



Department of Justice

REMARKS OF

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THE GEORGE WASHINGTON UNIVERSITY
NATIONAL LAW CENTER COMMENCEMENT

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CLASS OF 1992: IT IS A PLEASURE TO BE HERE WITH YOU TODAY AS YOU GRADUATE FROM LAW SCHOOL AND MARK THIS IMPORTANT MILESTONE IN YOUR LIVES.

YOU HAVE SUCCESSFULLY COMPLETED A DEMANDING COURSE OF STUDY AND NOW STAND READY TO TAKE ON THE RESPONSIBILITIES OF THE LEGAL PROFESSION.

JUST 15 YEARS AGO I WAS IN YOUR POSITION AND I CAN STILL REMEMBER THE SENSE OF JOY AND ACCOMPLISHMENT I FELT. YOU DESERVE THOSE FEELINGS TODAY.

CONGRATULATIONS TO ALL OF YOU ON A JOB WELL DONE.

YOU ARE, OF COURSE, THE PRINCIPALS IN THIS EXERCISE. BUT I WOULD ALSO LIKE TO PAY TRIBUTE TO OTHERS HERE WHO DESERVE SPECIAL RECOGNITION TODAY -- YOUR SPOUSES, FAMILY AND FRIENDS -- WHO HAVE SUPPORTED YOUR EFFORTS AND CONTRIBUTED SO MUCH TOWARD YOUR ATTAINING THIS LAW DEGREE.

LET ME RECOGNIZE ALSO THE SUPERB ADMINISTRATION AND FACULTY AT THIS UNIVERSITY AND AT THE NATIONAL LAW CENTER -- MEN AND WOMEN WHO HAVE MADE THIS SUCH A GREAT INSTITUTION OF LEARNING.

I FEEL VERY GRATEFUL TO GEORGE WASHINGTON UNIVERSITY.

WHEN I LEFT THE LAW SCHOOL HERE AND STARTED MY JUDICIAL CLERKSHIP AND THEN WENT ON INTO PRIVATE PRACTICE, I QUICKLY SAW THAT I HAD RECEIVED HERE A LEGAL EDUCATION THAT WAS SECOND TO NONE.

I CAN ASSURE YOU THAT, AT GEORGE WASHINGTON, YOU HAVE RECEIVED THE BEST POSSIBLE PREPARATION FOR MOVING INTO AND SUCCEEDING IN THE LEGAL PROFESSION. AND NOW, THE REST IS UP TO YOU.

SOME OF YOU WILL GO INITIALLY INTO PUBLIC SERVICE. OTHERS WILL GO INTO PRIVATE PRACTICE. SOME WILL HEAD FOR BUSINESS. AND MOST OF YOU WILL CHANGE COURSE, AT LEAST ONCE, AND PROBABLY SEVERAL TIMES, DURING YOUR CAREERS.

WHEREVER YOU ARE HEADED, YOU CAN BE SURE THAT MANY CHALLENGES AND FURTHER ACCOMPLISHMENTS LIE AHEAD.

LAWYERS HAVE ALWAYS PLAYED A SPECIAL ROLE IN THE LIFE OF THIS NATION, AND YOU WILL BE NO EXCEPTION.

INCREASINGLY, YOU WILL TAKE ON ROLES OF LEADERSHIP AND INFLUENCE BOTH AS PROFESSIONALS AND AS PRIVATE CITIZENS.

I.

TODAY, I WOULD LIKE TO SHARE SOME BRIEF THOUGHTS WITH YOU ABOUT THE ROLE OF LAW AND LAWYERS IN OUR SOCIETY AND THE CHALLENGE THAT WE FACE AS A PROFESSION.

WE FREQUENTLY HEAR PEOPLE BEMOAN THE FACT THAT SO MANY OF THE "BEST AND BRIGHTEST" GO TO LAW SCHOOL AND PURSUE LEGAL CAREERS.

