and collecting insurance dishonestly); *Faisandier’s ex-lawyer denies theft*, *The Dominion* (Wellington), July 29, 1999, at 6 (lawyer admitted to fraudulent business dealings with client and was disbarred); *Federal Judge Sentences Disbarred Attorney for \$100,000 Embezzlement*, *White Collar Crime Rep.*, 12, No. 6, June 1998, at 11 (attorney ordered to pay \$132,000 restitution and serve fifteen months in prison and three years of supervised release for embezzling from the

troubling studies was prepared recently by Lisa Lerman about prominent lawyers at “elite” law firms—once thought to be immune from corruption⁹—who stole large amounts of money from their clients and partners through billing and expense fraud.¹⁰ This appears to be a recent phenomenon. Lerman found reports of 36 cases since 1989, and none prior to that time.¹¹ The lawyers involved were not only at the top of the profession, they had sterling reputations prior to the disclosure of their fraud.¹² Obviously, such behavior makes a

U.S. Department of Housing and Urban Development); Henry Gottlieb, *He Had Satisfied Clients. So Where's the Loss?*, 143 N.J. L.J., 956, 956 (1996) (New Jersey attorney, after being disbarred, assumed the identity of another New Jersey attorney); Jennifer V. Hughes, *Law & Order: Former Lawyer Extradited to Answer Fraud Charges*, Record (Bergen County, N.J.), June 14, 2000, at L8 (New Jersey attorney extradited from Texas to New Jersey for insurance fraud); *Lawyer is Jailed for Robbing Kids*, Boston Globe, Feb. 23, 1999, at D24 (Massachusetts attorney disbarred for stealing money from the trusts of children harmed by lead poisoning which he was hired to manage); Patricia Manson, *Eight Disbarred, Fourteen Suspended*, Chi. Daily L. Bull., Mar. 23, 2000, at 1 (former mayor disbarred after he forced the municipality's attorney to pay kickbacks in order to maintain employment); *Nursing Homes: New York, Medicaid Fraud Rep.*, Oct. 1997, at 19 (disbarred New York attorney charged in nursing home scam, in which he worked with top executives to obtain names of wealthy residents without close relatives, acquired power of attorney authorizations from them, and withdrew funds from their bank accounts); Michael L. Wang, *A Roundup of Recent Cases and Developments from Around the Nation*, Bus. Crimes Bull., Apr. 1999, at 9 (Vermont lawyer disbarred for embezzlement); Rich Wittish, *Savannah Bar To Polish Tarnished Image*, Fulton County Daily Rep., Feb. 1, 1999, at 1 (former state senator and former assistant district attorney sentenced to prison for fraud; two other attorneys held in contempt of court for failing to comply with court order that they return \$2.4 million in fees that they received from a \$3.3 million medical malpractice settlement after their client died a pauper); Cindy Wolff, *Well-born Lawyer Plays Precarious Game—and Loses, Check-Juggling Spins Out of Control*, Com. Appeal (Memphis, Tenn.), June 26, 1994, at A1 (attorney “borrowed” from escrow account for living expenses, business ventures and investments).

9. See Amy R. Mashburn, *Professionalism as Class Ideology: Civility Codes and Bar Hierarchy*, 28 Val. U. L. Rev., 657, 676-77 (1994) (finding that large corporate firms are regarded by lawyers as most ethical; small personal injury, divorce, and criminal defense firms regarded as least ethical).

10. See Lisa G. Lerman, *Blue-Chip Bilking: Regulation of Billing and Expense Fraud by Lawyers*, 12 Geo. J. Legal Ethics 205 (1999).

11. See *id.* at 209-10. Her study focused on sixteen “lawyers who came from privileged backgrounds, attended elite [law] schools, and have been mentored and trained at some of the most respected law firms in the United States.” *Id.* at 210. All were either a managing partner, a member of the executive committee, or a rainmaker at an elite firm—lawyers who would have certainly been given the label “honorable” prior to the disclosure of their fraud. See *id.* All had been publicly accused of stealing over \$100,000 from their client or firm and been jailed or disbarred. See *id.*

12. For example, one of Gary Fairchild's partners said, “If you told me there was only one honest lawyer out of 476 lawyers here, I would tell you it was Gary Fairchild He seemed to be perfectly open and above board. It's like when the kid next door turns out to be an ax murderer.” *Id.* at 230 (quoting David Margolick, *A Theft Scandal Ravages a Career at a Leading American Law Firm*, N.Y. Times, May 13, 1994, at B18); see *id.* at 319, 340 (providing similar reports from those close to other disgraced lawyers in the study, Webster Hubbell and William F. Druker). Webster Hubbell had served as Associate Attorney General of the United States,

mockery of the profession's claim to honor. As United States District Court Judge Alfred Wolin said to a disbarred attorney and former mayor who pleaded guilty to stealing \$780,000 in client funds: "You've dishonored not only yourself, you've dishonored an honorable profession."¹³

In this essay, I will consider the relationship between honor and moral downfall. The obvious relationship between the two is that if the moral downfall becomes public, it will bring dishonor. My questions go a bit deeper. Is the pursuit of honor likely to lead to moral downfall? This question is important both for lawyers as individuals and for the legal profession as a whole. Should lawyers seek honor and should the profession promote it?

I will explore the relationship between honor and moral downfall with a case study, although not the usual case study of legal education.¹⁴ The case I would like to study is that of Joseph Conrad's character, Nostromo, from the novel of the same name.¹⁵ Nostromo took on dangerous and difficult tasks for the businessmen in a small South American country of Conrad's creation. He was not a lawyer, but he had many lawyer-like qualities.¹⁶ He, like most lawyers, had

Chief Justice of the Arkansas Supreme Court, and chaired the Ethics Committee of the Arkansas Bar Association. Richard Salomon was an advisor to the American Law Institute, assisted the ABA Commission on Professionalism, and wrote several articles on legal ethics, including *Rekindling Lawyer Professionalism*, 41 Mercer L. Rev. 597 (1990) and "Shades of Gray" and *Other Myths*, 1 Geo. J. Legal Ethics 463, 468 (1987) (urging that law schools restore "ethics to its rightful place at the center of the universe of professional and educative values"). See Lerman, *supra* note 10, at 230, 313 and citations therein.

13. David Voreacos, *Ex-Mayor Gets 2 Years for Stealing \$780,000*, Record (Bergen County, N.J.), Nov. 5, 1998, at L03.

14. Fiction can be a great source for the study of ethics. Historians are generally limited to reporting what people did, and to speculating about why they did it. Participants in events may provide some insight into their moral struggles, but they tend to cast themselves in the most favorable light. Their accounts are not always the best vehicles for moral insight. The novelist has great freedom and a great challenge. The novelist has freedom to create a character and to describe his inner-most thoughts, but the character must ring true to the reader if the story is to be believed and to have moral impact.

I like to use non-legal stories as ethical case studies. See, e.g., Robert F. Cochran, Jr., *Crime, Confession, and the Counselor-at-Law: Lessons From Dostoyevsky*, 35 Hous. L. Rev. 327 (1998). Students have a bit more distance from a character who is not a lawyer. I encourage students to ask how the virtues or vices of a character would manifest themselves in a lawyer.

15. Conrad *supra* note 1.

16. Like many lawyers, Nostromo seemed to find his identity in his work. Even his name, Nostromo—"our man"—came from his work; it described his loyalty to his employers. Like many lawyers, his job was to smooth the friction between divergent interests—he kept the dockworkers at work. Captain Mitchell said often "that till he got this man he could never tell how long it would take to unload a ship." *Id.* at 191. Decoud said he was an "active usher-in of the material implements for our progress." *Id.* For the first part of the book, he displays what many view as an ideal lawyer characteristic, he did not seem to be driven by money—Nostromo appeared to be above it.

power that was derived from his skill and he used that power to promote, in the phrase used often in *Nostromo*, "material interests."¹⁷ Also, like many lawyers, Nostromo was one for whom honor was very important. Honor served as the basis for his ethics and he proudly wore a badge of incorruptibility. But at a point, Nostromo fell, and fell far. He took advantage of the trust that the businessmen gave him. His story has much to teach us about honor and its relationship to moral corruption.¹⁸

In Part I of this essay, I will give an overview of the story of Nostromo. (Obviously, to get the full benefit of the story, you should read the book.) I will focus on two crucial questions: Why was Nostromo so reliable in the beginning of the book? And why did he fall? In Part II, I consider lawyers "material interests," and honor.

I. THE STORY OF NOSTROMO

A. *An Overview*

Nostromo takes place in the mid-19th century, in the Republic of Costaguana. The country's most valuable natural resource, the San Tomé silver mine, is located near the harbor town of Sulaco. Sulaco and the mine are separated from the rest of Costaguana, including its capital, by a rugged mountain range. The mine has been the subject of political and military conflict for several decades. In the most recent revolution, several years ago, it was looted and destroyed.

The mine's current owner is Charles Gould, age 20. After several years in Europe, he returns to Sulaco with his new bride, Emilia, to reopen the mine. Reopening the mine will require great engineering know-how, which Charles has obtained on trips to old mines in Europe. It will also require a great deal of money, which he obtains from an American financier.

Both Charles and Emilia hope that the mine will be a force for social good and stability in Sulaco. In Charles' view, "material interests . . . once established, would safeguard the honest working of political institutions which, sound in themselves, had been the shield

17. See *infra* notes 173-87 and accompanying text.

18. This is more than an academic exercise for me. I was born and raised in the South, the region of the United States that takes most seriously the ethic of honor. See *infra* notes 109-12. I went to law school at the University of Virginia, the university that probably takes its honor code more seriously than any other. I practiced law with the Charlottesville/Albemarle County Bar Association, in the region where Thomas Jefferson once practiced law, a region steeped in an ethic of honor. We took the notion of law as "an honorable profession" seriously. I tended to think that honor protected us from much of the corruption experienced elsewhere (it seemed that stories of lawyer and politician corruption were much more common among our Washington, D.C., Maryland and West Virginia neighbors). But within a short period of time in the 1980s, several of my respected colleagues at the bar were caught embezzling funds and disbarred.

of plundering demagogues.”¹⁹ Martin Decoud, a cynical journalist, is not impressed with Charles’ high-minded motives. Comparing himself to Gould, he says: “I am not a sentimentalist, I cannot endow my personal desires with a shining robe of silk and jewels. Life is not for me a moral romance derived from the tradition of a pretty fairy tale.”²⁰

Initially, Charles “accomodate[s] himself to existing circumstances of corruption”²¹ He pays the necessary tributes to the corrupt government officials “with a cold, fearless scorn, manifested rather than concealed by the forms of stony courtesy.”²² But soon, he finances a revolution in order to get rid of the corruption.²³ “Good faith, order, honesty, peace, were badly wanted for this great development of material interests.”²⁴ The revolution is successful and brings in the “five-year dictatorship [of] Don Vincente Ribiera, a man of culture and of unblemished character, invested with a mandate of reform by the best elements of the State.”²⁵ For a time, the “material interests” develop freely. The mine has a steadying effect on the province,²⁶ but it has its social costs as well. Wagons carrying silver with military escorts push meek Indian villagers and their loaded donkeys aside.²⁷ Nonetheless, the Goulds see each shipment of silver as “another victory gained in the conquest of peace for Sulaco.”²⁸

Amidst the turmoil of political, economic, and military conflict, Conrad’s concern is with the personal identity of his characters. He introduces us to several engaging figures. Some are businessmen, but without the social concerns that initially motivate Charles Gould. Mr. Holeroid, the American financier, bankrolls Gould. Captain Mitchell runs the port. Idealists Don Jose Avelanos and his daughter, Antonia, hope that the reopening of the mine will lead to political and economic stability for the region. Other of Conrad’s characters are cynical. Martin Decoud, a journalist, remains in Sulaco because he has fallen in love with Antonia, but has little hope that stability will ever come to the region. Dr. Monygham, a medical doctor, is guilt-ridden for having cracked in the face of torture during an earlier revolution. He has a strange personal appearance and a “rough ironic manner,”²⁹ but responds warmly to the compassion that Emilia Gould

19. Conrad, *supra* note 1, at 581-82 n.143 (quoting the serial edition of *Nostramo* from *T. P. O’Connor’s Weekly*, Mar. 13, 1904, at 370).

