

**PROFESSIONS AND POLITICS
IN CRISIS**

PROFESSIONS AND POLITICS IN CRISIS

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For Margaret
With my deepest love and appreciation

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PREFACE

In yet another example of the debasement of our political and cultural conversation in the Republic, the word “crisis” is used rather promiscuously nowadays, which of course risks diluting its impact. But for the reasons discussed in chapter 1, it does not seem an exaggeration to assert that for many years now, beginning well before the Covid-19 pandemic, several of the professions in the United States, including the medical and legal professions, have been experiencing a crisis of well-being, distress, and dysfunction. And the same is true of our politics. In the case of the professions, the crisis is evident to members of the professions themselves and many others too, and in the case of our politics it must surely be evident to all who are paying even minimal attention. It is a basic contention of this book that the root of these crises, as well as the appropriate response to them, centers around our sense of meaning and purpose (or lack thereof) — our sense of meaning and purpose as professionals and our sense of meaning and purpose as citizens. And although the book is intended primarily to respond to our predicament in the United States, much of the discussion is equally relevant for the inhabitants of many other, perhaps most, and perhaps even all, liberal democracies.

Both in diagnosing the root of these crises and in prescribing an effective response to them, the book draws centrally upon the critical thought of Alasdair MacIntyre, arguably the most famous or notorious (depending on your point of view) moral philosopher of our times. MacIntyre is well known for his account of practices and the virtues, and for his provocative critique of liberal democracy, its capitalist, large-scale free market economy, and related hyper-individualism in the conditions of late Modernity.

Indeed, MacIntyre's work has inspired the creation of an international organization dedicated to the study and development of his thought and has generated a voluminous secondary literature. A central contention of the book, then, is that the crises in the professions and in politics can best be addressed by encouraging professionals and citizens to pursue a flourishing life of meaning and purpose in communities of excellence and virtue in response to a calling. Because it is my own profession and the one, therefore, with which I am most familiar and whose well-being is of most immediate and direct concern to me, the book uses the legal profession as an illustrative case study. Moreover, the political vision animating the project is the ultimate transformation of the liberal democratic state into a "republic of virtue," not through coercive means, but organically through example, invitation, and rational argument. And here too, I see a virtuous legal profession as having a special role to play.

The book is intended to be of interest both to those already familiar and to those not yet familiar with MacIntyre's corpus. Not only does it integrate relevant aspects of that corpus, including MacIntyre's most recent work, into a clear, comprehensible, and original synthesis. It also significantly expands and supplements MacIntyre's theoretical approach, rooted in Thomistic Aristotelianism, and applies the result in novel, perhaps surprising ways. After elaborating the foundational theoretical framework and approach in chapters 2-6, the book addresses practical implications for the legal profession in chapter 7 and then practical implications for political conversation in chapter 8. The book concludes with a Postscript on the Covid-19 pandemic, because the pandemic starkly reveals the shortcomings of our current culture and politics and the need for an alternative approach such as the one the book advocates.

Although written in more of a scholarly style rather than a popular one, the book is sufficiently accessible to be of interest to those segments of a lay audience with a taste for reading more scholarly works. Within academic and practice communities, the book is intended for at least three groups of readers: (a) moral philosophers, ethicists, and theologians, (b) political philosophers and political scientists, and (c) lawyers, judges, law professors, and law students, as well as members and aspiring members of other professions and occupations. In addition to the introductory chapter 1, everyone should read chapters 2-6 to acquire a good understanding of the foundational theoretical framework and approach. Ideally, every-

one should also read chapters 7 and 8 to acquire a more complete and well-rounded understanding of this framework and approach, and to see the practical implications for professional practice and political conversation. However, some in the first group who are less interested in these practical implications may want to omit chapters 7 and 8, some in the second group who are less interested in professional practice may want to read chapter 8 but omit chapter 7 except for the final section, and some in the third group who are less interested in politics, may want to read chapter 7 but omit chapter 8. The book could be used in law school courses such as jurisprudence, professional responsibility, or the legal profession, in analogous courses in other professional schools, and in college and university courses in philosophy, ethics, politics, or leadership.

