

Commencement Remarks

Dean Robert Post

Yale Law School, May 21, 2012

It is now my great pleasure to welcome all of you, distinguished guests, faculty colleagues, families, friends, and members of the graduating class, to the 2012 Commencement Exercises of the Yale Law School.

We gather today to celebrate a moment of consequence in the lives of **224** JD candidates, **24** LLM candidates, **2** MSL candidates, and **7** JSD candidates. When these **257** individuals finish their academic requirements, when the final staple goes through the final paper, and when the last examination is at last graded, they will be, quite simply, the finest new law graduates on the planet.

All the music, all the marching, all the medieval badges, robes, and ceremony that surround us this day, are meant to mark this single, decisive moment of high transition in the lives of these **257** graduates. As with all such moments of transition, it is an occasion *both* to take stock of the past *and* to assess the bright but inscrutable future that lies before us.

If we gaze backward to the past, we can see that there is a long and winding pathway that has led to this graduation. Members of the graduating class have had to accomplish a great deal to arrive at this moment.

It is important to stress at the outset that these accomplishments, however heroic, are not those of our graduates alone. Behind each and every one of our graduates is a story of family and friends: of parents who nourished and sacrificed, who hovered and let go; of grandparents, uncles and aunts who supported and sustained them; of brothers, sisters, cousins, and friends, who stood by them and with them; of partners, spouses, children, and other loved ones who strengthened and inspired them.

The real education of our graduates was earned long before they arrived here at the Yale Law School. We are latecomers in their lives, and we have had them in our care only for an instant.

So, as we call to mind the past that has brought our graduates to this precious time, let us remember first and foremost those who truly made this moment possible. Would the families and friends of the Class of 2012,

many of whom traveled long distances to be here today, please rise, so that those assembled here today can honor you?

Let us honor also the faculty of this law school, who sit before you on this stage. It has been their responsibility to educate you, members of the graduating class, in the many intricate ways of the law. On this stage is, by common acclamation, the finest and most influential law faculty in the world. They have worked hard to give you a sense of mastery, so that the law might feel, in your hands, intelligible, familiar and responsive. They have offered you their passion for the law, and in the process they have forever altered the horizons in which you shall sail forward into your life. Let us now, as they are assembled here all together, thank them also.

We might take this moment also to thank those many members of the Yale Community who have worked so hard to make your sojourn among us comfortable and secure. They have rescued your computers, piloted you through the maze of our remarkable library, maintained our gem of a building, staffed the indispensable dining hall, mailed out your many letters of recommendation, and performed myriad other services, of which you might or might not be aware.

I want to give special thanks today to **Associate Dean Mike Thompson**, whose inventiveness and attentiveness and sympathy for every concern, large or small, keeps this complex place running smoothly; to **Associate Dean Toni Davis**, whose tender care for the Graduate Program has made us all stronger; to **Associate Dean Megan Barnett**, whose talented and tireless enterprise has benefitted all of you in the audience; to **Associate Dean Asha Rangappa**, who has handled the requirements of your financial aid with tact and assurance; to **Blair Kauffman**, who has catapulted the services of your Library into new heights; to our devoted and patient registrar, **Assistant Dean Judith Calvert**, who has organized this day, and who works harder than any of you can imagine to make sure your requirements are fulfilled so that in fact you *will* be able to graduate.

I wish to extend a special thanks to our beloved **Associate Dean Sharon Brooks**, who is leaving us at the end of next month. Her endless good cheer and good advice has benefitted every student here. May you carry her presence with you wherever life takes you.

Thank you all.

This is for many reasons a very special graduation to me. You are the first class that entered Yale Law School under my Deanship, and I shall always feel extremely close to you. If you remember, when you first arrived in New Haven, I asked you to survey your classmates, and I predicted that in the next three years you would come to appreciate and respect each other in ways that you could not then imagine.

Even though most of you were strangers then, I anticipated that over the next three years you would create intense bonds out of common experiences, shared memories, entangled hopes and mutual loyalties, so that by the time of this day, by the time of your graduation, you would have found some of your dearest friends and your closest colleagues.

I hope my predictions have proved true, that during your time here at Yale you have grown close to your classmates; that you have taught each other more than we, your faculty, could ever hope to have taught you; and that you have forged relationships that will last long into your bright future. As you look around at your classmates, you will find them among the most precious gifts that you will carry away from this place.