20. *Id.* at 218.

21. *Id.* at 142-43.

22. *Id.* at 143.

23. *Id.*

24. *Id.* at 117.

25. *Id.*

26. *Id.* at 95.

27. *Id.* at 114.

28. *Id.* at 115.

29. *Id.* at 454.

extends to him. He has no illusions about the social effects of “material interests,” but he prefers the “material interests” to the violence of continuing revolutions.

Nostromo, an Italian, jumped ship in Sulaco several years ago.³⁰ His closest acquaintances are an Italian family, the Violas: Giorgio, Theresa, and their daughters, Linda and Giselle. Nostromo is a man of action who combines many worthy attributes. He has great physical strength, a handsome appearance, strength of will, and a forceful personality. He can get things done. Nostromo works for Captain Mitchell at the dock and is “one of those invaluable subordinates whom to possess is a legitimate cause of boasting.”³¹ Captain Mitchell has loaned him to other Europeans for important and sensitive tasks; thus bringing “Nostromo into personal contact, sooner or later, with every European in Sulaco, as a sort of universal factotum—a prodigy of efficiency in his own sphere of life.”³² Nostromo’s real name is John Batista Fianza, but Captain Mitchell gives him the nickname “Nostromo.” Apparently Captain Mitchell mispronounced “nostro uomo,” Italian for “our man.”³³ For the wealthy businessmen, the name fits because of Nostromo’s loyalty. Nostromo is described as “a man absolutely above reproach,”³⁴ an “invaluable fellow,”³⁵ a “tireless taskmaster,”³⁶ “[a] fellow in a thousand!,”³⁷ “always a very shrewd and sensible fellow, absolutely fearless, and remarkably useful,”³⁸ and “the indispensable man, the tried and trusty Nostromo.”³⁹ According to Captain Mitchell, he is “invaluable for our work—a perfectly incorruptible fellow.”⁴⁰

Nostromo is proud of and cultivates his reputation. Decoud, the journalist, says that Nostromo has “a peculiar talent when anything striking to the imagination has to be done.”⁴¹ Nostromo escorts Sir John, the English engineer, on the treacherous journey across the mountains of Costaguana.⁴² Nostromo says that he protected the Englishman on his journey “as though he had been my own father . . . [a]nd I have sat alone at night with my revolver in the Company’s warehouse time and again by the side of that other Englishman’s heap of silver, guarding it as though it had been my own.”⁴³ Nostromo is

30. *Id.* at 253.

31. *Id.* at 44.

32. *Id.*

33. *Id.* at 43, 578 n.43.

34. *Id.* at 13.

35. *Id.* at 12.

36. *Id.* at 15.

37. *Id.* at 96.

38. *Id.* at 320.

39. *Id.* at 130.

40. *Id.* at 127.

41. *Id.* at 226.

42. *Id.* at 43.

43. *Id.* at 125.

obsessed with work and the opinion of the powerful. (He would have made a good associate in a large law firm.)

Nostromo is also "Our Man" to the people of Costaguana. They revere and admire him. Conrad describes Nostromo as "a man of the People as free as possible from his class-conventions and all settled modes of thinking He does not want to raise himself above the mass. He is content to feel himself a power—within the People."⁴⁴ Nostromo has "extraordinary power over the lower classes."⁴⁵ His great joy is riding "through the streets, recognized by everyone . . . on his way to play *monte* in the posada of the Mexican Domingo [and sitting] in the place of honour, listening to songs and looking at dances."⁴⁶ Whereas the businessmen honor Nostromo for his loyalty and effectiveness, the people honor him for his success in his daring exploits.

For a time, under President Ribiera, the mine and country operate in peace. But the silver is an attractive prize for would-be tyrants. In a military coup, General Montero takes over the capital city. President Ribiera escapes over the mountains to Sulaco, but rioting peasants attack him. Nostromo comes to his rescue.⁴⁷

Nostromo assumes two major tasks during the Monterist revolution. First, the English businessmen entrust Nostromo and the journalist, Decoud, with a boat loaded with silver. They are to sail it out of the reach of the invading Monterists. Nostromo's response to the task reveals both his love of honor and his loyalty to his employers. Of his mission, he says:

It shall be talked about when the little children are grown up and the grown men are old. Aha! the Monterists must not get hold of [the silver], I am told, whatever happens to Nostromo the Capataz; and they shall not have it, I tell you, since it has been tied for safety round Nostromo's neck.⁴⁸ I shall let the sea have the treasure rather than give it up to any stranger. Since it was the good pleasure of the Caballeros to send me off on such an errand, they shall learn I am just the man they take me for.⁴⁹

In the dark of night, Nostromo and Decoud's boat collides with an invading Monterist ship. Nostromo and Decoud save their boat and row it to a deserted island not far from Sulaco. They bury the treasure and Nostromo swims for Sulaco, leaving Decoud on the island.

Upon his return at night to Sulaco, Nostromo collapses out of exhaustion. He wakes to find a vulture observing him, a "patient

44. *Id.* at xliv.

45. *Id.* at 220.

46. *Id.* at 414-15.

47. *Id.* at 12.

48. *Id.* at 265.

49. *Id.* at 267.

watcher for the signs of death and corruption."⁵⁰ Nostromo mutters, "I am not dead yet," but thinks himself close to it.⁵¹ He assumes that the Monterists have prevailed and fears that he will have to go into hiding. He can no longer walk boldly through the streets and receive the adoration of the people. This causes what seems to be Nostromo's first serious reflection on the value of the honor that he has received and the loyalty that he has shown. I will return to consider Nostromo's reflections.⁵²

Nostromo steals into town in the early morning hours and runs into Dr. Monygham. The Monterists have not yet prevailed, but things do not look good. Monygham persuades Nostromo to assume his second great task. Nostromo rides 1000 miles in seven days to alert General Barrios, a Ribierist loyalist, of the Monterist attack. Barrios returns to Sulaco and defeats the Monterist forces. The Monterist revolution gives way to the Sulacan revolution and Sulaco, under the firm control of the "material interests," declares its independence from the rest of Costaguana.

Nostromo is faced with a moral challenge when he returns to the island and finds the boat, covered with blood, adrift in the sea. Four ingots of silver are missing and Decoud is nowhere to be found. Decoud has committed suicide—he took the boat out into the sea, placed the ingots of silver in his shirt, shot himself, and jumped overboard.⁵³ Nostromo feels that no one will believe him that he did not steal the four ingots of silver if he returns only the remainder. The incorruptible Nostromo resolves to grow rich slowly from the rest of the silver.⁵⁴ The people do not suspect him. They believe that all of the silver sank in the collision with the Monterist ship.

The final scenes of the book take place several years after the independence of Sulaco.⁵⁵ True to his resolve, Nostromo has grown rich slowly, appearing to earn his fortune through trading.⁵⁶ The silver remains hidden on the island, and Nostromo takes only a few ingots at a time. Yet this life is not satisfying to Nostromo. "To do things by stealth humiliated him."⁵⁷ At one point, he considers suicide, but his concern with reputation saves him—he imagines "the disgrace, the shame" that would accompany suicide.⁵⁸

After its separation from the rest of Costaguana, Sulaco, in Conrad's words, grows "rich swiftly on the hidden treasures of the earth, hovered over by the anxious spirits of good and evil, torn out by

50. *Id.* at 413.

51. *Id.*

52. *See infra* text accompanying notes 81-95.

53. Conrad, *supra* note 1, at 499-501.

54. *Id.* at 503.

55. *Id.* at 504-66.

56. *Id.* at 514.

57. *Id.* at 523.

58. *Id.* at 525.

the labouring hands of the people.”⁵⁹ There is talk of annexing “the rest of Costaguana to the order and prosperity of Sulaco.”⁶⁰ Charles Gould’s company is now the San Tomé Consolidated Mines and its territory contains not only silver, but also gold, copper, lead, and cobalt.⁶¹ Emilia Gould is isolated because her husband is obsessed with the mine.⁶²

Sulaco, the object of growing shipping interests, builds a lighthouse on the island that holds the hidden silver. At Nostromo’s suggestion, the city places his friends, the Violas, in charge of the lighthouse. Nostromo continues to get silver from the island when he goes for visits with the family. The father, Giorgio, has chosen his older daughter, Linda, to marry Nostromo, but Nostromo carries on a secret love interest with the younger daughter, Giselle. However, the silver controls even this relationship. Nostromo refuses to elope with Giselle until he has grown rich.

One night, as Nostromo goes secretly to see Giselle, Giorgio mistakes Nostromo for another suitor and shoots and mortally wounds him.⁶³ On his deathbed, Nostromo calls for Emilia Gould. He confesses to her that he stole the silver, but she refuses to allow him to tell her the location of the silver. He dies, the only one who knows of its location.

B. *Nostromo’s* Puzzles

Conrad’s novel raises several questions. I will focus on two: Why was Nostromo loyal? And why did he fall? The answers may tell us something about honor as well as the benefits and dangers of making it a professional ideal.

1. Why Was Nostromo Initially “Incorruptible”?

Nostromo’s loyalty and reliability struck everyone. “‘The fellow is devoted to me, body and soul!’ Captain Mitchell was given to affirm.”⁶⁴ Dr. Monygham “accepted the popular conception of [Nostromo’s] incorruptibility simply because no word or fact had ever contradicted a mere affirmation. It seemed to be a part of the man, like his whiskers or his teeth. It was impossible to conceive him otherwise.”⁶⁵

The question of why Nostromo was so loyal and reliable, why he was willing to risk so much to please his wealthy employers, was one

59. *Id.* at 504.

60. *Id.* at 509.

61. *Id.* at 504.

62. *Id.* at 522.

63. *Id.* at 553-54.

64. *Id.* at 44.

65. *Id.* at 432.

that occurred to the other characters in the novel. Dr. Monygham says: "I suppose he obtains some—how do you say that?—some spiritual value for his labours, or else I don't know why the devil he should be faithful to you, Gould, Mitchell, or anybody else. . . . I think that Nostromo is a fool."⁶⁶

It appears that Nostromo was loyal and reliable to his employers out of a desire for honor. He had a "life whose very essence, value, reality, consisted in its reflection from the admiring eyes of men."⁶⁷ Decoud says, "it is curious to have met a man for whom the value of life seems to consist in personal prestige."⁶⁸ But, of course, that merely raises the question of why he had such a strong desire for honor.

