

Charge to the Class

Almost done. The only thing left before we finish is our final charge to you. You probably thought you were finished with law school charges, and I promise this is the last one. But it's also a different kind of "charge" than you've been getting from us for the past three years. Those charges are indeed ended—to your relief, I'm sure, not to mention that of your families. (Okay, to be honest: I stole that line from Bob Weisberg, and I use it every year.)

In any event, today's charge has a different meaning and a different purpose. For as we confer your degree, we entrust you with a task and assign you a responsibility. The task and the responsibility are straightforward and can be simply stated: We expect you to use your training well and to make a difference for the better. Our world, your world, faces a great many terrible threats. And that's not something that is always true or that speakers always say. Things are different today, and the problems and threats that must be solved are greater and more daunting, certainly than at any time in my life. But if history teaches anything, it is that great challenges bring great opportunities. And, indeed, you leave here with opportunities to make a difference that are indeed rare. So take advantage of them. Be ambitious, and do something to make the world a better, safer place.

I could almost end here, and I suppose some of you wish that I would. But I don't want to send you off with nothing more than a simple exhortation. And, in truth, I have thought long and hard about this speech to your class. I know as well as anyone that your

time in law school has been, let us say, different. The school went through a lot of significant change during your years here, not all to everyone's liking, while you bore and continue to bear the brunt of the deepest economic crisis since the 1930s.

We hope that, despite these challenges, you had the kind of experience and feel you received the kind of education you were looking for when you chose to come to Stanford. I know, and hope you know, that everyone at the Law School—faculty and staff alike—worked their hardest and did their best to see that you did. And on behalf of all of us, I thank you for the mature and responsible way in which you handled the challenges of these years. This in itself has been an important lesson, because life will continue to throw challenges your way—bigger and harder than anything you faced here—and how you handle these challenges will play an important role in defining your character and determining your future success. On that score, however, let me just say, that you're off to a terrific start.

A member of your class came to see me in my office a few weeks back. He came at my invitation. And when I asked how he felt about his time at Stanford, he said that he appreciated what he got here, but that I should at least acknowledge that it had been difficult in unexpected ways and that perhaps your class deserved a nod or tip of my hat. And so, though I don't think he meant it quit this literally: [tip].

Still, surely I can do better than that. I try to write a fresh speech for each graduation, to find some angle, something to say, that is distinctive for each graduating

class. In your case, I decided, I would try to convey sage advice: to provide helpful guidance as you head out into this unusually challenging and uncertain environment.

But as I sat down to write, I recalled a quote I once saw from P.G. Wodehouse, who said “I always advise people never to give advice.” And I felt as if he must be talking to me, because what could I offer that wouldn’t sound trite or obvious? So I started looking elsewhere and to others for ideas and thoughts that I could present to send you on your way, wiser and hopefully inspired to achieve great things.

That turned out to be a lot harder than I expected.

I started with the Founding, because I know that period especially well, and because our Founders were, after all, a pretty smart bunch. Plus, most of them were lawyers. Surely there would be some inspirational words of wisdom for new professionals like yourselves. But, for all their genius when it came to justifying a Revolution and creating a government, none of our Founding Fathers had much useful to offer when it came to starting a career in the law.

I did find an amusing quote from Benjamin Franklin, who once said “necessity knows no law and I know some attorneys about whom the same can be said.” But about the only direct bit of advice I found came from Jeremiah Gridley, who was a Massachusetts Attorney General before the Revolution. When asked by a young and shamelessly sycophantic John Adams how to become a great lawyer, Gridley replied “I

have a few pieces of advice to give you, Mr. Adams. Do not marry early. For an early marriage will obstruct your improvement, and in the next place will involve you in Expense. Another thing is not to keep much company, for attention to your books is inconsistent with keeping much company.”

