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## Rock, Paper Scissors...Loot!

Michael A. Mogill

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### Rock, Paper, Scissors... Loot!

Michael Mogill

*Penn State Dickinson Law*

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# ROCK, PAPER, SCISSORS... LOOT!

Michael A. Mogill\*

*I was flattered and a bit floored by the request. Our graduating class asked that I address them at their commencement and thus present my remarks as they were about to embark into the profession, whether they would be full of hope or doubt or debt. Humbled by this invitation and wanting to pay homage to their accomplishments and aspirations, I agreed and began to wonder what I might be able to share. I was somewhat relieved to know that my comments would be delivered during the midst of a celebratory graduation weekend, when the thoughts of our graduates would likely be wandering elsewhere, without true focus on me. And so, as I thought about a topic for this speech of “first impression,” my mind drifted back to earlier adventures that I was able to recollect and at last share...*

Good morning graduates, colleagues, loved ones, distinguished guests, creditors, innocent passersby, and those well within the zone of danger, in range of the apprehension! What a glorious day! I am extremely grateful to you, our graduates, for the privilege you have bestowed upon me. I truly cannot think of any honor I will treasure more than yours—even *without* an accompanying speaker’s fee. I have heard from many of you over the past several weeks, asking what I would address today, and have appreciated your own thoughts about our school and our community—thoughts I will soon share.<sup>1</sup> I will admit up front that I have never stood before an audience of this magnitude, nor have I felt such anxiety about how my thoughts would be received. So, while I offer my comments as a representative of my colleagues, I fully accept whatever critiques or disagreements that may follow. What I will share today comes from my head but also, and maybe most importantly, from my heart. And yes—I fear that when I sit down and learn what you thought of these remarks, I will likely receive one of three criticisms: (a) I read these remarks; (b) I read them poorly; or (c) they were not even worth reading. Or, as you will soon find in studying for the bar exam, it may be (d) all of the above.

I begin by thinking about just how much things have changed over these past three years. Remember those first days of doubt? The anxiety as class time approached? The search for answers to provocative questions? The time spent researching new topics and adjusting to the style of new texts? Those moments

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\* Professor, Penn State Dickinson Law; B.S., University of Illinois, Champaign-Urbana; J.D., Northeastern University School of Law; LL.M, Temple University School of Law. I would like to dedicate this article to my students in appreciation of their support and contributions over the years, to my children for the remembrance of their childhood game, and to Anne Porter for preparing this manuscript.

<sup>1</sup> I had previously sent an email to our graduating class asking for their thoughts on how they would characterize their time at the law school and in Carlisle, Pennsylvania.

grappling with the administration and the ramifications going forward? But enough about me!

So, what can I really say to you today that you have not heard before? I certainly don't want these remarks to be merely a "Restatement." Should I first toss in some obligatory clichés? How about the reminder that "commencement" means not an end, but a beginning? Ok, that seemed a bit trite, especially since you are *graduates*, and not "commencers." Since we have never had a graduation within my memory (faulty as it may be) in which a faculty member was selected to *address* the graduates,<sup>2</sup> my second thought was to tell all of you, *dressed* as you are in identical caps and gowns, that "individuality" is the key to *success*.<sup>3</sup> My third thought was to rely on contemporary practice and slow jam my entire speech.<sup>4</sup> But no, even that has its proper time and place. And then I remembered, what do we as lawyers do when we don't have a clue? That's right—we check out social media, or perhaps Google! So I explored what faculty at other schools had done in their commencement speeches—you know, "precedent." And my research taught me that it is somewhat typical to give the graduating class a "charge" as they commence. Fortunately, *this* "charge" will be unlike those that you have been receiving from the bursar's office. Rather, it will be only my own charge, or counsel, as you begin your post-law school journeys. So I next searched for a topic, something with meaning, and I thought back to my family's first summer abroad in our law school's overseas program and became, well, a bit nostalgic—I guess that's what happens as life's passages commence and progress.