Decoud notes that Nostromo seems to care little about the causes for which he fights. "The only thing he seems to care for, as far as I have been able to discover, is to be well spoken of. An ambition fit for noble souls, but also a profitable one for an exceptionally intelligent scoundrel."⁶⁹ But it does not appear that Nostromo intended to take advantage of those who had placed their faith in him. Decoud acknowledges that "He is more naive than shrewd, more masterful than crafty. . . ."⁷⁰

Emilia Gould, always one to think the best of people, responds that "Perhaps he prizes [honor] for its own sake."⁷¹ She thinks of him as "disinterested, and therefore trustworthy."⁷²

Theresa Viola, mother in the family with whom Nostromo was friendly, sees Nostromo's ego at the root of his services. She accuses him of "run[ning] at the heels of his English,"⁷³ yet "'think[ing] of nobody but himself."⁷⁴ Decoud also sees the connection between honor, vanity, and Nostromo's reliability.

There remained only one thing [Decoud] was certain of, and that was the overweening vanity of his companion [Nostromo]. It was direct, uncomplicated, naive, and effectual. Decoud . . . had tried to understand his man thoroughly. He had discovered a complete singleness of motive behind the varied manifestations of a consistent character. This was why the man remained so astonishingly simple in the jealous greatness of his conceit.⁷⁵

According to this view, Nostromo sought honor because it pleased his ego. It reaffirmed his vanity.

66. *Id.* at 321.

67. *Id.* at 525.

68. *Id.* at 248.

69. *Id.* at 246.

70. *Id.* at 248.

71. *Id.* at 221.

72. *Id.*

73. *Id.* at 19.

74. *Id.* at 20.

75. *Id.* at 275

Of course, insecurity often accompanies vanity. It may be that one of the factors that explains Nostromo's obsession with honor is that he had no other source of identity. He was an orphan, without family, without country, and without religious congregation.⁷⁶ Without a personal identity, he was unable to establish intimate relationships and sought to replace them with the praise of the people. Conrad styled him a "man of the People,"⁷⁷ but it is not from "the people" that we find true identity—it is from the families and communities of which we are a part. Theresa Viola tried to be a mother to him, but Nostromo rebuffed her efforts. She mocked his obsession with the opinion of the English. Once he passed through the Viola home, but spent little time with them.

"He has not stopped very long with us. There is no praise from strangers to be got here," Signora Teresa said, tragically. "Avanti! Yes! That is all he cares for. To be first somewhere—somehow—to be first with these English. They will be showing him to everybody. 'This is our Nostromo!'" She laughed ominously. "What a name! What is that? Nostromo? He would take a name that is properly no word from them."⁷⁸

Viola pointed out the foolishness of Nostromo's obsession with honor, but he did not—one senses that he could not—be otherwise. It may be that Nostromo's thirst for honor came from his lack of community.⁷⁹

Conrad does not give simple answers. He presents us with a picture of Nostromo without explanation. We are left with the characters, and possibly Conrad, to speculate about what motivated Nostromo in his search for honor. His love of honor does not appear to be reasonable, and yet he comes off as a real person—otherwise, we would not take him seriously as a character. I suspect that most have sensed within ourselves the desire for the approval of others. Nostromo seems real because he merely carries to an extreme what we see within ourselves. We have all known people who seemed obsessed with the praise of other people, who have little concern for what it is that generates that praise. Many of our politicians seem to be that way—they seek political position at great personal expense, but shift easily with the winds of public opinion. For some of them, the obsession with "a legacy" reveals that the pursuit of honor may be their motivating passion. In my view, this obsession with honor

76. Nostromo was "an orphan from his tenderest age," *id.* at 253. He did not believe in priests. *See id.* at 268.

77. *Id.* at xlv.

78. *Id.* at 23.

79. Conrad may have understood this drive, for he, like Nostromo was an orphan who had left his country. Conrad left his native Poland at an early age after the deaths of his parents. *See* Frederick R. Karl, *A Reader's Guide to Joseph Conrad* 7-9 (1960).

characterizes many lawyers. That may be why they are so anxious to claim the honor of the "honorable profession."

2. Why Did Nostromo Go Wrong?

Nostromo was remarkably loyal and reliable until he stole the silver. The question is why he fell at that point. The answer may tell us something about an ethic built on honor.

One possibility is that the amount of silver that was placed in his care made the temptation irresistible. No doubt the size of the load of silver contributed to his decision to take it, but he had faithfully served in positions of greater trust in the past.⁸⁰

The first time that Nostromo engages in serious self-reflection about his loyalty and his quest for honor occurs when he wakes up following his swim from the island to Sulaco.⁸¹ It appears that the Monterists have won. Without the cheering crowds, Nostromo comes to question the value of his life. "[I]n solitude, except for the watchful vulture," he has none of the "splendour and publicity" that had characterized his life up until that point.⁸² "The necessity of living concealed somehow, for God knows how long, which assailed him on his return to consciousness, made everything that had gone before for years appear vain and foolish, like a flattering dream come suddenly to an end."⁸³ At that moment on the island, he was an outlaw. "[I]t was no longer open to him to ride through the streets, recognized by everyone, great and little, as he used to do every evening . . ."⁸⁴ "Nostromo tasted the dust and ashes of the fruit of life into which he had bitten deeply in his hunger for praise."⁸⁵

Deprived of his glory and reputation, he now felt the pain of poverty.⁸⁶ He reflects on all of the sacrifices he had made for others and their lack of real appreciation.

He was as if sobered after a long bout of intoxication. His fidelity had been taken advantage of . . . [He had done important tasks for them.] All these things had flattered him in the usual way. What did he care about their politics? Nothing at all. And at the end of it all—Nostromo here and Nostromo there—where is Nostromo?

80. The chief engineer said: "The man has proved his trustworthiness up to the hilt on innumerable occasions and in all sorts of ways. . . . There have been occasions when [Nostromo] has been more implicitly trusted [than when the silver was turned over to him]." Conrad, *supra* note 1, at 320.

81. *Id.* at 413-20.

82. *Id.* at 414.

83. *Id.*

84. *Id.*

85. *Id.* at 416.

86. *Id.* at 415.

Nostromo can do this and that—work all day and ride all night—behold! he found himself a marked [man].⁸⁷

He may have thought of Theresa Viola's criticism of him; "taking your pay out in fine words from those who care nothing for you,"⁸⁸ seeking "the praise of people who have given you a silly name—and nothing besides—in exchange for your soul and body."⁸⁹

Our best understanding of Nostromo's reaction to his apparent failure may come from something that Decoud noticed shortly after the businessmen gave Decoud and Nostromo the task of transporting the silver. "It was evident that [Nostromo] resented having been given a task in which there were so many chances of failure."⁹⁰ Nostromo's great fear was failure. One of the dangers for one who is obsessed with honor is that if he fails, he gets no honor. Nostromo first expresses this resentment toward his employers when he believes that Sulaco has fallen to the Monterists. He thinks that he is on the losing side.

Of course, Nostromo's side ultimately defeats the Monterists. However, Nostromo returns to the island to find that Decoud has committed suicide and that four ingots are gone with him. Nostromo decides to keep the rest of the silver. On his deathbed, Nostromo gives some insight into his decision to keep the silver. He confesses to Emilia Gould: "And Decoud took four. Four ingots. Why? *Picardia!* To betray me? How could I give back the treasure with four ingots missing? They would have said I purloined them. The doctor would have said that. Alas! it holds me yet!"⁹¹

When Nostromo realized that the four ingots were missing, he concluded that if he returned the silver, he would no longer be honored. People would assume that he had stolen the ingots. Once he lost the hope of being praised for saving the silver, he no longer had a moral foundation. If he could not have honor, he had no reason to behave ethically.

It may be that in some respects, Nostromo's experience is like that of some of our fallen lawyers. Many of them, like Nostromo, appear to have lived lives above reproach prior to their downfall. Most lawyers, like Nostromo, work in the service of "material interests;" many work for clients who are much more wealthy than they. These lawyers, like Nostromo, face the special temptation that comes to one who is entrusted with the wealth of the wealthy. It may be easier for the conscience to allow one to rob from the rich (even better, a corporation) than from the poor. At one point, Nostromo tries to

87. *Id.* at 417.

88. *Id.* at 253.

89. *Id.* at 256.

90. *Id.* at 275.

91. *Id.* at 559.

comfort his grieving conscience for having stolen the silver: "The rich lived on wealth stolen from the people, but he had taken from the rich."⁹² The fallen lawyers, like Nostromo, may have come to feel that they had been used by their clients, clients for whom they, like Nostromo, had little respect.⁹³ They, like Nostromo, may have been doing work for causes in which they did not believe.⁹⁴ Lawyers generally are well paid, but, like Nostromo, they may resent that their work had enabled their clients to make much more. It may also be that some of them had been drawn to the practice of law by a desire for honor, but that the praise only maintained them for so long. They may, like Nostromo, have been in a situation where they, through no fault of their own, faced failure and loss of honor, and had come to believe that they had no more reason to act honestly. Like Nostromo, a resentment toward wealthy clients coupled with the lack of honorable ethic may have led to moral downfall.⁹⁵

Conrad's message is that up to a point, honor may be effective in encouraging loyalty and service, but that it is a fragile foundation for moral action. In the following section, I take a deeper look at the concept of honor. In the final section, I consider whether Conrad presents us with any alternatives.

II. LAWYERS AND HONOR

Nostromo raises several law-related themes. Among them are the ambiguous effects of "material interests" on society,⁹⁶ the ambiguity of

92. *Id.* at 541.

93. "As to Captain Mitchell, Nostromo, after the manner of trusted subordinates, considered him as a person fitted by education perhaps to sign papers in an office and to give orders, but otherwise of no use whatever, and something of a fool." *Id.* at 419.

94. "What did [Nostromo] care about their politics? Nothing at all." *Id.* at 417. The legal profession makes it clear that lawyers need not believe in the causes that they advance. The ABA's Model Rule 1.2(b) states, "[a] lawyer's representation of a client . . . does not constitute an endorsement of the client's political, economic, social or moral views or activities." Model Rules of Prof'l Conduct R. 1.2(b) (1983) [hereinafter Model Rules].

95. I suggested earlier that Nostromo's lack of family and religious background might explain his obsession with honor and status. It may also be that this lack of family and religious background was a contributing factor to his moral downfall. Some studies have indicated that "people with strong bonds (attachment, commitment, involvement and belief) to conventional institutions (such as the family, the school and the church) are constrained from engaging in delinquent or criminal conduct." Lerman, *supra* note 10, at 254 (quoting David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 228 (1996)). These institutions give moral instruction as well as a sense of identity that enable many to live honest lives.

96. The Goulds initially seek to better Costaguana through the mine and "material interests." The mine brings some stability, but it is an insecure stability. At the end of the book, some people suggest that Sulaco invade the rest of Costaguana. Emilia Gould expresses a desire for peace and rest, but Dr. Moneyham responds:

"There is no peace and no rest in the development of material interests. They have their law, and their justice. But is it founded on expediency, and

political action,⁹⁷ and the human tendency to destroy creation.⁹⁸ But the special concern of this article is what Nostromo might teach us about the effects of honor and "material interests" on the lawyer.

Honor as a source of motivation and ethical values differs from Enlightenment liberal and religious ethics.⁹⁹ Whereas liberalism looks

is inhuman; it is without rectitude, without the continuity and the force that can be found only in a moral principle. Mrs. Gould, the time approaches when all that the Gould Concession stands for shall weigh as heavily upon the people as the barbarism, cruelty, and misrule of a few years back."

Conrad, *supra* note 1, at 511.