So that’s not much help. It’s not even good advice, and that Gridley followed it himself may explain why he is largely forgotten today. In any event, while not exactly the kind of advice I had in mind when I set out to find sage counsel, I do urge you all to find a loving partner in life and to have friends.

My next thought was to see whether any of the great men and women of the law had said something inspiring enough to build a speech around. There were a lot of candidates here: so many, in fact, that it was hard to sort them out. But in the end, what I found felt either stale or cliched. There were a few strong quotes, and some that I hadn’t encountered before, but nothing that felt personal enough to deserve a whole speech.

For instance, Jeremy Bentham observed that “the power of the lawyer is in the uncertainty of the law,” which is a nice quote and certainly true, and perhaps worth taking a moment to think about. It is, after all, uncertainty that creates space for creative lawyering. A professor of mine once observed that the complexity of a legal system is inversely related to the quality of its lawyers: the simpler and clearer the law, the less need for society to encourage its most talented members to become lawyers. But our laws are neither simple nor clear, which is why we need people of your immense talents

to make the system work. And it will be, as Bentham said, where the law is uncertain that you will find your power, as a lawyer, to move things in a better direction and to make law serve society better.

I did find one statement about lawyers and lawyering that felt telling and trenchant. John W. Davis once said about our profession:

“True, we build no bridges. We raise no towers. We construct no engines. There is little of all that we do which the eye of man can see. But we smooth out difficulties; we relieve stress; we correct mistakes; we take up other men’s burdens and by our efforts make possible the peaceful life of men in a peaceful state.”

Davis is actually a kind of tragic figure. For after a long and truly splendid career that included time in Congress, as Solicitor General, as Ambassador to England, as the Democratic candidate for President in 1924, as founder of Davis, Polk, and one of the most successful Supreme Court advocates ever, Davis ended his career defending segregation and South Carolina in *Brown v. Board of Education*. He lived just long enough to see that he had lost unanimously, passing away while reargument on the remedy was pending.

I say Davis is tragic because he most certainly was opposed to racial segregation, a point acknowledged after his passing by Thurgood Marshall. Indeed, he lost his bid for

the Presidency because of his defense of black voting rights and his denunciations of the Ku Klux Klan, which cost him the South (a rarity for a Democrat in those days). But Davis was a true believer in states' rights, and this commitment to an abstraction over the real world meaning of its consequences left him at the very end of his life on the wrong side of history. It's another lesson that's worth keeping in mind.

Still, Davis's point about the importance of lawyers playing peacemaker is a good one—one all too often forgotten by law's practitioners, to the detriment of the profession. Abraham Lincoln actually made the same point while still practicing in Illinois, putting it in his characteristically understated manner: "Discourage litigation," he advised a young attorney. "Persuade your neighbors to compromise whenever you can. As a peacemaker, the lawyer has a superior opportunity of being a good man. There will still be business enough."

By now, I was getting a bit worried and starting to wonder whether I would find anything that meant something to me that was also worthy of you. My wife suggested that I explore the final words of famous people, which seemed like an interesting idea. And it was interesting. Did you know that Leonardo da Vinci's last words were "I have offended God and mankind because my work did not reach the quality it should have." So that's a bit scary. Because if Leonardo felt that way, what chance do you or I have?

In any event, I didn't find anything really appropriate here either. Though I can't resist passing along Oscar Wilde's final words. These actually have nothing to do with

your finishing law school or embarking on your professional life, and I admit to a certain skepticism that this is what Wilde actually said. But supposedly, the last thing he uttered before expiring was “Either that wallpaper goes, or I do.” Which can, I suppose, be taken as a reminder that it’s good always, even in the direst circumstances, to keep your wits, and your wit, about you.

I thought next that perhaps I could find something different but useable in popular culture: you know, rather than draw on a great figure from high culture, maybe there was something middle or low brow that would be fun. Here I found quite a bit about law and lawyers, but virtually all of it is negative. We know the world generally holds our profession in low esteem, something that has always been true to some extent. But I was genuinely taken aback at the pervasiveness of the negative imagery.