THE SUGGESTION IS THAT THIS IS A DIVERSION OF TALENT AND ENERGY AWAY FROM MORE PRODUCTIVE PURSUITS.

I THINK THIS VIEW IS QUITE WRONG.

THE LAW IS A HIGH CALLING. FEW HUMAN ENTERPRISES ARE MORE IMPORTANT THAN PROVIDING FOR THE RULE OF LAW.

THIS GREAT REPUBLIC WAS CREATED BY LAWYERS, AND THE LAW PLAYS A CENTRAL ROLE IN THE LIFE OF OUR SOCIETY.

WE ENJOY OUR FREEDOMS ONLY THROUGH THE RULE OF LAW.

IT IS OFTEN -- AND RIGHTLY -- SAID THAT WE ARE A NATION OF LAWS. AND, AS LAWYERS, WE PLAY AN IMPORTANT ROLE IN SOCIETY BECAUSE IT FALLS UPON US TO MAKE THE SYSTEM OF LAWS WORK.

IN THE UNITED STATES, MORE THAN IN ANY OTHER COUNTRY, IT IS THE RULE OF LAW THAT HOLDS OUR SOCIETY TOGETHER.

OURS IS THE MOST DIVERSE NATION IN THE WORLD. NO OTHER COUNTRY IN THE WORLD HAS OUR DIVERSITY OF NATIONALITIES, RACIAL AND ETHNIC BACKGROUNDS, RELIGIONS, AND EVEN LANGUAGES.

AND YET WE HAVE BEEN UNIQUELY SUCCESSFUL IN INCORPORATING ALL OF THESE DIVERSE PEOPLE INTO A STRONG AND VIBRANT SOCIETY.

JUST HOW GREAT AN ACHIEVEMENT THIS IS IS APPARENT WHEN WE LOOK AT SOME OF THE TRAGIC EVENTS UNFOLDING AROUND THE WORLD TODAY.

AS THE YOKE OF TOTALITARIAN GOVERNMENT HAS BEEN THROWN OFF, LONG SUPPRESSED ETHNIC AND RELIGIOUS RIVALRIES HAVE ERUPTED IN A NUMBER OF COUNTRIES.

INTERNECINE WARFARE HAS BROKEN OUT, AND WE HAVE WITNESSED THE TRAGIC SPECTACLE OF NEIGHBOR FIGHTING NEIGHBOR.

I BELIEVE THAT ONE OF THE CRUCIAL REASONS THE UNITED STATES HAS LARGELY AVOIDED SUCH PROBLEMS THROUGHOUT ITS HISTORY HAS BEEN THE GENERAL ACCEPTANCE OF THE RULE OF LAW -- THE NOTION THAT THE LAW IS ABOVE ALL PEOPLE AND THAT OUR DISAGREEMENTS ARE TO BE

SETTLED ACCORDING TO THE LAW -- THE NOTION THAT, RATHER THAN TAKING THE LAW INTO THEIR OWN HANDS, DISPUTES -- WHETHER CIVIL OR CRIMINAL IN NATURE -- ARE TO BE REFERRED TO THE LEGAL SYSTEM.

AND, HISTORICALLY, LAWYERS HAVE PLAYED A FUNDAMENTALLY IMPORTANT PART BOTH IN CONVEYING THAT MESSAGE AND IN MAKING THE LEGAL SYSTEM WORK SO THAT PEOPLE ACCEPT IT AS THE ARBITER OF THEIR DISPUTES.

THIS IS, HOWEVER, A PROCESS THAT MUST BE CONTINUALLY CARRIED OUT. THERE IS NOTHING AUTOMATIC ABOUT THIS ACCEPTANCE OF THE RULE OF LAW. RATHER, IT MUST BE RENEWED IN EACH GENERATION.

II.

THAT IS WHY IT IS UNFORTUNATE THAT WE SEE IN AMERICA TODAY INCREASING DISENCHANTMENT WITH THE LEGAL SYSTEM AND WITH LAWYERS.