Dr. Monygham predicts that the mine's wealth in the future will again "provoke resentment, bloodshed, and vengeance." *Id.* Conrad leaves us with the debate that continues today, whether the benefits of capitalism outweigh its costs. He had little faith in socialism, concluding that it "must inevitably end in Caesarism." Eloise Knapp Hay, *The Political Novels of Joseph Conrad, A Critical Study* 24 (1963) (quoting Letter to Kliszczewski, Dec. 19, 1885, *Life and Letters*, I, 84). Conrad's interpreters go in different directions. Albert Guerard Jr. argues that according to Conrad, "the conflicts induced by capitalist exploitation outweigh the benefits accrued." Keith Carabine, *Introduction to Joseph Conrad, Nostromo*, at xi (quoting A.J. Guerard, *Conrad the Novelist* 198 (1958)). Robert Penn Warren argues that "we must admit that the society at the end of the book is preferable to that of the beginning." *Id.* (quoting Robert Penn Warren, "The Great Mirage": Conrad and Nostromo, *Selected Essays* 50 (1958)). Perhaps Conrad was right to leave the matter ambiguous.

97. Costaguana's revolutions yield one dictator after another. Most result in no social change, but only in the horrors of chaos. It is Dr. Monygham who is perhaps the most cynical about the benefits of "material interests," but who takes a leading role in the revolution that places the "material interests" in power. He persuades Nostromo to retrieve General Barrios and deceives the Monterists in order to gain time for Barrios' arrival. One can argue that it is Monygham, the cynical activist, who best expresses Conrad's view of politics. See Hay, *supra* note 96, at 208-09; see also notes 192-97 *infra* and accompanying text (discussing Dr. Monygham).

Conrad's views towards politics were no doubt greatly influenced by his father. His father, Apollo Korzeniowski, was a Polish intellectual and revolutionary. He was arrested and exiled, and died "a gloomy and defeated figure," while Joseph was still young. Karl, *supra* note 79, at 7-8. Conrad's father's interest in politics probably sparked his son's interest in politics. Conrad's failures probably sparked his cynicism.

98. The mine is a dominating presence throughout *Nostromo*. Some people love it; others hate it. Some people destroy it, but the mine has its revenge on many of the characters. It kills some physically, others emotionally. William Mueller argues that in Conrad's view:

[T]here is a wide difference between man's proper stewardship of the . . . orders of creation and his habitual disposition to regard them as objects to be used solely and unrestrainedly for human comfort. There is in his view of the natural universe something sacramental, a belief that each order of the world possesses its own kind of integrity, dignity, and beauty. When such integrity is violated by man's heedless rapacity, the offended order will strike back

William R. Mueller, *Celebration of Life: Studies in Modern Fiction* 96-97 (1972); see *id.* at 77-97 (chapter entitled "*Nostromo* and the Orders of Creation: An Ontological Argument").

99. See John Casey, *Pagan Virtue: An Essay in Ethics* 52 (Clarendon Press 1990).

[T]he idea that courage displayed in great deeds on a public stage, and pursued for the sake of honour, is a greater and better thing than a 'subjectively' equivalent fortitude shown in, say, patiently bearing sickness and obscure suffering, will strike many people now as not only misguided,

to the individual conscience for wisdom and religious faiths look to God, an ethic of honor, with its Greek, Roman, Germanic, and Celtic roots looks to the opinion of the tribe, the group, the city, or the state.¹⁰⁰

De Tocqueville defines honor as "that peculiar rule, founded upon a peculiar state of society, by the application of which a people or a class allot praise or blame."¹⁰¹ According to de Tocqueville, there is a distinction between what a group recognizes as honorable and what it recognizes as good.¹⁰² Under de Tocqueville's definition, the dangers of honor as a professional aspiration are apparent; lawyers might do evil to obtain honor.

Aristotle's definition of honor differs from that of de Tocqueville. According to Aristotle, "honour is the prize of virtue and of beneficence, while gain is the assistance required by inferiority."¹⁰³ To be worthy of honor, an action must be virtuous. The difference in these definitions of honor highlights its ambiguity. If the legal profession is to choose honor as an aspiration, it must recognize the danger that lawyers will accept its potentially corrupting definition.

Even if we assume, as Aristotle did, that only virtuous actions are worthy of honor, honor seems to be an odd aspiration. The focus is

but revolting. Our inheritance from both Christianity and Kant makes us uncomfortable with the idea.

Id.; see *infra* notes 134-39 and 155-57 and accompanying text for discussion of the differences between ethics rooted in honor and ethics rooted in the Christian faith.

100. See Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* 33 (1982). I recognize that within religious ethics, the concept of honor might be used to enforce group norms, but the primary focus, at least of Christian and Jewish ethics, is on seeking to serve God.

101. 2 Alexis de Tocqueville, *Democracy in America* 242 (Henry Reeve trans., Colonial Press 1900) (1840).

102. As de Tocqueville wrote:

It would seem that men employ two very distinct methods in the public estimation of the actions of their fellow men; at one time they judge them by those simple notions of right and wrong which are diffused all over the world; at another they refer their decision to a few very special notions which belong exclusively to some particular age and country. It often happens that these two rules differ; they sometimes conflict: but they are never either entirely identified or entirely annulled by one another. Honor, at the periods of its greatest power, sways the will more than the belief of men; and even whilst they yield without hesitation and without a murmur to its dictates, they feel notwithstanding, by a dim but mighty instinct, the existence of a more general, more ancient, and more holy law, which they sometimes disobey although they cease not to acknowledge it. Some actions have been held to be at the same time virtuous and dishonorable—a refusal to fight a duel is a case in point.

Id. at 241. "In some cases feudal honor enjoined revenge, and stigmatized the forgiveness of insults . . . ; it allowed men to enrich themselves by gambling or by war, but not by labor; it preferred great crimes to small earnings; cupidity was less distasteful to it than avarice . . ." *Id.* at 243.

103. Aristotle, *The Nicomachean Ethics*, 218 (David Ross trans., Oxford Univ. Press 1980).

on what other people think of the lawyer, not on the inherent value of the lawyer's actions. As Bertram Wyatt-Brown notes, under a code of honor, "[t]he internal man and the external realities of his existence are united in such a way that he knows no other good or evil except that which the collective group designates."¹⁰⁴ Even if the group seeks to honor virtue, the group may get it wrong. In my view, Augustine got it right: "[V]irtue is superior to glory, since it is not content with the testimony of men, without the witness of a man's own conscience."¹⁰⁵

Historically, some groups have placed greater emphasis on the concept of honor than others. Some developed elaborate codes of honor that identify with some detail what is worthy of honor. Codes of honor have tended to have some common elements. The Greek,¹⁰⁶ Roman, German, and Celtic codes were based on "public repute, valor for family and country, and conformity to community wishes."¹⁰⁷ The honorable ideal was the military hero—the one who risked his life for the group. These codes were hierarchical, with different roles for each in the society. They celebrated masculinity—courage, aggressiveness, and daring. Harsh, often illegal, practices enforced their dictates—dueling and mob violence being the most dramatic. Bertram Wyatt-Brown refers to these codes as "primal honor."¹⁰⁸

In the United States, Southerners added to the concepts of primal honor the not entirely consistent concerns of "inner feelings of self-worth, gentility, and high-mindedness,"¹⁰⁹ "sociability, learning, and piety."¹¹⁰ Both primal honor and genteel honor became part of the Southern ethic,¹¹¹ but the primal code retained a strong hold. In the nineteenth century South, "Fighting, horse racing, gambling, swearing, drinking, and wenching were all activities that tested the schoolboy's honor among his peers."¹¹² Even success at dueling among the young men was the subject of praise.¹¹³ As de Tocqueville noted, Americans added entrepreneurial ability to the qualities worthy of honor.¹¹⁴

I now consider several aspects of an ethic of honor.

104. Wyatt-Brown, *supra* note 100, at 15.

105. Augustine, *Concerning the City of God Against the Pagans* 199 (Henry Bettenson, trans. 1972). Augustine praises Cato as a man who pursued virtue and criticizes Caesar as one who pursued honor. *See id.* at 199-200.

106. Aristotle's example of true courage is that of citizen soldiers who "appear to endure dangers because of the legal penalties and the reproach attaching to cowardice, and the honours awarded to bravery. . . ." Aristotle, *supra* note 103, at 163 (III.viii.1-3).

107. Wyatt-Brown, *supra* note 100, at 4.

108. *Id.* at 25.

109. *Id.* at 4.

110. *Id.* at 89.

111. *Id.* at 23-24, 26-27.

112. *Id.* at 164.

113. *Id.* at 167.

114. *See de Tocqueville, supra* note 101, at 247-49.

A. *Honor as Motivator: Its Strengths and Weaknesses*

The story of Nostromo, as well as historic experience, suggest that the prospect of honor can stimulate good behavior. On most occasions a desire for honor effectively motivates Nostromo. He escorts the businessmen over the mountains, protects their silver, keeps the dockworkers working, saves the President from an angry mob, and rides to alert General Barrios to Sulaco's danger.¹¹⁵ Much of this Nostromo does at great personal risk. When he is exhausted after swimming from the island to Sulaco, Dr. Monygham persuades Nostromo to go on the dangerous ride for Barrios with an appeal to honor. "I offer the best means of saving yourself [from the Monterists] . . . and of retrieving your great reputation."¹¹⁶

Aristotle stated that honor is the thing "which people of position most aim at, and which is the prize appointed for the noblest deeds; . . . that is surely the greatest of external goods."¹¹⁷ Augustine recognized the effectiveness of honor as a motivator. The early Romans "were passionately devoted to glory; it was for this that they desired to live, for this they did not hesitate to die."¹¹⁸

Though the external aspect of honor—the approval of others—is most obvious, there is an internal aspect as well.¹¹⁹ In addition to serving as a motivator toward what are often good deeds, honor can have inherent value to the person. The one who attains honor can develop a positive self-concept from the group.¹²⁰ Aristotle says that those "who desire honour from good men, and men who know, are aiming at confirming their own opinion of themselves; they delight in honour, therefore, because they believe in their own goodness on the strength of the judgement of those who speak about them."¹²¹

Some see honor as a means of a kind of immortality. "[T]hrough glory, [the Romans] desired to have a kind of life after death on the

115. See generally Conrad, *supra* note 1.

116. *Id.* at 464.

117. Aristotle, *supra* note 103, at 90 (IV.3).

118. Augustine, *supra* note 105, at 197.

119. As Bertram Wyatt-Brown explains:

At the heart of honor . . . lies the evaluation of the public . . . [But honor] is, at least in traditional terms, both internal to the claimant, so that it motivates him toward behavior socially approved, and external to him, because only by the response of observers can he ordinarily understand himself. The internal and external aspects of honor are inalienably connected because honor serves as ethical mediator between the individual and the community by which he is assessed and in which he also must locate himself in relation to others.

Wyatt-Brown, *supra* note 100, at 14.

120. As John Casey has said, "Honour may be necessary to us not just because we like having it—although everything suggests that it is what human beings like having more than anything else—but because it really is part of how we understand ourselves." Casey, *supra* note 99, at 84.

121. Aristotle, *supra* note 103, at 205 (VIII.8).

lips of those who praised them."¹²² Reputation after death seems to have been one of Nostromo's concerns. He decides not to commit suicide because of the disgrace that it would bring to his memory. Conrad suggests that Nostromo's greatest triumph was the scream of Linda, the rejected sister, at Nostromo's death.¹²³

Of course, an ethic of honor is not always effective. One lesson of *Nostromo* is that honor is a fragile ethic. Nostromo's moral downfall came when he thought that he would no longer be honored. If you build your morality on a foundation of honor, and you fail in your endeavor, your foundation is gone. Faced with the prospect of a taint on his honor, Nostromo exchanged his obsession with reputation for an obsession with the silver. Honor can be a foundation of sand, what moral influence it has may be easily lost.