I submitted the final manuscript to Carolina Academic Press in early December 2020 and have not attempted to update the text to take account of developments which have occurred, or additional sources which have been published or come to my attention, since that time. As far as subsequent developments are concerned, I am unaware of any that would significantly alter the judgments expressed in the book. Regarding sources, I became aware only recently of Michael Sandel's latest book, on the common good, which was published in the fall of 2020. This is clearly relevant to the discussion of Sandel's views on the common good and on justice in chapter 6, and readers are therefore urged to consult it too.¹ Similarly, James Boyd White's book *Keep Law Alive*, discussed in chapter 7, has generated at least one collection of excellent commentaries, published online shortly after submission, and these are also commended to the reader.² This said, there is one source in chapter 5 bearing a publication date of 2021, but this is a source for which I had pre-publication access to the text.

With respect to more technical matters, I have used what can best be termed a modified Bluebook style for footnote citations. For example, although the footnotes in each chapter are a self-contained unit and sources are always fully cited the first time they appear in a chapter even when cited earlier in the book, for subsequent citations to the source in the same

1. See MICHAEL J. SANDEL, *THE TYRANNY OF MERIT: WHAT'S BECOME OF THE COMMON GOOD?* (2020)

2. See *Book Symposium, Keep Law Alive*, LAW, CULTURE & HUMAN (December 2020), <https://journals.sagepub.com/page/lch/collections/book-symposium>.

chapter I have opted in favor of the signal “op. cit.” instead of an interminable number of “*supra* note ____.” I did this for stylistic reasons and, given the extensive (some might say excessive) footnoting, also to help make the writing and editing process less cumbersome and error prone as the text evolved. Although this does make it somewhat more difficult for the reader to locate the full citation, I seek the reader’s indulgence on this point. On the other hand, to help the reader navigate the discussion in the text, the footnotes do contain cross-references to relevant discussion found elsewhere in a chapter or in other chapters. As a general matter, quotations in the main text and footnotes omit internal citations in the original. And as in this Preface, for stylistic reasons, in referring to chapters the text uses Arabic numerals but chapter numbers at the beginning of each chapter (and therefore also in the Table of Contents) are spelled out.

June 29, 2021

Macon, Georgia

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I am grateful to Mercer Law School and Dean Cathy Cox for supporting this book project with the grant of a partial sabbatical in spring semester 2019 and a partial research stipend in the summer of 2019. In addition to Cathy, I owe great debts of gratitude, both professional and personal, to many other people without whom this project would not have been conceived or successfully prosecuted. First and foremost, of course, is Alasdair MacIntyre himself. Whether or not you agree with what he has to say to us, no-one can come away from an encounter with MacIntyre's thought without being profoundly changed. He is indeed a transformative figure.

MacIntyre is closely followed by my friend and colleague Jack Sammons, now Professor Emeritus at Mercer University. To use a MacIntyrean idiom, Jack has been a major co-author of my life story in many, different ways. Here I mention just some of them. To begin with, it is no exaggeration to say that during his many decades at Mercer Law School, Jack was the primary intellectual engine driving faculty development, exploring numerous paths to see what each might have to offer for our understanding of law and legal practice, and taking his Mercer colleagues along for the ride in multiple workshops and individual conversations. To give just a few examples among many, Jack first introduced us to MacIntyre's seminal *After Virtue* in a workshop shortly after it was published in 1981, organized several workshops on various topics led by the renowned philosopher Robert Audi, and most recently, introduced us to Heidegger and phenomenology. Jack was also a major intellectual engine driving development of my Mercer Commons "Professionalism and Vocation Across the Professions" collaborative university project from 2005-2009, which is discussed in Chapter 1, and a 2011 Mercer Law Review Symposium on

“Citizenship and Civility in a Divided Democracy,” which played a significant part in developing the political dimension of this book project. It should be no surprise, then, that the immediate occasion for writing the original manuscript that has evolved into this book, and from which a law review article was generated in 2015, was a Mercer Law Review Symposium in 2014 celebrating and honoring Jack’s scholarship. In addition to this general intellectual stimulation, and as I have often told him, I am immensely grateful to Jack for being such a wonderful mentor to me — one who, in the spirit of true friendship, has not only advised and encouraged me over the years but who also has not been afraid to tell me what I needed to hear, even if it was not always what I wanted to hear.