So now, in this instant, you should take a moment to appreciate each other, and to breathe in the sweetness of being here, all together, for one last time. This is not a moment you will forget.

Moments of transition, like this, hang suspended between past and future. They are comforting, because they are familiar; they culminate all that has gone before. But they are also bittersweet, because something must end in order for change to take hold. In every ending is the challenge of a new beginning. Moments like this are therefore *charged*, in part with the excitement of new creation, but also in part with the vague disquiet of the unknown.

Your future is without doubt bright. You are now equipped with one of the great degrees in legal education anywhere in the world. You have acquired magnificent friends and astonishing peers. You have been trained by masters. And you have earned the support of a school that will stand by you throughout your careers.

And yet, of course, in the nature of things, the future is uncertain. And I can't help but think that this uncertainty may resonate with aspects of your collective history. You have lived much of your lives in the aftermath of 9/11. Just as of those of you in the J.D. class were preparing your applications to Yale, just as you were inserting the last flourishes into your personal statements, the stock market collapsed, Lehman Brothers declared bankruptcy, and our economy veered toward an thinkable precipice.

We have no doubt come a long way since then. The dangers of September 11 seem increasingly distant; the economy, however tentatively, seems to be back on track. The world has begun to assume a semblance of normality.

But the old, oblivious assurance has not returned. There is the quiet, nagging sense that ordinary life is a thin crust laid over a precarious sea. Our politics are in a state of perennial dysfunction; the nation's debts continue to accrue; the threatening crisis of the European euro never seems to go away. On the legal front, one need only take in the unthinkable slow motion collapse of the law firm of Dewey & LeBoeuf, one of the venerable

New York firms whose place at the pinnacle of the law profession seemed at one time unassailable.

The deep fissures of change, the corrosive cracks of new adjustment, are everywhere around us.

I thought that at this moment, therefore, I should say a few words about how you might face a future that continues to shift like a kaleidoscope into ever new and unpredictable and uncomfortable patterns and shapes.

You are graduating into a world of national and international insecurity and unrest. From nuclear meltdown in Japan, to fiscal meltdown in Europe; from the occupation of Wall Street to the unending occupation of Afghanistan; from the hopeful chants of a Cairo Spring to the disenchantment of a domestic tea party--- the world is wobbling on its axis, spinning out inexorable and unfathomable challenges.

The old certainties—good and bad—are unraveling. The very framework of our constitutional law is shifting before our very eyes; the climate of the globe is altering so radically that in your lifetimes the very

geography of the planet will likely also shift. What we thought we knew, we no longer know. We can be confident only that in the coming decades we will encounter a world of rapid and almost unimaginably profound change.

So today is the hinge on which swings the door that you will open to begin to face this new and daunting world. And the question I would like to address is how we could possibly have prepared you for the multiple and unforeseeable challenges that await you.

I hope we have done so by giving you three gifts: Knowledge, Vision, and Confidence.

Let me speak first about *knowledge*. It is probable that when most of you arrived at this law school, you imagined that to know the law, you needed to master the statutes set down in the books, the court holdings recorded in the reporters, the regulations published in the federal register, and so on. Of course, you do need to master these things, and I hope that now you have a pretty good grasp of them.

But I am certain that you have also come to appreciate that to know the law, you must understand far more than texts, however authoritative some texts may be. Rules, regulations and decisions must be interpreted in light of what you think the law is or should be. And this means that knowledge of the law requires an understanding of the deeper integrity and purposes of the law.

Knowledge of law also entails competence in the practice of *effective* governance. You must comprehend the inner workings of institutions, the mysteries of incentives, the murky language of social values. We hope we have also given you an understanding of the rule of law, which is one of civilization's great achievements. We hope that you will remember that the rule of law requires you always to take the long view, never the short view. It requires you to keep in mind that when law is severed from competence, it cannot long survive; but that when law is indifferent to justice, it becomes an abomination.

Governing a society under law is a way of expressing respect for the independence of persons, and this respect is indispensable for human flourishing. Law is not merely a means of social co-ordination. It is also

something more. As the philosopher Jeremy Waldron writes, applying law to a person “is not like deciding what to do about a rabid animal or a dilapidated house.” It is instead like addressing someone who thinks and who possesses their own opinions. It is this insight that underlies the ideal of due process of law.

So we hope that the *knowledge* we have given you is not just an understanding of how to use law, but also an understanding of law’s intrinsic value. As you encounter the many formidable challenges that undoubtedly await you, we hope that you will be able to bring to bear the humane and effective wisdom that lies latent within the institution of the law.