THIS DISSATISFACTION GOES BEYOND LAWYERS JOKES AND PUBLIC OPINION SURVEYS.

THERE REALLY IS -- MORE THAN EVER BEFORE -- A WIDESPREAD CYNICISM ABOUT OUR PROFESSION.

WE LAWYERS -- I THINK -- TEND TO BE OVERLY DEFENSIVE ABOUT

CRITICISM. ALL TOO OFTEN WE REFLEXIVELY DISMISS SUCH CRITICISM AS "LAWYER BASHING".

BUT I THINK WE SHOULD LISTEN CAREFULLY TO CRITICISM AND ATTEMPT TO LEARN FROM IT.

TRUE, MUCH OF IT IS UNDESERVED. BUT SOME OF IT MAY NOT BE WHOLLY WITHOUT MERIT. WE SHOULD PAY IT SOME HEED.

THE MORE I HAVE THOUGHT ABOUT IT, THE MORE I THINK THAT THE WIDESPREAD CYNICISM ABOUT LAWYERS RESULTS FROM A GROWING PUBLIC PERCEPTION THAT THE SYSTEMS WHICH WE RUN -- BOTH THE CIVIL AND CRIMINAL JUSTICE SYSTEMS -- ARE NOT, IN THE END, PRODUCING THE RESULTS THEY SHOULD BE -- THEY ARE NOT METING OUT JUSTICE.

THERE IS THE SENSE (OUT THERE) THAT WE LAWYERS HAVE SET UP AN ARCAINE SYSTEM OF ELABORATE PROCESSES AND PROCEDURES WHICH WE THEN MANIPULATE AT GREAT PROFIT TO OURSELVES. BUT, AFTER MUCH COMMOTION AND EXPENSE, THE PROCESS DOES NOT DELIVER THE PRODUCT IT IS SUPPOSED TO -- NAMELY, A JUST RESULT.

BECAUSE WE LAWYERS ARE SO SCHOOLED IN PROCEDURES, PERHAPS WE TEND TO FORGET THAT JUSTICE INHERES LESS IN THE PROCESS WE GO THROUGH TO REACH A RESULT THAN IN THE QUALITY OF THE RESULT WE ACTUALLY ACHIEVE.

IN OTHER WORDS, DOING JUSTICE IS ULTIMATELY A MATTER OF ACHIEVING JUST RESULTS.

THAT IS THE WHOLE PURPOSE OF A LEGAL SYSTEM.

JUSTICE IS DONE WHEN THE CRIMINAL WRONGDOER RECEIVES APPROPRIATE PUNISHMENT.

JUSTICE IS DONE WHEN ONE WHO HAS CIVILLY HARMED ANOTHER IS COMPELLED TO MAKE THE INJURED PERSON WHOLE.

THIS DOES NOT MEAN THAT PROCESS AND PROCEDURES ARE UNIMPORTANT. THEY ARE VERY IMPORTANT. BUT WE SHOULD NOT LOSE SIGHT OF THE FACT THAT LEGAL PROCESS IS A MEANS TO AN END, NOT AN END IN ITSELF. WE HAVE ADOPTED LEGAL PROCESSES AND PROCEDURES PRECISELY TO FACILITATE THE FAIR, ACCURATE, REASONABLY PROMPT, AND ULTIMATELY JUST RESOLUTION OF CASES.

PEOPLE WILL NOT LONG REMAIN LOYAL TO A LEGAL PROCESS SIMPLY BECAUSE IT IS TIDY -- THEY MUST SEE -- MORE OFTEN THAN NOT -- JUSTICE BEING DONE IN THE END.

