

January 2009

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Recommended Citation

Jeff Bleich, *Jesse Carter Memorial Lecture: Keeping Your Soul In Public Service*, 39 Golden Gate U. L. Rev. (2009).
<http://digitalcommons.law.ggu.edu/ggulrev/vol39/iss2/2>

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JESSE CARTER MEMORIAL LECTURE

KEEPING YOUR SOUL IN PUBLIC SERVICE

JEFF BLEICH *

It is a real honor to address Golden Gate University School of Law and to be invited to give one of the Jesse Carter lectures this year. A few nights ago, as I was preparing, I explained to my oldest son, Jake, that I couldn't help him with a project right then because I was preparing to give the Jesse Carter lecture. He went over to his computer and came back about ten minutes later and said. "I looked Jesse Carter up and you're nothing like Jesse Carter. Why'd they ask *you*?"

And so, you know, I felt a little bad. I knew that Jesse Carter had been a Justice of the California Supreme Court, but I hadn't actually researched what I might have to say about Jesse Carter's legacy. I'd just sort of assumed we must have something in common.

Jake brought me over to his desk and showed me the Jesse Carter website, which features Jesse Carter's latest songs and starts with the quote "me and my soul knows where we're goin'" from his self-produced album "Backbeat." There's also a link to Jesse Carter's

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MySpace page and some of the coffee shops in Cleveland where he'll be playing this month.¹

Although my son may have had the wrong Jesse Carter, he asked the right question. What do I have in common with Jesse Carter? Well, there are some superficial connections. Before he became a revered Justice of the California Supreme Court, Jesse Carter held some of the same lesser posts that I've held. We both spent two decades in private practice. We were both members of the San Francisco Bar, members of the Board of Governors of the State Bar, and Vice Presidents of the State Bar. He was a California delegate at the Democratic National Convention in 1932, which nominated FDR; I was recently a California delegate at the Democratic National Convention that nominated Barack Obama.

But titles do not tell you much about people. I do not think they are why you honor him each year for his public service. I think the real connection, oddly enough, is the one identified by Justice Jesse Carter's namesake—"me and my soul knows where we're goin'." If you put aside the appalling grammar in that sentence, there is some truth in it. The thing that made Jesse Carter who he was, was that he knew where he was going and he carried his soul with him. He and his soul knew where they were going and that is the point of my discussion of public service today. While it may seem unusual to talk about one's soul in a lecture on public-service careers, that is ultimately where all public service begins; it is why people become true public servants, and it defines what public service ultimately means.

The traditional view of public service is that there is a gulf between our public and private service. There is one set of rules for private activities and another for public service. In private practice the goal is to maximize income and win at all costs. You don't worry about the externalities—how your success affects others. There is one measurement of success, and that is how *you* did, rather than how anybody else did. In public service you think instead about personal sacrifice for some greater good. These two worlds are considered fundamentally distinct.

This traditional view suggests that people do public service the same way they do exercise. That is, most people never do it; some diligent people do it in their free time; and some real zealots do it all the time for a living. Let me talk about each approach:

¹ Jesse Carter is apparently a singer-songwriter from the Cleveland, OH area. The website jessecarter.net was no longer active as of 2/13/09. Jesse Carter's MySpace page is located at <http://www.myspace.com/jessecarterdotnet> (last visited on 2/13/09).

Most people do not think of themselves as ever doing public service. They take care of their family; they maximize their income; and they complain a lot about taxes, regulations, and the government. They are generally proud that they are too busy and too self-reliant to engage in public service.

Another group believes in some amount of public service but views it as a painful chore. They put it off and do it last—after they’ve taken care of family, friends, and business. They know that public service is good for the soul and society, but they usually can’t find the time to get to it. They give back now and then, but only when they have extra time or extra money.

Finally, there are the people who do public service for a living. The analogy here is to professional athletes. They are assumed to be a little different from the rest of us. They devote some or all of their careers to public service. But even members of that group are public servants only at work. When they go home at night, or after they finish their stint in government, it is “me time.”

I think this fractured model fundamentally misunderstands the true meaning of public service. The great public servants of our time, the Jesse Carters, simply have never separated public service from the rest of their lives. They recognized that everything we do is potentially an act of public service, if we have the right attitude. We love and support our children, not so that they can beat their peers, but so that they will be equipped to make the next generation better and fully participate in the world ahead. We work not just to make money, but because work brings dignity to all.

Jesse Carter was considered the best lawyer of his day during the twenty years he practiced. But during those years—the years before class action awards and big fees—he often took the difficult and financially unattractive side. He represented individuals against powerful utilities and water districts.² He did this, not because of the money, but because he believed it would improve society. Public service is an attitude: treat colleagues and partners with respect; share knowledge; share talents; share money; and share attention with those in need. It is knowing where you are going and taking your soul along with you. You can do that only if it is part of every facet of your life, both private and public.