Similarly, in a true labor of love, Jack generously read through the draft manuscript for the book so carefully and so thoroughly, and gave me so many insightful and challenging comments, that it took me several weeks to work through them all and respond appropriately in the text. And the book is much better for it. To mention just two examples that are noteworthy for their impact on the book’s structure, it was Jack who prompted me to integrate explicit discussion of Heideggerian phenomenology in several chapters and discussion of Jim White’s *Keep Law Alive* in Chapter 7. In short, after MacIntyre, Jack Sammons is the scholar whose work I draw upon the most in the main text, his invaluable comments on the draft manuscript are acknowledged in numerous footnotes, and his influence is generally so pervasive throughout the book that he should really be regarded as its *de facto* co-author.

Two other friends and Mercer colleagues, and important co-authors of my life story, also generously read the draft manuscript and provided very helpful comments — Gary Simson at the Law School, who is also our former Dean (a true scholar-dean, as I like to say), and Paul Lewis at the College of Liberal Arts, who is a co-director of the “Mercer University Phronesis Project for the Exploration of Character, Professional Formation, and Practical Wisdom,” which incorporated the Professionalism and Vocation project mentioned above under a broader umbrella in 2009, and which is also discussed in Chapter 1. Their contributions too are acknowledged at various points in the footnotes. I am additionally grateful to Paul for introducing me to the respective work of Mark Mitchell and Jeffrey Stout, to which I refer at several points in the book, and to Gary for advis-

ing me in crafting the book proposal for the book and then recommending it to Carolina Academic Press.

Carolina Academic Press was indeed my first choice among publishers, not only because I was familiar with the excellence of their work but also because Gary, Jack, and other colleagues who had published with them had told me how enjoyable it was to work with such a professional and pleasant group of people — something I have now been able to confirm in my own experience. And in this respect two members of the Press team deserve special mention — Managing Editor Ryland Bowman, whose understanding and flexibility in extending various deadlines I have greatly appreciated, and Book Designer Kathleen Soriano Taylor, whose patience and attention to detail in making my anxious edits to the various sets of page proofs I have also greatly appreciated. I am also grateful to the Press for respecting my text, and for letting me keep *all* the footnotes!

Chapter 1 mentions several other friends and colleagues who have helped write my life story in relevant respects — Peter Brown, John Dunaway, Daisy Floyd, Tim Floyd, Pat Longan, and Kelly Reffitt — and I am grateful to all of them as well, but here I should mention someone who is in a special category of her own — my dear wife Margaret, to whom this book is dedicated. Not only is she among those who, by the power of their example, have taught me much about how to pursue a flourishing life of meaning and purpose in communities of excellence and virtue in response to a calling. Beyond this, again by the power of her example, she has shown me what it means to bear adversity in life with grace — far more than I would have exhibited in like circumstances — and she now helps others bear their own adversity as a psychotherapist practicing palliative care at our Medical Center. She has also patiently borne the distraction involved in writing this book, and she continues to tolerate my many idiosyncrasies with understanding, irritating though they must be sometimes. She is my cherished soulmate and helpmate, and the most important co-author of my life, who has gifted me with her love and a lovely family in her two daughters Catherine and Laura, granddaughter Cameron, and our son Nicholas. And she too is a true friend, who will tell me what I need to hear, even if it is not always what I want to hear. In these and so many other ways, then, I owe Margaret far more than I can ever say. It is only fitting, therefore, that the final, and most important, words should belong to her.