AS APPLIED THROUGH MOST OF OUR HISTORY, OUR LEGAL PROCEDURES -- WITH ALL THEIR FAMILIAR GUARANTEES -- HAVE BEEN EFFECTIVE NOT ONLY IN FAIRLY PROTECTING THE RIGHTS OF CIVIL LITIGANTS AND

CRIMINAL DEFENDANTS, BUT ALSO IN SERVING THEIR ULTIMATE PURPOSE OF FINDING THE TRUTH AND REACHING THE JUST RESULT.

TODAY, HOWEVER, I THINK THE PUBLIC'S CONFIDENCE IN THE LEGAL SYSTEM IS BEING UNDERMINED.

THERE IS A FEELING, I THINK, THAT WE LAWYERS HAVE BECOME SO OBSESSED WITH PROCESS THAT WE ARE SACRIFICING THE ABILITY OF THE SYSTEM TO PRODUCE JUST RESULTS.

MANY PEOPLE NOW SEE LAWYERS AS SHARP MANIPULATORS OF A PROCESS, RATHER THAN STEWARDS OF A SYSTEM THAT IS DIRECTED AT ACHIEVING THE RIGHTEOUS RESOLUTION OF DISPUTES.

THIS EROSION OF CONFIDENCE CLEARLY PERTAINS TO THE CRIMINAL JUSTICE SYSTEM.

MANY PEOPLE ARE CONCERNED THAT PROCEDURAL TECHNICALITIES ARE BEING ABUSED AND EXPLOITED TO THE POINT THAT, ALL TOO FREQUENTLY, THE GUILTY GO UNPUNISHED.

THE PROCESS SOMETIMES APPEARS TO BE A TECHNICAL GAME THAT HAS LITTLE TO DO WITH TRUTH FINDING OR DETERMINING ACTUAL GUILT OR INNOCENCE.

AND EVEN WHERE THE WRONGDOER IS FINALLY BROUGHT TO JUSTICE,
THERE ARE FREQUENTLY ENORMOUS DELAYS.

THE PUBLIC LOSES THE SENSE THAT JUSTICE IS BEING DONE WHEN
PUNISHMENT IS TOO FAR REMOVED FROM THE OFFENDING CONDUCT.

WHETHER WHOLLY DESERVED OR NOT, THE PUBLIC TENDS TO BLAME
THE LEGAL PROFESSION FOR THE PERCEIVED DEFICIENCIES.

THE SAME IS TRUE FOR THE CIVIL JUSTICE SYSTEM.

THE LEGAL PROCESS ON THE CIVIL SIDE, SHOULD ENSURE
REASONABLY PROMPT, AND ACCURATE, RESOLUTION OF DISPUTES.

INDEED, CIVIL PROCEDURE HAS GONE THROUGH A SERIES OF REFORMS
IN ORDER TO ACHIEVE THAT GOAL. FOR EXAMPLE, ONE LARGE SCALE
REFORM, RELATING TO THE RULES OF PLEADING, WAS A RESPONSE TO WHAT
WAS PERCEIVED AS THE OVERLY TECHNICAL NATURE OF THE SYSTEM -- ONE
THAT DENIED JUSTICE FOR ALL SORTS OF TECHNICAL REASONS UNRELATED
TO THE MERITS OF THE UNDERLYING DISPUTE.

ANOTHER REFORM, THE INTRODUCTION OF DISCOVERY, WAS ALSO A
RESPONSE TO A PERCEIVED INJUSTICE IN THE SYSTEM -- THE THOUGHT
THAT TRIAL BY SURPRISE, RATHER THAN A SEARCH FOR THE TRUTH,
RESULTED IN UNJUST RESULTS.

WELL, WE ARE AGAIN AT A STAGE WHERE THERE IS A WIDESPREAD PERCEPTION THAT THE CIVIL LAW SYSTEM IS NOT DOING A GOOD ENOUGH JOB OF DISPENSING JUSTICE.