John F. Kennedy’s famous call to action was not a call for everyone to go work for the government. He said, “ask not what your country can

² See, e.g., *Joerger v. Mt. Shasta Power Corp.*, 9 Cal. 2d 267 (1937); *Crum v. Mt. Shasta Power Corp.*, 220 Cal. 295 (1934); *Anstead v. Pac. Gas & Elec. Co.*, 203 Cal. 634 (1928).

do for you, ask what you can do for your country.”³ He challenged us to ask a question, whatever we were doing; he challenged us to make that question part of how we live our lives. What can we do for our country? Business people can help grow the economy, teachers can help educate the next generation, and homeowners can change energy habits. The point is not what your job is; it is how and why you act – whether you act with a desire to serve the common good. So, in thinking about public service in my own life, I don’t really differentiate between being a law partner, a State Bar President, a father, a soccer coach, or a neighbor. Each provides opportunities for public service.

However, no one invited me here to talk about my parenting rules or coaching tips. I’m here because I’ve spent some time in public service jobs and can tell you about my three rules for making public service meaningful.

First, I follow a motto. “It’s about the job, not the position.” I have known a lot of people who work in public-service jobs. Some have internalized these principles and their first priority is always to ask, “how will this make the world better.” Others have public-service titles, but nothing they do reflects that ideal. As my friend Charlie Reed, the Chancellor of the California State University system, put it “there are some people who want to do something, and some people who just want to be something.”

That last category of people—those who just want the title—are not public servants no matter how fancy their title. If anything, they are standing in the way of giving a chance to someone who would use that position to do something important. So, when I judge whether to take on a role, I don’t care about the title. A title is only what you make of it. Every season there is a person who plays centerfield for the Giants, but you can’t name most of them. It is rare and wonderful when that position is filled by a Willie Mays—someone who realizes the full potential of that position.

As an example, one of the most satisfying jobs I ever held was Trustee of the Board of the California State University system. I got that job by turning down a more prestigious title working for the Governor. The reason I love the job with the CSU board is that there is no fanfare; we’re just doing something that matters. CSU is a gateway for hundreds of thousands of Californians to transform their lives and their state, and that is the source of my satisfaction with that work.

How does this work make a difference? People without a college degree have been earning less in real dollars for over three decades. It is

³ President John F. Kennedy, Inaugural Address (Jan. 20, 1961).

the hardest economic dividing line in our society. A college education can change students' lives and the entire trajectory of their families' lives. Every single dollar we invest in CSU yields over four dollars back into California's economy. Over the course of their own lives, college graduates will earn—on average—more than one million dollars more than non-graduates. College graduates will also on average be healthier, have more nutritious diets, and have better child-rearing practices. So, our initiatives to prepare students for college earlier, to make it easier to transfer credits from community colleges, and to reduce the length of time it takes to complete a degree do actually matter: they do change lives.

My second rule is to go where the need is greatest. Given a choice, go to the troubled institutions. When I was a law student, I was a member of two journals: the California Law Review and the Ecology Law Quarterly. I was encouraged to run for editor-in-chief of both. I enjoyed the Ecology Law Quarterly a little more than the law review because I had good friends there and enjoyed the more relaxed atmosphere. However, at that time the California Law Review was two years behind schedule, morale was low, authors slotted to be published years ago were irate, and it seemed like an institution that needed more attention.

So I ran for the harder job and found other people who had the same goal: making the journal something we could be proud of again. We did what we called the "October juggernaut." We would work full throttle to publish two years' worth of issues between May and October, with the goal of being fully caught up by Halloween. We made bets with faculty that we could do it. We had pizza parties every night for anyone who was willing to stay late and work. In the process, we changed from being a disconnected group of law school over-achievers into a group with a common mission. We made hard work fun and achieved what we set out to do. We published the October issue in October, and we collected a lot of bets (mostly bottles of Scotch) from our professors.

Twenty years later, my approach to joining the State Bar Board of Governors was the same. I'd been offered a great position in the ABA that did not require much work. The State Bar, on the other hand, was a troubled institution that faced fierce political and economic challenges, but also had some tremendous unrealized potential. So I decided to run for the State Bar Board to see if I could help improve it. My approach was simple: to stress that in every decision, the State Bar should be doing things that put the public first.

The Bar suffered from a lot of the same anti-government perspective afflicting most government agencies. For twenty years,

politicians have run on the claim that government doesn't work; then they get elected and help make that true. Historically, many people joined the State Bar Board believing they needed to keep shrinking and weakening the Bar. Their rhetoric always suggested that the Bar is some kind of obstacle. Many of you probably feel that way; the State Bar is just another meddlesome organization that makes us take an awful exam (that half of us will have to take again), pay a lot of money every year in dues, take CLE programs in areas that don't interest us, burden us with more and more ethics rules, and then use all of the money we pay for a discipline system that we all hope we never encounter. Under this view, the State Bar is an enemy of lawyers—something that interferes with our ability to make a living.