One cause of the moral downfall of the legal profession may be that it built its house on a foundation of honor. When it lost its special place of honor, whether through the countless lawyer scandals or merely the profession's evolution into a business,¹²⁴ lawyers were left with little foundation for moral action. If this insight from *Nostromo* is correct, if damage to reputation (whether deserved or not) is likely to destroy an ethic based on honor, then lawyers are in moral danger. It is in the nature of the task that lawyers do that honor will be fragile. Much that they do is likely to be criticized and suspected. To cite just one obvious example, one of the most important things that lawyers do (and should do) is to represent the repulsive client.¹²⁵ Given the difficulty of explaining this responsibility to the public, it is almost assured that some lawyers will not be honored. If the lawyer has no other moral foundation, beware.

An ethic of honor may be fragile for other reasons as well. It relies on the opinion of the public, and public opinion may be fickle. Augustine quotes Cicero, "It is honour that nourishes the arts; it is glory that kindles men to intellectual effort. All pursuits lose lustre when they fall from general favour."¹²⁶ Whether or not the legal

122. Augustine, *supra* note 105, at 204.

123. In our day, when honor is not as highly valued as it was in an earlier era, it may seem odd that honor is so highly praised. Ours is an age that worships "material interests," and everything, even life, is subject to cost/benefit analysis. There may be wisdom in Pericles' notion that, "the love of honour alone is untouched by age, and when one comes to the ineffectual period of life it is not 'gain' as some say, that gives the greater satisfaction but honour." Casey, *supra* note 99, at 88-89 (quoting Thucydides, *The Peloponnesian War*, bk. ii, ch. 44 (Marchant trans., 1923)).

124. See Russell G. Pearce, *The Professionalism Paradigm Shift: Why Discarding Professional Ideology Will Improve the Conduct and Reputation of the Bar*, 70 N.Y.U. L. Rev. 1229, 1250-56 (1995) and sources cited therein.

125. The official comment to the ABA's Model Rule 1.2 states, "Legal representation should not be denied to people . . . whose cause is controversial or the subject of popular disapproval." Model Rules, *supra* note 94, R. 1.2, cmt. 3.

126. Augustine, *supra* note 105, at 202 (quoting Cicero, *Tusculanae Disputationes* 1-2, 4).

profession is honored at any point in time is likely to turn more on what cases the media have given public attention than what most lawyers actually do.

Finally, the very honor that a successful attorney receives can lead an attorney to take more money. Lisa Lerman, in her study of blue chip firm lawyers who defrauded clients and firms of large sums of money, suggests that some “were so successful that they became fearful of loss of professional or financial status.”¹²⁷ They stole to maintain the status they had achieved.

B. Honor and Character

An ethic of honor may motivate people to act, often in good ways, but its effect on character is likely to be mixed.

Character and Codes - An ethic of honor is a code. In a formal system of honor, the rules are likely to be clear and specific—in the Old South “the recitation of ritual words—liar, poltroon, coward” demanded a duel if, but only if, both parties were of the upper class.¹²⁸ In communities without a formal code the rules are likely to be more general—in Nostromo’s Sulaco, courageous actions and loyalty generated honor. A code may have a positive effect on character. The moral aspects of the code may become internalized—the community’s perception may become the individual’s perception. Compliance with the code may become a habit.

Nevertheless, compliance with a code may have no effect on character, and may even stunt character development.¹²⁹ Compliance does nothing to further the capacity for ethical reflection. This may have been the case with Nostromo. He acted only for honor and developed no basis for determining right from wrong—only “a peculiar talent [for acting] when anything striking to the imagination has to be done.”¹³⁰ His only concern was with what would bring him honor. Nostromo chose to transport the silver in the face of the oncoming Monterist forces, rather than get a priest for the dying Theresa Viola, not because of any ethical judgment, but because transporting the silver would bring him greater acclaim. Ethical choices have consequences. Making choices based solely on what will bring one acclaim is likely to become a habit. It will limit the development of one’s ability to exercise moral discernment. When

127. See Lerman, *supra* note 10, at 254.

128. Wyatt-Brown, *supra* note 100, at 360; *see id.* at 350-61.

129. See, e.g., Robert F. Cochran, Jr., *Lawyers and Virtues: A Review Essay of Mary Ann Glendon’s A Nation Under Lawyers: How the Crisis in the Legal Profession is Transforming American Society and Anthony T. Kronman’s The Lost Lawyer: Failing Ideals of the Legal Profession*, 71 Notre Dame L. Rev. 707 (1996) (reviewing books on “virtue ethics,” and proposing that “there is no code that answers every moral problem”).

130. Conrad, *supra* note 1, at 226.

the ethical option will not bring acclaim—as where Nostromo's return of the silver with four ingots missing would have brought only suspicion—the desire for acclaim may actually push one to do the wrong thing.

Keeping Up Appearances - Another weakness in an ethic of honor is that people can attain honor based merely on the appearance of things. This may lead them to do things for appearance's sake only. It may cause them to avoid doing good things for which they will get little or no credit. There are many ways to obtain honor that do not necessarily involve doing the right thing. Augustine quotes Sallust: "The true man and the worthless wretch alike covet glory, honour and power. But the true man directs his efforts along the right way; the man who lacks the moral qualities works towards his goal by trickery and deceit."¹³¹

An ethic of honor may encourage lawyers and bar associations to get public relations agents, rather than deal with the substance of their shortcomings. An example may be the response of the ABA to a survey that it commissioned in 1993 on the public perception of the legal profession.¹³² Although the survey showed that those who have the most experience with lawyers have the lowest opinion of them, the ABA President's response was that the ABA needed to change the public's understanding, rather than change the practices of the profession.¹³³

Moreover, the fact that honor rests on appearances might lead one to do things in public when they would be better done in private. If a lawyer wants to be honored for what she does, she will need to let other people know what she does. Often, however, it is to a client's advantage to have a matter resolved privately. A lawyer who wants public acclaim may be tempted to do things dramatically, in public, irrespective of client interest.

Honor and Pride - Honor may create in the individual a healthy self-concept, but there is a danger that that self-concept will grow to pride and arrogance.¹³⁴ Honor, like pride, is based on comparisons. A community gives honor to those it deems superior; the individual develops pride when he comes to believe that he is superior. The matter of pride is, of course, one of the areas where Christian teaching comes into conflict with an ethic of honor. Some Christians believe pride to be the greatest sin.¹³⁵ A dramatic illustration of the conflict

131. Augustine, *supra* note 105, at 199 (quoting Sallust, *Catilina* 11,1ff.).

132. See Hengstler, *supra* note 7.

133. See R. William Ide, *What the ABA Plans to Do*, A.B.A. J., Sept. 1993, at 65.

134. "[W]hite Southerners reared children to value honor as much as, if not more than, godly conscience. Like the Puritan conscience, honor could be internalized, and when it was violated, guilt was likewise the response. It did require self-restraint, but based upon pride, not divine commandment." Wyatt-Brown, *supra* note 100, at 129.

135. See C.S. Lewis, *Mere Christianity* 94-99 (Macmillian Publ'g 1952). Lewis writes. "Pride is *essentially* competitive. . . . Pride gets no pleasure out of having

occurred in Virginia in 1747 when wealthy squire Colonel Landon Carter, a proponent of Southern honor, nailed the church doors shut because, according to minister William Kay, "I had preached against pride."¹³⁶

Augustine recognizes an ambiguous aspect of honor's effect on character. "[The Romans'] unbounded passion for glory, above all else, checked their other appetites."¹³⁷ "[They] suppressed greed for money and many other faults in favour of that one fault of theirs, the love of praise."¹³⁸ Augustine argues, however, that "it is better to resist this passion [for honor] than to yield to it. . . . [T]he greed for glory should be overcome by the love of justice; and so, if things which are themselves good and right 'lose lustre' because of general disfavour, then the love of human praise itself should be ashamed, and yield place to the love of truth."¹³⁹

something, only out of having more of it than the next man." *Id.* at 95.

136. Wyatt-Brown, *supra* note 100, at 102 (quoting Rhys Issac, *Religion and Authority: Problems of the Anglican Establishment in Virginia in the Era of the Great Awakening and the Parsons' Cause*, Wm. & Mary Q. 3d ser. 30, 8-9ff (Jan. 1973)). Jerome H. Neyrey argues convincingly that a central theme in the Gospel of Matthew is Jesus' challenge to the Greco-Roman world's concept of honor. See Jerome H. Neyrey, *Honor and Shame in the Gospel of Matthew* (1998). "Jesus enunciates a pattern of discipleship in which male disciples would have to cease totally from the customary ways of seeing honor in their villages. They are forbidden to make any honor claims, challenge others, or defend themselves when challenged. They may not play the game." *Id.* at 227.

The bottom line is that Jesus' disciples, because they cannot play the honor game as usual, will lose respect, value, and worth in the eyes of kin and neighbors. They will lose what is considered vital to meaningful life among the ancients, namely, respect. We cannot emphasize enough how bitter and difficult an experience this would be. Following Jesus can lead to a wretched fate according to worldly standards.

Id. at 228.

137. Augustine, *supra* note 105, at 197.

138. *Id.* at 202.

139. *Id.* at 203. Augustine goes on to say, "this vice is an enemy to devout faith, if the greed for glory is stronger in the heart than the fear or the love of God. . . ." *Id.* He gives the examples of the apostles, who preached the word of God, even when it was unpopular and Jesus' teaching: "'Take care not to perform your righteous acts in the presence of men, so as to be seen by them: or you will have not reward with my Father, who is in heaven.'" *Id.* at 203-04 (citing *Matthew* 6:1). Augustine points to the Christian's promise of a place in the Eternal City as the motivation for the Christian's good deeds. *Id.* at 205.

The Islamic philosopher/theologian Ghazali shares Augustine's recognition of the dangers of the love of honor. He advises people to seek obscurity and to avoid honor, though he acknowledges that receiving honor without seeking it is not objectionable. A recognition that all abilities are from God will enable people to avoid the love of honor. There is a danger that "total preoccupation with satisfying others will result from seeking honor and, thus, will distract man from the way to the 'nearness to God.'" Mohamed Ahmed Sherif, *Ghazali's Theory of Virtue* 50 (1975) (citing Ghazali, *Revival*, III.8. 1848-49, 1852-53). According to Ghazali, "One way [to cure the love of honor] is to engage in activities where the person thought to be perfect receives no honor and may even be blamed and disgraced." *Id.* (citing Ghazali, *Revival*, at III. 8. 1857).

Loyalty and Honor at the Expense of Moral Reflection - There is an essential link between loyalty and honor. People and institutions give honor to those who are loyal to them; they use honor to entice people's loyalty. One of Nostromo's most striking characteristics was his loyalty. As his employer Captain Mitchell often said, "'The fellow is devoted to me, body and soul!'"¹⁴⁰ The name that Captain Mitchell gave him and he accepted, "Nostromo,"¹⁴¹ celebrates his loyalty. He was "Our Man," not his own man. Nostromo was honored for his loyalty to the wealthy. It does not appear that he questioned what he did for them.