In that summer, I sampled a great amount of gelato in wondrous Florence, and even spent some time teaching. I recall a game that my son, Adam, and daughter, Sarah, had played with the students to pass away the time in the residence courtyard and on our various excursions. The game is one from childhood, one with which we are all familiar (albeit with a bit of a twist)—and it is the theme of my remarks: *ROCK, PAPER, SCISSORS*, (and with the twist) *LOOT!*<sup>5</sup> For those of you still paying attention, I can assure you that there will

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<sup>2</sup> I had learned from our former, longstanding associate dean (now emeritus) that there had never been a faculty member selected by our students to speak at commencement, and from one of our associate librarians (who is the historian of the school) that there had never been one chosen by students in our school's entire existence.

<sup>3</sup> See ROBERT ORBEN, *Graduation, in 2400 JOKES TO BRIGHTEN YOUR SPEECHES* (2012) (ebook) ("A graduation ceremony is where the commencement speaker tells 2000 students dressed in identical caps and gowns that individuality is the key to success.").

<sup>4</sup> This reference pays homage to Jimmy Fallon, previous host of *Late Night* and current host of *The Tonight Show*, and his segment with various public persona, including President Obama, where he recites the news in a slow semi-rap. See, e.g., *The Late Show* (NBC television broadcast Dec. 2, 2014), <https://www.youtube.com/watch?v=D2511SWOF9M> [<https://perma.cc/5AM2-7WKC>].

<sup>5</sup> Different theories abound about the origins of this children's game—ranging from those which trace its origins to China during the late Ming period or the Han dynasty, to a Japanese game called "jan ken pon," or to Scandinavia or western Europe. See DOUGLAS WALKER & GRAHAM WALKER, *THE OFFICIAL ROCK PAPER SCISSORS STRATEGY GUIDE* 1–16 (2004); John Buescher, *Ask a Historian: Rock Paper Scissors*, *TEACHING HIST.*, <http://>

be no hashtags, no tweets, no use of index cards relating to this matter,<sup>6</sup> and maybe best of all, please know that there will be no “Mogill exam” at the end of this speech! (*Yes, I thought that might actually be an applause line.*)<sup>7</sup>

*ROCK*: To begin, you may already realize that it is what you learn *after* you know it all that counts. As I mentioned during your first day in Torts, the poet William Butler Yeats once noted that “[e]ducation is not the filling of a pail, but the lighting of a fire.”<sup>8</sup> So with due credit to Jim Morrison (and whom-ever presently holds his copyrights), I hope that we, the faculty, have in some manner been able to “light [your] fire”<sup>9</sup>—that we have contributed towards your lifelong desire for learning which will never be fully doused.<sup>10</sup> Looking back on these three years, remember how much you have grown and likely changed in some manner. When you first arrived, you were asked legal questions to which you could answer in total honesty, “*Well, I don’t know.*” Now, armed with three intense years of a thorough and meaningful education, you can confidently and with great authority answer with pinpoint accuracy, “*Well,*

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/teachinghistory.org/history-content/ask-a-historian/23932 [https://perma.cc/9229-AJQC] (last visited Aug. 17, 2017). This popular hand game, often used in place of coin flipping to settle disputes, has even evolved into a matter of tournament competition. *See, e.g.,* Dani Moran, *Rock, Paper, Scissors Enthusiasts Shoot for Championship at First Campus Tournament*, DAILY ORANGE (Sept. 19, 2004, 12:00 PM), <http://dailyorange.com/2004/09/rock-paper-scissors-enthusiasts-shoot-for-championship-at-first-campus-tournament/> [https://perma.cc/37J3-Q2KC].

<sup>6</sup> I make use of index/file cards that I have students fill out on the first day of my Torts class in order to learn more about them. Students provide such information as their degrees, vocational/legal experience, hobbies, and most memorable event/experience. I use these cards throughout the semester to have the students share their prior knowledge and experiences, resulting in them serving as our “experts” in discussing the course materials. *See generally* Michael A. Mogill, *Our Students, Our Selves: The Mirror Reflects Back*, 32 CAP. U. L. REV. 317 (2003).