A second gift I hope we have given you is the encouragement to unleash your *vision*. It is not enough to know the world as it is. When you leave this place you must be able to imagine the world as it might be. You must be able to glimpse the possibilities of change, of improvement, of that city on a hill that we all yearn to inhabit.

As I said to you on the day you arrived at this law school, “A map of the world that does not include Utopia is not worth even glancing at, for it

leaves out the one country at which Humanity is always landing.” Those are the words of Oscar Wilde. Here are the words of Langston Hughes in 1938:

Let America be America again—
The land that never has been yet—
And yet must be—

Without vision of what might be, of what *must* be, we will be condemned to inhabit a world that is merely dreary, anonymous and fateful. So you must simultaneously know how things *actually are*, etched with acid fidelity to the facts, and you must always also be able to imagine things as they *might be*.

I hope in your time here you have acquired the endowment of vision, so that you can see farther than we have seen, and so that you can help lead us all from the wilderness in which we now wander. Given the present state of the world, I cannot say that my generation has been particularly kind to yours. We need your help.

And, finally, I hope we have given you the gift of *confidence*. It is not enough that when you leave here you *understand* the challenges you will face, or even that in facing them you are able to *envision* new possibilities of improvement. You must also believe, deep in your souls, that you matter, that your response to these challenges will make a difference to the world. You must have the *confidence* to respect your own considerable capacities, and this will inspire you to act, whenever action is needed.

For some of you, your introduction to law may have been disorienting. You may have experienced great anxiety about your capacity to master law and to find your own place in it. As you sit here on this glorious day, think how *misplaced* those initial anxieties were. Each of you has accomplished great feats in your time here. Each of you has overcome challenges that once seemed insurmountable. Each of you has found your own way to thrive. Glean from this the gift of *confidence*.

Here at Yale, we have endeavored to nourish your faith in yourselves as carefully and as lovingly, as we have tended to your knowledge and to your vision. We have striven to give you opportunities to experience yourselves as capable and effective men and women.

On this day, as you depart from our immediate care, I invite you to consider that the uncertainties, the risks, the dangers, the opportunities that lie before you in the future—that these are all simply the raw materials out of which you will fashion your own new worlds. You do *not* need to be confident about *what* events might bring, but you *do* need to be confident in your own *capacity* to master events and to respond to them with grace and with intelligence, whatever events might bring.

When you leave here, you will become leaders in your chosen fields. You will no doubt face insoluble problems. But it is the wish of all your teachers here on this stage that you may encounter the unimaginable adventures that lie before you with the same verve and intelligence, with the same unfailing self-respect, with the same moral courage, with the same pleasure and delight, that you have displayed during your time here among us.

Congratulations!

Introduction of Toni Davis to present Graduate Program Degrees

We presently have three graduate degree programs at Yale Law School. The students in these programs have already been trained as professionals, and they have come to us seeking to engage in the advanced study of law.

This year **7** students will receive the high degree of Doctor of the Science of Law – the J.S.D. These are students who have previously received an LL.M. degree at Yale Law School, and who have maintained their course of study in order to compose a rigorous dissertation, which constitutes a “substantial contribution to legal scholarship.”

This year **24** students will receive the degree of Master of Laws –the LL.M. Each of these students has studied here during the past year, taking courses and working closely with faculty members in order to meet the strenuous requirements of this advanced degree.

Finally, in the Class of 2012, we have **two** students who will receive a Master of Studies in Law – the M.S.L. These student are professionals who

are not lawyers and who during the past year have explored the relationship between law and another discipline.

To present the candidates for these advanced degrees in law I call upon their advocate, friend, and mentor, Associate Dean Toni Hahn Davis.

Introduction of Sharon Brooks to Present the JD Degree

In the Class of 2012, **224** students will receive the degree of Juris Doctor, the J.D. degree. To earn this degree, students have had to complete three years of difficult coursework as well as to compose substantial and sustained analytic writing. To present the candidates for this degree, I now call upon our incomparable Associate Dean of Student Affairs, Sharon C. Brooks, who has served our students with compassion and wisdom during their time here.

INTRODUCTION OF STEPHEN BRIGHT

Every year, the graduating class elects a member of the faculty to speak at commencement. The graduates this year have chosen exceptionally well: they have selected Stephen Bright.