One potential problem with a life built on honor and loyalty is illustrated in the life of the Southern General Robert E. Lee. Lee proclaimed the ideals of Southern gentrified honor in a letter to his son Custis in 1851. "'Honor and fame are all that men should aspire to,' Lee asserted. With steady application and valor, 'they will at last be won. . . . Hold yourself above every mean action. Be strictly honorable in every act, and be not ashamed to *do right*,' he wrote . . ."¹⁴² In Lee's view, honor is both a matter of concern with the opinion of others and of doing right. But when faced with the most difficult challenge of his life, it appears that he chose honor over right.

Lee believed the institution of slavery to be "'a moral & political evil in any Country,"'¹⁴³ yet in the Civil War he fought for the South as a matter of loyalty to his home state of Virginia. In the opinion of historian Bertram Wyatt-Brown:

Without that tie [to the ancient ethic of honor, Lee's] decision to join the Confederacy would be inexplicable. Lee's partial doubts about slavery scarcely relieved him from the weighty obligation that the tradition of honor imposed. "I wish to live under no other government," he wrote in the last days before secession, "& there is no sacrifice I am not ready to make for the preservation of the Union save that of honor."¹⁴⁴

Mrs. Lee wrote, "'My husband has wept tears of blood over this terrible war, but as a man of honor and a Virginian, he must follow

140. Conrad, *supra* note 1, at 44.

141. *See id.* at 43.

142. Wyatt-Brown, *supra* note 100, at 107 (quoting Lee to Custis Lee (May 4, 1851), in Rev. J. William Jones, *Life and Letters of Robert E. Lee: Soldier and Man* 72 (1906)).

143. *Id.* at 108. Lee wrote to his wife, "'In this enlightened age, there are few I believe, but what will acknowledge, that slavery as an institution, is a moral & political evil in any Country.'" He encouraged his wife to press for "'the final abolition of human Slavery' but look always to the God 'who Chooses to work by slow influences.'" *Id.* (quoting Douglas Southall Freeman, *R.E. Lee: A Biography* 1:332-34 (1934-35) and Capt. Robert E. Lee, *Recollections and Letters of General Robert E. Lee* 70-71 (1905)).

144. *Id.* at 109 (quoting Lee to Anne Marshall (April 20, 1861) in Capt. Robert E. Lee, *Recollections and Letters of General Robert E. Lee* 25 (1905)).

the destiny of his State.”¹⁴⁵ For Lee, honor meant loyalty to family and state above his moral instincts. It seems that he concluded that honor and loyalty were more important than goodness.¹⁴⁶

Loyalty is, of course, an important issue in the life of a lawyer. What once was a life of conflicting loyalties—loyalties to the client, to the court, and to justice—has increasingly become a life of loyalty only to the client. As Geoffrey Hazard has said, “In the relationship with a client, the lawyer is required above all to demonstrate loyalty.”¹⁴⁷ The lawyer, in the words of Murray Schwartz, “When acting as an advocate for a client . . . is neither legally, professionally, nor morally accountable for the means used or the ends achieved.”¹⁴⁸

The question of client loyalty is one that has been much debated.¹⁴⁹ Like Thomas Shaffer, I prefer the concept of faithfulness to loyalty. “Loyalty takes the [client’s] side, regardless. Loyalty hates those whom the [client] hate[s].”¹⁵⁰ “If I am faithful to you, I may sometimes decide to risk your being annoyed with me and tell you what I think will make you a better person. It may not be what you want to hear, or even what you are prepared to do.”¹⁵¹ A lawyer should counsel a client in the same manner that she would counsel a friend, neither imposing her values on the client, nor merely leaving the client to go his own way. In my view, the lawyer should withdraw in the end, if the client wants the lawyer to do something that the lawyer believes to be morally wrong.¹⁵²

145. *Id.* at 110 (quoting Mary Custis Lee in Burton J. Hendrick, *The Lees of Virginia: A Biography of a Family* 435 (1935)).

146. I recognize that my judgement of Lee may be harsh and that it is easier to make moral judgments in hindsight. The evils of a culture are often easier to see when one is outside of the culture than when one is in it. I think that I hold him to standards that he, himself, recognized. At the same time, I shudder when I think of the evils that we now overlook that in 150 years will seem to be obvious.

147. Geoffrey C. Hazard, Jr., *Triangular Lawyer Relationships: An Exploratory Analysis*, 1 *Geo. J. Legal Ethics* 15, 21 (1987).

148. Murray L. Schwartz, *The Professionalism and Accountability of Lawyers*, 66 *Cal. L. Rev.* 669, 673 (1978) (emphasis omitted).

149. See, e.g., David Luban, *Lawyers and Justice: An Ethical Study* (1988) (examining the conflict between the lawyers’ commitment to the interests of their clients and their commitment to the interest of justice); Monroe H. Freedman, *Professional Responsibility of the Criminal Defense Lawyer: The Three Hardest Questions*, 64 *Mich. L. Rev.* 1485 (1966) (discussing the ethical dilemmas faced by criminal defense attorneys who must protect client confidences, yet not engage in purposeful deceit of the court); Charles Fried, *The Lawyer as Friend: The Moral Foundations of the Lawyer-Client Relation*, 85 *Yale L.J.* 1060, 1065-76 (1976) (asking “[can] a decent and morally sensitive person . . . conduct himself according to the traditional conception of professional loyalty and still believe that what he is doing is morally worthwhile[?]”); William H. Simon, *Ethical Discretion in Lawyering*, 101 *Harv. L. Rev.* 1083 (1988) (discussing a lawyer’s ethical discretion as opposed to a client’s objectives and claims).

150. Thomas L. Shaffer, *Should a Christian Lawyer Serve the Guilty?*, 23 *Ga. L. Rev.* 1021, 1033 (1989).

151. *Id.* at 1032.

152. See Thomas L. Shaffer & Robert F. Cochran, Jr., *Lawyers, Clients, and Moral*

C. *Honor's Moral Baggage*

Different groups honor different things.¹⁵³ But some qualities consistently appear in codes of honor. Whether they are inherent in the concept of honor or not can be disputed, but a profession that identifies honor as a professional aspiration must recognize that the concept is likely to retain aspects of its historic character. As Bertram Wyatt-Brown has noted, the South was able to add some notions of piety to the ethic of honor, but failed to excise its "primal" aspects.¹⁵⁴ Two of the most consistent qualities of codes of honor have been that they honor success in battle and that they create and reinforce hierarchy.

Aggressiveness and Valor - Historically, one of the great dangers to a community was that another community would conquer it. Therefore, systems of honor rewarded aggressiveness and valor.¹⁵⁵ In *Nostromo*, Conrad argues that it was primarily success, however achieved, that the community honored.

The popular lore of all nations testifies that duplicity and cunning, together with bodily strength, were looked upon, even more than courage, as heroic virtues by primitive mankind. To overcome your adversary was the great affair of life. Courage was taken for granted. But the use of intelligence awakened wonder and respect. Stratagems, providing they did not fail, were honourable; the easy massacre of an unsuspecting enemy evoked no feelings but those of gladness, pride, and admiration. Not perhaps that primitive men were more faithless than their descendants of to-day, but that they went straighter to their aim, and were more artless in their recognition of success as the only standard of morality.¹⁵⁶

Literary historian George Fenwick Jones gives a rephrasing of the Beatitudes in light of Germanic tribal views of honor:

Blessed are the rich, for they possess the earth and its glory.
 Blessed are the strong, for they can conquer kingdoms.
 Blessed are they with strong kinsmen, for they shall find help.

Responsibility 40-54 (1994).

153. See *supra* notes 106-14 and accompanying text.

154. See Wyatt-Brown, *supra* note 100, at 23-24, 26-27; see also *supra* notes 109-13 and accompanying text (discussing the concept of primal honor in the South).

155. Aristotle's ideal man of courage was the citizen soldier. Aristotle, *supra* note 103, at 67-70 (III.8). According to Stanley Hauerwas and Charles Pinches, the Greek virtues were displayed in a world of conflict.

The hero vanquishes his foes, and the virtues are his wherewithal, as well as those traits for which he is accorded honor in the *polis* he violently defends. By contrast, *caritas* [charity], the very form of the virtues for Aquinas, sees the person of virtue as essentially standing in mutuality with God and with her fellow human beings.

Stanley Hauerwas and Charles Pinches, *Christians Among the Virtues: Theological Conversations with Ancient and Modern Ethics* 63-64 (1997) (citing John Milbank, *Theology and Social Theory: Beyond Secular Reason* (1990)).

156. Conrad, *supra* note 1, at 385-86.

Blessed are the warlike, for they shall win wealth and renown.

...

Blessed are they who wreak vengeance, for they shall be offended no more, and they shall have honor and glory all the days of their life and eternal fame in ages to come.¹⁵⁷

In the Old South, one defended one's honor through dueling¹⁵⁸ and the community enforced its code of honor through lynching, whipping, branding, and tar-and-feathering.¹⁵⁹ One South Carolinian "rejoiced in the news that the son of a friend had killed his rival in a contest. The boy had showed commendable willingness to be 'cut to pieces rather than give an inch or abate a tittle' of his honor. . . . From sons' early childhood, fathers prepared their boys to observe the rules by

157. Wyatt-Brown, *supra* note 100, at 60 (quoting George Fenwick Jones, *Honor in German Literature* 40 (1970)). The contrast is, of course, with Jesus' teaching in the Sermon on the Mount:

Blessed are the poor in spirit, for theirs is the kingdom of heaven.

Blessed are they that mourn, for they shall be comforted.

Blessed are the meek: for they will inherit the earth.

Blessed are those who hunger and thirst for righteousness, for they will be filled.

Blessed are the merciful, for they will be shown mercy.

Blessed are the pure in heart, for they will see God.

Blessed are the peacemakers, for they will be called the sons of God.

Blessed are those who are persecuted because of righteousness, for theirs is the kingdom of heaven.

Blessed are you when people insult you, persecute you and falsely say all kinds of evil against you because of me. Rejoice and be glad, because great is your reward in heaven, for in the same way they persecuted the prophets who were before you.

Matthew 5:3-12 (New International Version).

In his chapter on these verses, "Honoring the Dishonored," Jerome H. Neyrey, argues that Jesus here directly challenges the ancient world's concept of honor. See Neyrey, *supra* note 136, at 164-89. Jesus "declar[es] honorable what others label shameful." *Id.* at 187. Neyrey says, for example that in the Greco-Roman world, "Respected males were quite likely to achieve honor through actions which are rough, violent, and brutal or which arise out of anger. In contrast, 'meekness' connotes being a victim or target of another's violent actions, which is never desirable." *Id.* at 181. "Aristotle . . . praises the honorable man who takes revenge and shows no mercy." *Id.* at 183.

158. "Rules governing the classical fight served to check passion and transform it under the rubric of honor." Wyatt-Brown, *supra* note 100, at 351. Dueling was "confined to the upper ranks of Southern society." *Id.* at 353. "Even though death might ensue, there was supposed to be glory for the defeated as well as the winner." *Id.* at 358. "Although the occasions for duels differed somewhat, almost all arose because one antagonist cast doubt on the manliness and bearing of the other, usually through the recitation of ritual words—liar, poltroon, coward. The stigma had to be dealt with or the labels would haunt the bearer forever." *Id.* at 360.

Of five elements that Wyatt-Brown identifies as crucial in Southern evaluations of conduct, two suggest violence: "honor as immortalizing valor, particularly in the character of revenge against familial and community enemies" and "physical appearance and ferocity of will as signs of inner merit." *Id.* at 34.

