A Farewell Address

It is an honor to address members of the Marshall-Wythe Class of 1985. We are leaving together. You are in the springtime of your lives, while I am in the late autumn of a full and rewarding life. Our differences in years and perspective emboldens me to make observations that I hope will not overly underscore the familiar platitudes of graduation addresses.

These past nine years mark a period during which nearly 1500 graduates have gone from here to many parts of the United States. Our graduates are the stewards of Marshall-Wythe's quest for greatness. Their performance as professionals—and as human beings—is a major factor in any judgment of the kind of law school Marshall-Wythe is. Our graduates' progress will influence the type of student attracted here in the future, and the success of our placement effort is dependent upon how our graduates are perceived.

I have watched this annual leave-taking in confident expectation that our students will, in large measure, make contributions to society worthy of the hopes of those who initiated the study of law at William and Mary so many years ago. And what were those hopes?

Thomas Jefferson, who was responsible for the establishment of the first university-related legal instruction in America, and his teacher, George Wythe, shared a view that the study of law, in addition to preparation for the practice of law, provided a foundation for public service. Indeed, Wythe's underlying purpose was "... to form such characters as may be fit to succeed those who have been useful in the national councils of America."

Through the middle years of the nineteenth century, lawyers were looked to for leadership. A visiting Alexis de Tocqueville identified lawyers as the American aristocracy. Most of the contributions to the early writings and debates that form the foundation of our government may be credited to lawyers. Yet, earlier this week, Justice Rehnquist, speaking at the University of Chicago Law School, bemoaned developments that find lawyers no longer the balance wheels of our democracy. The Justice noted
the demise of the lawyer-statesman, and credited such demise to the mad-
dening scramble for billable hours that occupies much of the energies of
today’s bar.

Attorneys during this past quarter century have seen the practice of law,
long regarded as a learned profession, changed by custom, court decision and
the demands of a consumer-oriented society. The legal profession is now
subject to anti-trust laws. There is a
move in the Congress to place regulation
of the legal profession with the
Federal Trade Commission. Commer-
cial speech about fees and legal services
now has constitutional protection to as-
sure greater access to the courts, help
the public locate lawyers, and become
better acquainted with legal charges.
Large firms quartered in imposing
suites, marvelously equipped, and
populated with many partners, as-
sociates, and paralegals are today often
located in two or three metropolitan
areas. Much of the very nature of mod-
ern practice has become impersonal,
highly specialized, quite technical en-
terprise.

A recent commentator has suggested
that the legal profession is being or-
ganized into bureaucratic forms, de-
signed to serve a greater number of
clients and a greater proportion of the
population than in the past. It is also
observed that such reorganization pre-
sents two challenges. First, the institu-
tional mechanism within the new sys-
tem must ensure that lawyers treat
each client as an individual and not
merely as a legal problem passing
through the bureaucratic process. Sec-
ond, lawyers must regard the overall
conditions of our legal systems and legal
institutions in their entirety and
not as specific issues bearing little or
no relationship to each other or to our
general legal well-being.¹

I do not recite these developments
to mourn the passing of law as it was
practiced. I recite them to underscore
that the practice of law as you will ex-
perience it has changed more in the
past quarter century than it had during
all the previous years since Wythe
began teaching. Nor do I wish to dis-
courage you about your chosen profes-
sion. On the contrary, I urge you to go
forward and practice competently,
zealously and ethically. But the law has
become a business, and the competi-
tive nature of today’s practice will
make the profession difficult to regu-
late from an ethical standpoint—and
more difficult for the lawyer of tomor-
row to experience the useful life en-
visioned by Wythe.

You should try to avoid awakening
in your middle years, after the coveted
partnership is obtained, to discover
that a life of billable hours, club mem-
berships and foreign automobiles is not
enough; that success and happiness
are not always the same; and that your
capacity to be helpful to others and re-
late to others may have been impaired
by single-minded efforts in your prac-
tice, often in a specialized area of com-
petence not related to human needs and
human understanding.

We wish you well as you become ser-
vants of the law. There is within each of you a
capacity to do good, to serve well, and to con-
tribute to society.

Am I suggesting that you should avoid specialization in one of the
myriad of new areas of the law? No. Am I suggesting that you should avoid
large firm practice? No. Am I so naive that I would attempt to dissuade you
from seeking the most competitive of situations? No.

I am, however, alerting you to the
danger of spending your formative
years bereft of literature, music, art, an
appreciation of nature, and most im-
portant, of the joys of family life. Jeffer-
sion’s idea of taking the study of law
away from the apprentice model and
into an academic setting, was, I be-
lieve, to assure that the practicing
lawyer would be a whole person, with
an understanding and appreciation of
many things beyond the artisan de-
mands of a skilled trade.

Try to avoid becoming a sophisti-
cated artisan—a digit or myopic clone
in an emerging market model that is
becoming increasingly dominant in the
legal profession today. You should
cheerfully and diligently pursue the
tasks assigned you as a lawyer, but do
not do so to the total exclusion of other
interests. The time you spend in public
service (and I use the term “public ser-
vice” in its broadest context to include
much more than elected public office)
will contribute to your growth and
your worth as a lawyer and an indi-
vidual. Certainly this is true of work
within the profession to enhance com-
petence, ethical standards and law re-
form.

But this is a day of joy for you and
your families, a day when at last your
formal education is ending. Three
years ago you came to us from near
and far, graduates of nearly a hundred
colleges and universities, and you have
since shared a rigorous learning experi-
ence, a legal education more personal
than at most law schools. Our faculty
has watched your struggles and knows
you better than you may think. An
academic, in addition to the pleasure
of nurturing young minds, derives the
greatest satisfaction from the progress
of former pupils. It is our abiding hope
that you will reflect the best of what
we have tried to give you. We wish
you well as you become servants of the
law. There is within each of you a cap-
acity to do good, to serve well, and to
contribute to society.

The wish of this faculty is little differ-
ent from the hopes of Jefferson and
Wythe. We want you to become useful
citizens. We have great expectations of
you. We congratulate you and wish
you goodspeed. In a moment you will
receive your degrees, and leave to
begin a new life, a life of challenge and
opportunity, a life that can be both ful-
filling for you and helpful to others.

Today is a time for felicitations. Shakes-
ppeare tells us that after the death of
Julius Caesar, the armies of Anthony
and Octavius pursued and confronted
Brutus and Cassius at the plains of
Philippi. Before descending from the
heights above the plain to do battle,
Brutus turned to Cassius and spoke:

“. . . and whether we shall meet
again I know not. Therefore, our
everlasting farewell take: For
ever, and for ever, farewell, Cas-
sius ! If we do meet again, why,
we shall smile; if not, why then,
this parting was well made.”²

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¹ Swartz, “The Reorganization of the Legal Profession.” 38 Texas Law Review. 1296
(1980).
² Julius Caesar, Act 4, Scene 1.