Steve has for many years led the Southern Center for Human Rights, an organization he founded that provides legal representation to those who are incarcerated and to those who face the sentence of death. Since 1993, Steve has also been a member of our faculty, teaching about capital punishment and supervising individual students in the representation of condemned prisoners.

The large number of students who take Steve's courses each year can attest to his remarkable skills as a teacher. With clarity and rigor, Steve guides his students through the tangled thicket of laws that surround the administration of death in our country's prisons. He provides them with the intellectual and doctrinal guidance they need to operate in this complex field.

But the students who take Steve's courses will also tell you that he gives them much, much more. He gives them the unpretentious example of his own heroic commitment to the abolition of capital punishment. He shows them that the great dreams of reform, that so many students bring with them when they come to the Yale Law School, are in fact real, living options. He demonstrates that one can live a life of moral courage in the law, and that the law can be an instrument of improvement in the world.

And most astonishingly, perhaps, every day that Steve is here he makes it plain that one can live a life of unrelenting moral courage and yet maintain a sense of pleasure in one's work, and even, yes, a sense of humor about life. Many of us would have thought that a person as decent as Steve Bright, working in precincts as morally and as emotionally exhausting as those he has chosen for his life work, would long ago have been worn out and grown bitter with the world.

But miraculously, Steve Bright has not, and the Yale Law School has been unbelievably lucky to have had for so many years the radiant example of his humane courage and indefatigable spirit.

Please join me in welcoming our 2012 commencement speaker,
Stephen Bright.

**INTRODUCTION OF
MARGARET MARSHALL**

This morning, on behalf of Yale University, President Levin awarded the honorary degree of Doctor of Laws to one of this Law School's finest graduates, and one of the most remarkable people I know. Margaret H. Marshall was a Justice and Chief Justice of the Massachusetts Supreme Judicial Court from 1996 to 2010, and she has been a fellow of the Yale Corporation from 2004 to 2010. It is fitting that she address you today.

Chief Justice Marshall's interest in law was sparked by her childhood under the system of apartheid in South Africa. She graduated from Witwaterstrand University in Johannesburg in 1966. At that time she was elected President of the National Union of South African Students, which was an organization dedicated to combating apartheid. She served in that capacity until 1968, when she came to the United States to pursue her graduate studies.

Here, as she has said, she was inspired by what she called “the taste of freedom.” She received a master's degree in education from Harvard University and subsequently her law degree from Yale in 1976.

After law school, Chief Justice Marshall worked at Boston law firms before becoming Vice President and General Counsel of Harvard University. She was appointed Associate Justice of the Massachusetts Supreme Judicial Court in 1996, and was named Chief Justice in 1999. Chief Justice Marshall is only the second woman to serve on the Supreme Judicial Court, which is the oldest appellate court in continuous existence in the Western Hemisphere, and she is the first woman to serve as the Chief Justice of that prestigious Court.

As Chief Justice, and since her retirement, Margaret Marshall has been a tireless champion for the cause of state courts, the courts that carry by far the greatest burden of adjudication in this country. She has sounded the alarm that “state courts are in crisis,” because they are severely underfunded, because they are increasingly unable to offer adequate access to all those who require their services, and because state judiciaries have become

increasingly politicized. The trend toward contested and financially expensive election campaigns for state judgeships have endangered both the rule of law and the virtue of an independent judiciary, values that Chief Justice Marshall came so highly to prize because of her experience in South Africa.

As Chief Justice, Margaret Marshall has been responsible for historic opinions advancing the frontiers of human rights. She is the author of the decision guaranteeing the right of same sex couples to marry in Massachusetts. Her work will be studied and debated for centuries. She exemplifies a life lived greatly in the law, the kind of life that we hope for each of our alumni. And indeed, in 2006, Chief Justice Marshall received Yale Law School's Award of Merit, which is the highest honor we can bestow on one of our own alumni.

It gives me great pleasure to introduce to you to Margaret (Margie) Marshall.

INTRODUCTION OF MONTY

Before we finally adjourn these ceremonies, there is one figure who has not yet said goodbye to you. He asked me if he could make a special appearance, so that your last memories of this place will be as warm, as full of unconditional love, and as replete with best wishes for your future, as they could possibly be.

Bring Out Monty

Monty has asked me to congratulate you all, and to say that whenever in dark times you need reassurance, whenever you need unwavering and unquestioning assistance, he and we will always be here for you with affectionate support.