159. See *id.* at 435-93 for descriptions of such practices.

which honor was upheld, as a mark of status and a claim to leadership."¹⁶⁰ Historically, honor has been a violent business.

The attorney's battlefield is the courtroom. The litigator goes to do battle, to attack or seek revenge for the helpless client. In our adversary system, the aggressive advocate is given great honor.¹⁶¹ Once, early in my law practice in the late 1970s among the normally genteel Charlottesville/Albemarle County (Virginia) Bar Association, I confronted an especially aggressive, obnoxious, demeaning attorney. The senior partner in my law firm, a renowned litigator, told me that at some point, if the other attorney continued his demeaning tactics, I might have to "fight him"—literally. Thus, the honorable practice of aggressive advocacy was passed from senior to apprentice lawyers. Fortunately, we were able to end the case without coming to blows.

Aggressive advocacy is the standard by which many in the public judge lawyers. Our public is not unlike the common people of Sulaco, who gave Nostromo honor for exploits that were "striking to the imagination."¹⁶² It is the aggressive advocate that has caught the attention of the public. They honor daring exploits and valor in the courtroom.

The honor of the battlefield may explain the resistance of many lawyers to engage in alternative means of dispute resolution. The settlement of a case does not provide as much honor as a big verdict. Often settlements are confidential and do not even receive public notice. Lawyers receive praise for winning great battles, not for reconciling the client with his neighbor.

This may be the lawyer's counterpart to the Roman attachment to battle, noted by Augustine. "If [Rome had gotten other nations to submit to Roman law] by peaceful agreement, it would have had better success; but then there would have been no glory for the conquerors."¹⁶³

Elitism and Hierarchy - Historically, cultures have given honor based not merely on actions, but on status.¹⁶⁴ They honored king, knight, aristocrat, and judge for their position, whether their behavior was honorable or not. Honor served to support hierarchical institutions. It protected the feudal system in Europe, as well as slavery and segregation in the Old South.¹⁶⁵ Peter Berger has said:

Honor is commonly understood as an aristocratic concept, or at least

160. *Id.* at 167.

161. "As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system." Model Rules, *supra* note 94, Preamble: *A Lawyer's Responsibilities*.

162. Conrad, *supra* note 1, at 226.

163. Augustine, *supra* note 105, at 205-06.

164. The Southern system of honor served to establish and to reinforce a social hierarchy based on class, race, and wealth. See Wyatt-Brown, *supra* note 100, at 64-74.

165. See *id.* at 15-17, 369-80.

associated with a hierarchical order of society. It is certainly true that Western notions of honor have been strongly influenced by the medieval codes of chivalry and that these were rooted in the social structures of feudalism. It is also true that concepts of honor have survived into the modern era best in groups retaining a hierarchical view of society, such as the nobility, the military, and traditional professions like law and medicine. In such groups honor is a direct expression of status, a source of solidarity among social equals and a demarcation line against social inferiors.¹⁶⁶

De Tocqueville notes that there is a connection between some of the seemingly odd, morally questionable practices of feudal honor—praise of revenge; praise of generosity, but not benevolence; disdain for work; the stigmatizing of forgiveness—and its hierarchical status. These rules helped to maintain that status:

A class which has succeeded in placing itself at the head of and above all others, and which makes perpetual exertions to maintain this lofty position, must especially honor those virtues which are conspicuous for their dignity and splendor, and which may be easily combined with pride and the love of power. Such men would not hesitate to invert the natural order of conscience in order to give these virtues precedence before all others. It may even be conceived that some of the more bold and brilliant vices would readily be set above the quiet, unpretending virtues. The very existence of such a class in society renders these things unavoidable.¹⁶⁷

The lawyer's claim that the practice of law is an *honorable* profession is in itself an elitist claim. The implication is that we are in an honorable profession, others are not. At one time, those in power within the legal profession sought to retain their status by excluding immigrants,¹⁶⁸ racial minorities, and women.¹⁶⁹ Today, the legal profession protects its status by prohibiting non-lawyers from providing legal services and from going into business with lawyers.¹⁷⁰ Some lawyers' most fervent claims to professional honor come in the midst of their calls to keep non-lawyers out.¹⁷¹ The elitist nature of

166. Peter Berger, *On the Obsolescence of the Concept of Honor in Revisions: Changing Perspectives in Moral Philosophy* 172, 172-81 (Stanley Hauerwas & Alasdair MacIntyre, eds., 1983).

167. De Tocqueville, *supra* note 101, at 243.

168. See Richard L. Abel, *American Lawyers* 69 (1989) (describing how character tests "were deliberately introduced in order to exclude immigrants and their sons"); Jerold S. Auerbach, *Unequal Justice: Lawyers and Social Change in Modern America* 25, 29, 99-100, 121-22 (1976) (same).

169. See, e.g., *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130 (1872) (upholding state's refusal to allow women to practice law).

170. See Model Rules, *supra* note 94, R. 5.4, 5.5.

171. See, e.g., Daniel T. Carpenter, Letter to the Editor, Fla. Bar News, Apr. 15, 2000, at 2 ("We have to draw a line in the sand if we are to save this old and honorable profession."); Jan Pudlow, *MDP Question Still Open*, Fla. Bar News, Feb. 15, 2000, at 1 (quoting an attorney: "The only way our honorable profession can be dishonored is if we dishonor it by surrendering our ideals.").

the legal profession may be most apparent in the vehement claims that it is a profession, not a business. As Mary Ann Glendon has said, "It should give one pause, however, to reflect that Abraham Lincoln was quite comfortable with the idea that law is a business, and seemed to think that virtue in a lawyer was not much different from common decency in any other calling."¹⁷²

D. "Material Interests" and Honor

The two great subjects of *Nostromo* are honor and "material interests." Conrad is ambivalent about the effects of wealth on society,¹⁷³ but he makes it clear that wealth tends to corrupt those who have it.

In the beginning, Charles Gould seeks to use the mine for social good. Conrad says of him:

He had gone forth into the senseless fray as his poor uncle [an idealist who fought with Bolivar] whose sword hung on the wall of his study, had gone forth—in the defence of the commonest decencies of organized society. Only his weapon was the wealth of the mine, more far-reaching and subtle than an honest blade of steel fitted into a simple brass guard. More dangerous to the wielder, too, this weapon of wealth, double-edged with the cupidity and misery of mankind, steeped in all the vices of self-indulgence as in a concoction of poisonous roots, tainting the very cause for which it is drawn, always ready to turn awkwardly in the hand.¹⁷⁴

At the end of the story, Gould is obsessed with business. His dream of social progress is left behind, and his marriage is destroyed. "[H]is wife was no longer the sole mistress of his thoughts . . ." ¹⁷⁵ As William Mueller says, "San Tomé is the loved but unloving mistress of Charles, bearing him the silver monsters which are to destroy him and to dissolve in all but name the Gould marriage."¹⁷⁶ Late one night, Emilia Gould:

[S]aw clearly the San Tomé mine possessing, consuming, burning up the life of [her husband, mastering his] energetic spirit In the

172. Mary Ann Glendon, *A Nation Under Lawyers: How the Crisis in the Legal Profession is Transforming American Society* 70 (1994) (citing Abraham Lincoln, *Notes for a Law Lecture*, in *Selected Speeches, Messages, and Letters* 33 (T. Harry Williams, ed. 1957)).

[L]awyers' stubborn refusal to recognize their affinities with other highly skilled, well-educated sellers of services seems to rest either on the arrogant assumption that businesspeople have no ethics or on the dubious proposition that businesspeople invariably place short-term profits ahead of all other considerations.

Id. at 70.

173. *See supra* note 96.

174. Conrad, *supra* note 1, at 365.

175. *Id.*

176. Mueller, *supra* note 98, at 90.

indistinct voice of an unlucky sleeper, lying passive in the grip of a merciless nightmare, she stammered out aimlessly the words—
“Material interests.”¹⁷⁷

For those who want to do good while earning a good living, Conrad presents a timeless lesson: “No man can serve two masters.”¹⁷⁸ It is difficult to do well and to do good.¹⁷⁹

Nostromo’s life also illustrates the dangers of “material interests.” According to Eloise Knapp Hay, Nostromo is the “test of Gould’s proposition—that the silver can be made an agent of moral reform.”¹⁸⁰ It obviously fails that test. “Gould, significantly without ever coming into effective contact with this elemental man, is the cause of Nostromo’s corruption, by virtue of so magnifying the silver in Sulaco that even the incorruptible capataz cannot resist it.”¹⁸¹

Throughout most of the book, Nostromo is obsessed with honor, but seems to care little for wealth. He gets great honor, the businessmen get great wealth. Nostromo seems pleased with the bargain (and so do the businessmen). But Nostromo trades his obsession with honor for an obsession with wealth and steals the silver. In the end, Nostromo “belonged body and soul” to the silver.¹⁸²

A transgression, a crime, entering a man’s existence, eats it up like a malignant growth, consumes it like a fever. Nostromo had lost his peace; the genuineness of all his qualities was destroyed. He felt it himself, and often cursed the silver of the San Tomé. His courage, his magnificence, his leisure, his work, everything was as before, only everything was a sham. But the treasure was real. He clung to it with a more tenacious, mental grip. But he hated the feel of the ingots. Sometimes, after putting away a couple of them in his cabin—the fruit of a secret night expedition to the [island]—he would look fixedly at his fingers, as if surprised they had left no stain on his skin.¹⁸³

Nostromo assures Giselle that they will depart after they have grown rich. Yet, as William Mueller says, “to a man whose insatiability always sees richness as one step beyond his present wealth, ‘rich’ is a relative term and ‘richness’ an ever-receding condition.”¹⁸⁴ As Nostromo approaches Giselle one day, “It seemed to him that she ought to hear the clanking of his fetters—his silver

177. Conrad, *supra* note 1, at 522.

178. *Matthew* 6:24.

179. This phrase is adapted from the title of Richard John Neuhaus, *Doing Well and Doing Good* (1992).

180. Hay, *supra* note 96, at 203.

181. *Id.* at 182.

182. See Conrad, *supra* note 1, at 531.

183. *Id.* at 523-24.

184. Mueller, *supra* note 98, at 94.

fetters, from afar."¹⁸⁵ Nostromo recognizes his bondage to the silver, but he seems powerless to do anything about it.

The dangers of honor and the dangers of wealth are central themes in *Nostromo*. It is set at a crucial time for the country of Costaguana. Costaguana is making the shift that other regions in the West have made at different times, from a feudal economy to a capitalist economy. It also seems to be making an ethical shift, a shift embodied by Nostromo, from an ethic based on honor to an ethic based on "material interests." The new order is, in Bertram Wyatt-Brown's phrase, "crass, impersonal, with money, not honor, its chief god."¹⁸⁶ Phrased differently, in the new order, wealth is honored. It is significant that the financial backing for the economic development in Sulaco comes from the United States, for the United States has led this shift. De Tocqueville noted that an American alteration to the traditional ethic of honor was a tendency to praise "the love of wealth," a propensity which, according to de Tocqueville, appears "censurable to the general reason and the universal conscience of mankind."¹⁸⁷

Increasingly, it seems that "material interests" are at the root of what the legal profession honors. The primary basis of honor that law firms give to associates is hours billed, the primary basis of honor that law firms give to partners is fees brought in, and the primary basis of honor that law firms give to law firms is the money that they make. The hottest issues of lawyer magazines are those that list the largest firm incomes, the highest salaries paid, and the largest verdicts. Just as Nostromo received honor for his service to the wealthy, the profession honors law firms that serve the wealthy. Note the different status within the profession between the terms "Wall Street lawyer" and "Legal Aid lawyer." It is my fear that within the legal profession, as in the town of Sulaco, "material interests" are coming to control everything.