In fact, the State Bar is not something designed to help or hurt us—it is not something separate from us. It is us. It is the name we give to those commitments we make as a profession. The reason our entrance exam is hard and annual CLE requirements are rigorous is that our commitment to the public is to ensure that every lawyer is fully trained and prepared to assist them in their case. The reason we have ethics rules is to assure the public that they can trust every lawyer with their money, their liberty, and their most intimate secrets. And the reason we have a disciplinary system is to assure the public that we hold ourselves accountable if we do not live up to those high ideals.

The State Bar—especially the things we resent about it—is simply an extension of the things we all took a sworn oath to do: to know and faithfully apply the law, to help those in need, and to protect the integrity of courts. The Bar is just the lengthened shadow of each of us. And so, when I, and others like me, do not give energy or time to the Bar, when we abdicate that duty to the “what's-in-it-for-me” folks, we actually diminish all of our shadows.

When I joined the board, I had only one goal—to help the public. And, while we accomplished many things during my service on the Board, the achievement I am most proud of was our refocusing on serving the public before the profession. For example, we tackled the fact that hundreds of thousands of Californians can't afford lawyers and that their legal needs go unmet. Down in Riverside, they can't even get a courtroom. The middle class can't afford legal services. Eight out of ten parties in family court have no attorney. Nine out of ten tenants in housing court have no legal help.⁴

⁴ See CAL. COMM'N ON ACCESS TO JUSTICE, THE PATH TO EQUAL JUSTICE (2002); TASK FORCE ON SELF-REPRESENTED LITIGANTS, JUDICIAL COUNCIL OF CAL., STATEWIDE ACTION PLAN FOR SERVING SELF-REPRESENTED LITIGANTS (2004); Hugo Martin, *Justice Both Too Swift and Slow*, L.A. TIMES (Inland Empire Ed.), March 1, 2005, at B1.

To face this challenge, the Bar called upon lawyers to use our vast economic leverage not for ourselves but to increase legal-services funding for those who need lawyers. With the help of bipartisan support in the California Legislature and from the Governor, we established a justice gap fund and asked each and every lawyer in the State voluntarily to give \$100 to help increase funding for the poor.⁵ In addition, we passed legislation demanding that banks increase the return to IOLTA accounts.⁶ By doing that we increased funding for legal services across the state by over \$10 million in a single year without costing Californians a dime. That's the sort of thing about troubled institutions—the potential to do good in them is enormous.

Finally, my third principle of public service is, “don't get self-satisfied; keep perspective.” Unfortunately, success in public service breeds excess: excessive praise, excessive power, and excessive expectations. People who start with great intentions and integrity often lose sight of the public and instead their work becomes about them. It is not always about selfishness. People are just as likely to be corrupted by the desire to be praised or to help friends as they are to be corrupted by greed or arrogance; either way they are corrupted. The challenge is to always keep enough perspective to know when you are acting because of your own needs and when you are truly acting for the greater good.

I think the only way to avoid the distractions that come with achievement is to do the things that help all people maintain perspective: stay close to family and friends who ground you, and stay curious about the world beyond you. Only by seeing the world—the big picture—can one appreciate that our individual efforts make a difference only as part of a much greater movement of efforts by countless other people.

I'm not prone to quoting Carl Sagan, but astronomers have a great deal to teach us. That is because they view the history of our planet and our contributions to it from a unique vantage point in both time and distance. When viewing a photograph of the earth depicting merely a pale blue dot in space, Sagan observed:

Think of the rivers of blood spilled by all those generals and emperors so that in glory and in triumph they could become the momentary masters of a fraction of a dot. Think of the endless cruelties visited by the inhabitants of one corner of the dot on scarcely distinguishable inhabitants of some other corner of the dot. How frequent their misunderstandings, how eager they are to kill one another, how fervent their hatreds. To my mind, there is perhaps no better

⁵ Cal. Stats. 2006, ch. 165 (A.B. 2301).

⁶ Cal. Stats. 2007, ch. 422 (A.B. 1723).

demonstration of the folly of human conceits than this distant image of our tiny world. To me, it underscores our responsibility to deal more kindly and compassionately with one another and to preserve and cherish that pale blue dot, the only home we've ever known.⁷

This quote is a healthy reminder that we are important only as part of a bigger whole. Dr. King said that the arc of history bends slowly, but it bends toward justice.⁸ During our short time on this planet, we cannot always see the progress we've made in bending history. It is only when we look behind us, or imagine what could be ahead of us, that we see the enormous progress this ethic has produced.

Perspective is not simply one of my principles, it is the essence of public service. It is stepping back and seeing that we are, in the end, just cousins, sharing a small wonderful journey, for a short number of years. Public service is nothing more and nothing less than carrying our souls with us on that journey.

So, thank you Jesse Carter; you and your soul knew where they were going.

⁷ Carl Sagan, Commencement address, May 11, 1996; *see also* CARL SAGAN, PALE BLUE DOT: A VISION OF THE HUMAN FUTURE IN SPACE (1994).

⁸ Rev. Dr. Martin Luther King, Jr., Address at the Fourth Continental Convention of the AFL-CIO (1961).