THE PROCESS HAS BECOME EXTREMELY PROTRACTED AND COSTLY. AN INCREASING AMOUNT OF LEGAL ENERGY IS DEVOTED TO TORTUOUS MANEUVERING THAT SEEMS TO HAVE LITTLE TO DO WITH ARRIVING AT THE TRUTH.

DISCOVERY ABUSE IS LEGION, AND LEGENDARY.

LAWYERS ARE CRITICIZED FOR USING THE SYSTEM FOR DELAY, TO IMPOSE COSTS, FOR ADVANTAGE IN BUSINESS OR OTHER DEALINGS, TO EXTORT SETTLEMENTS, OR FOR ANY OF A MYRIAD OF OTHER REASONS BESIDES LEGITIMATE COMPENSATION FOR WRONGS SUFFERED.

INDEED, WE NOW SEE A WHOLE ALTERNATIVE SYSTEM OF DISPUTE RESOLUTION BEING DEVELOPED IN ORDER TO BY-PASS WHAT IS SEEN AS A WASTEFUL AND INEFFICIENT LEGAL SYSTEM -- I'M SPEAKING HERE OF ARBITRATION, MEDIATION, AND OTHER SO-CALLED A.D.R. TECHNIQUES.

III.

WHAT DOES THIS HAVE TO DO WITH YOU?

AS YOU PROCEED WITH YOUR CAREER, I WOULD URGE YOU TO BE CONCERNED ABOUT PUBLIC DISSATISFACTION WITH OUR PROFESSION.

I WOULD URGE YOU TO LISTEN CAREFULLY TO THE CRITICISM VOICED ABOUT THE LEGAL SYSTEM AND ABOUT LAWYERS.

BE WILLING TO EXAMINE WITH A CRITICAL EYE THE WORKINGS OF THE LEGAL SYSTEM AND HOW WE DO BUSINESS.

WE LAWYERS SHOULD NOT BE OVERLY DEFENSIVE ABOUT CRITICISM OF OUR PROFESSION.

WE SHOULD BE FIRST IN LINE WHEN IT COMES TO BEING WILLING TO RE-EXAMINE THE WAY WE DO BUSINESS AND IMPROVING UPON IT.

AS MEMBERS OF THE LEGAL PROFESSION WE CANNOT AFFORD TO BE SELF-SATISFIED ABOUT THE OPERATION OF OUR LEGAL SYSTEM.

LIKE ALL OTHER ENTERPRISES, THE PRACTICE OF LAW OCCASIONALLY MUST BE ASSESSED TO ASSURE THAT IT IS HEADED IN THE RIGHT DIRECTION.

I HOPE THAT YOU, AS NEW LAWYERS, WILL DEVOTE TIME TO IMPROVING AND STRENGTHENING THE LEGAL SYSTEM -- TO MAKING IT WORK BETTER FOR PEOPLE -- SO IT IS MORE EFFICIENT AND MORE EFFECTIVE AT METING OUT JUSTICE.

YOU ARE JOINING A NOBLE PROFESSION AND A PROUD TRADITION.

AND, IN KEEPING WITH THAT TRADITION, YOU HAVE A SPECIAL OBLIGATION TO PRESERVE, PROTECT, AND WHERE NECESSARY, REFORM, THE LEGAL SYSTEM SO THAT IT CAN BETTER FULFILL ITS IMPORTANT FUNCTION.

BY PLAYING A ROLE IN IMPROVING THE QUALITY OF JUSTICE IN OUR SOCIETY, YOU WILL INCREASE RESPECT FOR THE RULE OF LAW AND THUS STRENGTHEN THE COHESION AND HEALTH OF OUR COMMUNITY.

ONCE AGAIN, CONGRATULATIONS ON CHOOSING SUCH A WORTHY PROFESSION.

CONGRATULATIONS ON SUCCESSFUL COMPLETION OF YOUR LEGAL STUDIES.

I WISH YOU EVERY SUCCESS IN YOUR CAREERS.

GOD BLESS YOU AND GOD'S SPEED.