Sure, we can laugh at lawyer jokes and negative images. It’s funny when Jane Fonda says, as Cat Ballou, “they did terrible things to my father—they put manure in his well and they made him talk to lawyers,” just as it’s funny when Paige in “Charmed” says, incredulously, to a horrible creature from hell, “you mean you used to be a demon *and* a lawyer?” Even kids get this stuff. I remember watching “Muppet Treasure Island” with my daughter, who (knowing what her dad does, I suppose) giggled maliciously when Polly Lobster said “I could have been a lawyer but I had too much heart.”

The thing is, people laugh at jokes that capture something they believe to be true. And, so, while we too may laugh, it’s not ultimately funny—not when you think about

the responsibilities we carry as a profession: to safeguard the laws, to hold government accountable to them, to protect individual rights, to help people and provide leadership. It can only make this more difficult if we as a group and a profession are held in open contempt by nearly everyone, including ourselves.

So this, too, will be a challenge to keep in mind as you embark on your career in the law. Ours is among the most important endeavors humans have essayed. Law is, in some sense, the very definition of what it means to have a society, at least a society worth living in. Bear that in mind, and don't take our profession or your role in it lightly. Keep a healthy sense of humor, but take care to do what you do in a way that earns and is worthy of the trust society necessarily places in us.

By now, I realized that I couldn't write this speech based on anyone else's insights, and that I should just try to say something from my own experience. So let me offer a thought. It's not complicated, or especially eloquent, but it is, I think, an important piece of counsel. And that is, simply, always to be honest with yourself.

I don't mean and am not saying "to thine own self be true" or some similar bit of drivel. Quite the opposite. For you'll often find that you *can't* be true to yourself. Life is complicated, and all too frequently you will face situations in which you may find yourself needing to forgo doing what you personally believe to be right. Speeches like this usually emphasize how hard it is, and how important it is, to be principled. Yet, strange as this may sound, and more frequently than you might believe, being principled

is often the *easier* position, and the less responsible one—because it leaves others to make the difficult compromises that need to be made when reasonable people disagree reasonably (or, worse, disagree *unreasonably*) and a solution must be found.

The burden of leading—and in the years to come every one of you will find yourselves in a position of leadership—includes the burden of deciding when to put aside your sense of what’s right to achieve peace, in the interests of others, or because there is something that needs to get done. These are hard choices, and I won’t pretend that I can tell you when or how to make them. I can only tell you that you must expect to face them. And when the time comes, avoid self-justification and take care not to deceive yourself. Do what you must, but be sure that your inner voice is honest and aware about what you are doing and why. Otherwise you may lose yourself without even knowing it, as each unacknowledged compromise makes the next one, not easier, but worse: something that seems less and less like a compromise. Be relentlessly honest with yourself—and that’s harder than you may think—and you’ll maintain your values and be able to handle even the sharpest curves life throws your way.

So that’s my advice, for what it’s worth. But something I realized while putting this speech together is that good advice can come from anyone who is thoughtful about and willing to learn from his or her own experience. In the end, you’ll have to be your own best advisor and you’ll need to find your own lessons and wisdom. Fortunately, if I am confident about anything, it’s that you can do this and do it well.

So before ending, I'd like to add a personal charge on top of the school's. And that is simply that you keep in touch and share what you learn on your life's journey. This is more a request than a charge, I suppose. But I'd like to hear your advice more than I want to offer mine. Sometime in the future, then, after you've had an experience or experiences that crystallize an important principle for you, please, share it. Email or call or write, but let us hear what you think people like you ought to know or ought to be told. And, who knows, maybe we'll put it on our new wall.

And with that, I say again: we've done our best to equip you to change the world. Now go out there and do it. I wish you all success and happiness and look forward to hearing about the lessons you learn, as well as the achievements we know you'll accomplish.