<sup>7</sup> I recall this comment in fact resulting in the sole applause line during my speech. I seem to have a reputation for giving very challenging exams. If this reputation is indeed true, I take solace in knowing that the same exam is given to all students under the same conditions.

<sup>8</sup> *See* HEATHER CARDIN, MIND, HEART, AND SPIRIT: EDUCATORS SPEAK 246 (2009). This quote is widely attributed to Yeats (and several others), but it is likely best attributed to a philosopher of antiquity, Plutarch. *See The Mind Is Not a Vessel That Needs Filling, but Wood That Needs Igniting*, QUOTE INVESTIGATOR (Feb. 14, 2017), <http://quoteinvestigator.com/2013/03/28/mind-fire/> [https://perma.cc/W4FW-FUN9] (“For the correct analogy for the mind is not a vessel that needs filling, but wood that needs igniting—no more—and then it motivates one towards originality and instills the desire for truth.” (quoting Plutarch, *On Listening*, in *ESSAYS* 27, 50 (Ian Kidd ed., Robin Waterfield trans., Penguin Books 1992) (c. 100 A.D.))).

<sup>9</sup> THE DOORS, *Light My Fire*, on THE DOORS (Elektra Records 1967). *See generally Light My Fire by the Doors*, SONGFACTS, <http://www.songfacts.com/detail.php?id=220> [https://perma.cc/X3N4-CV3N] (last visited Aug. 17, 2017).

<sup>10</sup> Some programs and organizations promote this concept of learning as a lifelong “quest.” *See, e.g.,* Lori Van Ingen, *Lifelong Quest for Learning Still Draws Them*, LANCASTER ONLINE (Aug. 31, 2009), [http://lancasteronline.com/news/lifelong-quest-for-learning-still-draws-them/article\\_07367672-298b-5b68-bbdd-838f3e68d4f2.html](http://lancasteronline.com/news/lifelong-quest-for-learning-still-draws-them/article_07367672-298b-5b68-bbdd-838f3e68d4f2.html) [https://perma.cc/TNK8-XWB5]; *Osher Lifelong Learning Institutes*, BERNARD OSHER FOUND., <http://www.osherfoundation.org/index.php?olli> [https://perma.cc/XKT5-YD5J] (last visited Aug. 17, 2017).

*it depends!*” So, even if we have not been able to “rock you,”<sup>11</sup> hopefully we have at least contributed to your intellectual growth.

May you always remain a student of the law, that ever-moving target, as you now embark upon this profession and even after you have mastered it. In doing so, you will find that the practice of law is about relationships, that *people* component. Much of what I will share this morning comes from my firm belief that a crucial element of a fulfilling life is being involved, in some manner, in correcting injustices—whether by alleviating suffering, aiding the disadvantaged, or providing for the needy. It is our profession, perhaps above all others, that affords us the opportunity to contribute to society’s needs, to guide our clients with wisdom and independence, to help our legal system strive for justice, to champion our liberties, and to contribute to the struggle for human dignity. Maybe Nelson Mandela said it best: “Education is the most powerful weapon we can use to change the world.”<sup>12</sup> I encourage each of you to use your legal education, your “rock,” as an instrument for change.

*PAPER*: You have been taught the importance of maintaining perspective and placing events and ideas in context. Consider the passage that some of you may have seen on a t-shirt or mug: “The first thing we do, let’s kill all the lawyers.”<sup>13</sup> (*NOT, mind you, the law professors*). This often has Shakespeare’s picture above it. Just where does this “demand” come from, and what does it truly signify? The answer to my first question is easy: *Henry the Sixth* (at least the paper version of the statement). Now, before you relish the possibility of this purge creating a few job openings for you, ask yourself: Why did arguably the greatest of all English-speaking authors say that we should kill the members of the profession that you have endeavored to join, that we envision as a noble and honorable calling?