III. MORAL VOICES IN *NOSTROMO*

Conrad is best at exposing moral pretensions. We must be stripped of our pretensions before we can build our moral lives on solid ground. The reader senses that Conrad most identifies with the cynics of his tale—Dr. Monygham and Decoud. They are quick to point out

185. Conrad, *supra* note 1, at 546.

186. See Wyatt-Brown, *supra* note 100, at 21. Wyatt-Brown uses this phrase to describe William Faulkner's view of the New South. See *infra* note 202 and accompanying text.

187. De Tocqueville, *supra* note 101, at 247. De Tocqueville also noted that in America, public opinion dishonors even the wealthy who do not work, whereas in Europe, members of the aristocracy "remain in idleness in order not to lose the esteem of their equals." *Id.* at 249. These "opposite obligations" both originate "in the notion of honor." *Id.*

the pretenses of those who think that either revolution or "material interests" will bring significant benefit to the people of Costaguana. They deride Nostromo's obsession with honor.

But amid the moral failures, Conrad also gives us some heroes. One can sense that Conrad shares Dr. Monygham's great admiration for Emilia Gould. Throughout the novel, she is selflessly loving to all. She is kind to Dr. Monygham, despite his "rough ironic manner"¹⁸⁸ that keeps others at a distance. Her friendship seems to save Dr. Monygham from his despair. Conrad seems to hold her up as one who is not controlled by the search for honor or wealth, but is secure in herself and able to love people, whatever their circumstance.¹⁸⁹ When Nostromo is shot, he calls for Emilia to serve as his confessor. She rejects his offer to tell her the location of the silver. Emilia may offer a model for lawyers and others in her love and care for other people and her rejection of the allures of "material interests."

At the beginning of the novel, Emilia shares Charles Gould's social vision for the mine and for Costaguana. When they get to Costaguana, she is troubled by the harsh political and military practices of the country, but Charles refuses to even discuss them with her.¹⁹⁰ In the end, she is relegated to entertaining small groups of people in her home while her husband is busy with business affairs.¹⁹¹ One wonders whether her desire for social good, grounded in love, might have been a basis for using economic, political, and legal power. But that, of course, is where the novel started, with Charles and

188. Conrad, *supra* note 1, at 454.

189. In a letter to a devout Catholic woman, Conrad traces, "[T]hat mysterious urge toward abnegation and suffering which guides womanly feeling" back to its source in charity. "For Charity is eternal and universal Love, the divine virtue, the sole manifestation of the Almighty which may in some manner justify the acts of creation. Hence the longing for self-sacrifice, for returning good for evil . . ."

Hay, *supra* note 96, at 24-25 (quoting Letters of Joseph Conrad to Marguerite Poradowska, 1890-1920, 42 (John A. Gee & Paul J. Sturm trans. & eds., 1940)). But even here, Conrad's mistrust of human nature required him to make a qualification. He says that "abnegation carried to an extreme . . . is not only profoundly immoral but dangerous, in that it sharpens the appetite for evil in the malevolent and develops (perhaps unconsciously) that latent human tendency toward hypocrisy in the . . . let us say, benevolent." *Id.* at 25.

190. The passage reads:

[To Emilia,] the continuous political changes, the constant "saving of the country," . . . seemed a puerile and bloodthirsty game of murder and rapine played with terrible earnestness by depraved children. In the early days of her Costaguana life, the little lady used to clench her hands with exasperation at not being able to take the public affairs of the country as seriously as the incidental atrocity of methods deserved. She saw in them a comedy of naïve pretenses, but hardly anything genuine except her own appalled indignation. Charles, very quiet and twisting his long moustaches, would decline to discuss them at all.

Conrad, *supra* note 1, at 49.

191. See *id.* at 520-22.

Emilia hoping to use "material interests" to better the lives of the people of Costaguana. Charles' social inclinations seem to have been transformed by the allure of power and "material interests." Charles illustrates that the temptations of power may be too great for the social conscience; Emilia illustrates that love can be a wonderful thing in private life, but leaves open the question of whether it has a place in public life.

Dr. Monygham is another potential model. He combines cynicism, principle, and pragmatism. He sees the corrupting power of the mine and recognizes that its success will lead to "resentment, bloodshed, and vengeance."¹⁹² As Fredrick Karl has argued, "A cynic like Dr. Monygham can see the mine's true course . . ."¹⁹³ Dr. Monygham argues that material interests "have their law, and their justice. But it is founded on expediency, and is inhuman; it is without rectitude, without the continuity and the force that can be found only in a moral principle."¹⁹⁴ Irving Howe interprets this as a retreat from politics "to the resources of private affection and gentleness."¹⁹⁵ But I am inclined to agree with Eloise Knapp Hay that Monygham spoke more idealistically, of the bringing of principle to politics, of "a frail hope in the triumph of 'the inner life' on a public level over all the various forms of aggression that powerful states engage in."¹⁹⁶ Despite his misgivings, Monygham was willing to engage in political action for what he saw as the better cause. He had no illusions about the dangers of "material interests," but believed that what political stability they would bring was better than continuing revolutions. It was Monygham who sent Nostromo to get General Barrios to save Sulaco. Eloise Knapp Hay says, "A realist in politics, a personalist in human relationships, Monygham comes as close as any character in Conrad's fiction to proposing the marriage of politics and morality which Conrad saw as the perhaps unattainable goal of human history."¹⁹⁷ Conrad, through Monygham, suggests that though there

192. *Id.* at 511.

193. See Karl, *supra* note 79, at 162.

194. See Conrad, *supra* note 1, at 511.

195. Hay, *supra* note 96, at 14-15, 209-10 (quoting Irving Howe, *Politics and the Novel* 23 (1957)).

196. *Id.* at 211; see also *id.* at 209-11. In my view, Hay is also correct that Conrad's novels present a paradox. "The possibility that man is fundamentally good, potentially able to achieve the social harmony he mentally projects, stands against the possibility that man is basically corrupt and his utopian schemes 'fairy tales' that create political miseries for the unimaginative, who wish only to be left alone." *Id.* at 16.

197. *Id.* at 208-09. "My misfortune is that I can't swallow *any* formula and thus am wearing the aspect of enemy to all mankind." *Id.* at 1 (quoting Letter to British socialist Edward Garnett, (Sept. 24, 1919), in *Letters from Joseph Conrad, 1895-1924*, 265 (1928)). Conrad's collaborator Ford Madox Ford argued however that these should not be taken as "negations of personal involvement on Conrad's part. Quite to the contrary, according to Ford: '... above all things else... Conrad was a politician. . . . He was, that is to say a student of politics, without prescription, without

are not final answers to the great social problems that we confront, it is worth doing the best we can as we go along. Conrad might suggest that a lawyer, confronted with the realities of economic, legal, and political power, should do the best that she can to act on "moral principle," with realistic (and limited) expectations about the possibilities.

Emilia Gould and Dr. Monygham serve as moral voices in *Nostromo*. They are not, like Nostromo, motivated by the search for honor, nor like Charles Gould and the other businessmen by the search for money, nor like the dictators by the search for political power. They seem to draw their moral strength from each other. Emilia Gould often has Dr. Monygham and other guests in her home, and they wrestle with moral issues concerning Costaguana and its citizens.¹⁹⁸ If I am right, that one of the reasons for Nostromo's obsession with honor and his moral downfall is his unconnectedness, one of the lessons of *Nostromo* may be that it is within communities—within families, religious congregations, and friendships—that we can find moral foundations.¹⁹⁹

CONCLUSION

The lessons from *Nostromo* for the individual come straight from the Sermon on the Mount²⁰⁰—both honor and wealth ultimately

dogma, and, as a Papist, with a profound disbelief in the perfectibility of human institutions." *Id.* at 2 (quoting Ford Maddox Ford, Joseph Conrad, *A Personal Remembrance* 58 (1924)).

198. See Conrad, *supra* note 1, at 504-20.

199. The legal profession is such a large institution that it does not make much sense to talk of it as a community. Small groups of lawyers who are concerned that one another be good may provide the kind of community that encourages virtue. It may be that the profession should encourage members to look to the teachings of their religious and moral communities for guidance. They will find teachings that pull in different directions on some issues facing the profession—for example, some rejecting litigation, others accepting it with some reservations. But as to other matters, they will find common ground—within most, they will find a belief that we are all children of God, that we have obligations to the stranger (as well as the client); and that we should work for the moral good of the client, as well as his material interest.

200. The Sermon reads:

Be careful not to so your 'acts of righteousness' before men, to be seen by them. If you do, you will have no reward from your Father in heaven. So when you give to the needy, do not announce it with trumpets, as the hypocrites do in the synagogues and on the streets, to be honored by men. I tell you the truth, they have received their reward in full.

Matthew 6:2-3 (New International Version).

Do not store up for yourselves treasures on earth, where moth and rust destroy, and where thieves break in and steal. . . . No one can serve two masters. Either he will hate the one and love the other, or he will be devoted to the one and despise the other. You cannot serve both God and Money.

Matthew 6:19, 24; see also *supra* note 157 and accompanying text (contrasting aspects of honor with the teaching of the Sermon on the Mount).

provide little meaning. *Nostromo*, like all great literature, is more than its lessons. It has its greatest impact as it is experienced. One who reads *Nostromo* experiences Nostromo's obsession with honor, his struggle for self-identity when he fears that his honor will be lost, and the meaninglessness of his slavery to the silver. It may be that the experience of sharing the emptiness, first of Nostromo's life built on honor, and then of his life built on "material interests" will cause the reader to search for a firm foundation for life.

It is more difficult to identify the lessons for the legal profession. The quest for honor motivated Nostromo to do good things through most of the book. The obvious question for the legal profession is whether it should seek to use honor as a means for motivating lawyers to do good. *Nostromo* illustrates the limitations of an ethic based on honor. Such an ethic is fragile, concerned with appearances, subject to the fickleness of public opinion, likely to promote arrogance in those who are honored, and no better than the values of those who do the honoring.

On the other hand, honor is one of the only ethical tools available to the profession. It is one of the few secular sources of ethical motivation. Other than the profession's disciplinary rules, honor may be the only means that it has of encouraging lawyers to do good. Peter Berger has suggested that our institutions re-appropriate the concept of honor and use it to advance human dignity.²⁰¹ It might be, for example, that the profession could seek to substitute an ethic that praises peaceful resolution of disputes for one that praises aggression. The problem is that an ethic of honor is likely to carry with it the baggage of its violent and elitist past. An ethic of honor is only so malleable. In addition, an ethic of honor requires strong institutions. Because the legal profession is so little honored by the public at large, it has little honor to give to its members.

As for the other major theme of *Nostromo*, my fear is that our culture and our profession have turned, like Nostromo, from a concern with honor, to a concern with "material interests." William Faulkner was often critical of the Southern ethic of honor, but as Wyatt-Brown has said, he also expressed an "underlying regret for what had disappeared, [and a] discontent with a new order that was crass, impersonal, with money, not honor, its chief god."²⁰² One might express the same concern for the legal profession.

201. See Berger, *supra* note 166, at 172-81.

202. Wyatt-Brown, *supra* note 100, at 21.