The good news is that Shakespeare did not mean to disparage lawyers in the least—in fact, he was paying us a compliment! The bad news is that most people do not know that. They are unaware that this exhortation is actually an affirmation of the critical importance of and need for the legal profession. Before we decide that Shakespeare thought lawyers were less than worthless, why not first consider the *context* in which the statement was made? We have certainly learned to question things—and to then question them some more—and this sets us apart as we look *beyond* the obvious.<sup>14</sup> Shakespeare put those words in the mouth of Dick the Butcher, one of a rabble-rousing mob of illiterates who wanted to overthrow the government and punish anyone who could read and write. Dick the Butcher is suggesting to his cronies that, in order to destroy

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<sup>11</sup> QUEEN, *We Will Rock You*, on NEWS OF THE WORLD (Elektra Records 1977).

<sup>12</sup> NELSON MANDELA, NOTES TO THE FUTURE: WORDS OF WISDOM 101 (2012).

<sup>13</sup> WILLIAM SHAKESPEARE, THE SECOND PART OF KING HENRY THE SIXTH act 4, sc. 2; see also *Shakespeare Quotes: Let’s Kill All the Lawyers*, ENOTES, <http://www.enotes.com/shakespeare-quotes/lets-kill-all-lawyers> [<https://perma.cc/Q8GT-K6WD>] (last visited Aug. 17, 2017).

<sup>14</sup> For instance, my wife once said to me, “Do you realize that you answer every question I ask you with a question?” I (of course) responded, “Do I really?”

their society, they must first “kill all the lawyers”—the very people who are a stabilizing force and who preserve the order and civility of society by keeping its disagreements from ripping it apart.<sup>15</sup> I urge you to look beyond the obvious and continue to question things: don’t be led astray by others’ attempts to “paper” over your curiosity and inquisitiveness.

*SCISSORS*: I recall a story about a legendary football coach, Vince Lombardi, who many placed on a pedestal due to his success—a pedestal which contributed to his own ego. As the story goes, when he climbed into bed one night after a bitter January practice in Green Bay, his wife exclaimed, “*God your feet are cold!*”, to which Lombardi responded, “Dear, when we’re alone, you can just call me ‘Vince!’”<sup>16</sup> Yes, like Vince, you have learned to fumble, be humbled, and yet remain resilient, beginning with that now foggy fall of your 1-L year. This certainly is not unusual—we *all* feel vulnerable at times.

I recently looked back on another story that I had read so many years ago and (not surprisingly) found that its message had changed. As the book begins, it may remind you of *your* journey: “It was the best of times, it was the worst of times [*by the way, I won’t poll you on that last part*], it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way[.]”<sup>17</sup> Yes, these past three years have been something of a “Tale of Two Campuses.” And when I say that, I am referring to our *dual* campuses (and I do mean, in a very positive sense as we move forward, that “dual” here is spelled “d-u-a-l”, not “d-u-e-l”).<sup>18</sup>

<sup>15</sup> See Jacob Gershman, *To Kill or Not to Kill All the Lawyers? That Is the Question*, WALL STREET J. (Aug. 18, 2014, 7:31 AM), <https://www.wsj.com/articles/shakespeare-says-lets-kill-all-the-lawyers-but-some-attorneys-object-1408329001> [https://perma.cc/R234-P7AL]; Howard L. Nations, “*The First Thing We Do, Let’s Kill All the Lawyers*”: Shakespeare’s Tribute to Trial Lawyers, NATIONS L. FIRM, <http://www.howardnations.com/wp-content/uploads/2013/08/Shakespeare.pdf> [https://perma.cc/F6XK-JDSX] (last visited Aug. 17, 2017); see also Jaq, *Meaning Behind “First Thing We Do, Let’s Kill All the Lawyers.”* Reply to *Myst Is in Australia*, VEGSOURCE: THE PUB (Aug. 22, 2006, 9:23 PM), <http://www.vegsource.com/talk/pub/messages/7114.html> [https://perma.cc/DBL9-BHCL].

<sup>16</sup> Theodore B. Olson, Commencement Address at the University of Georgia: Class of 2005 Commencement (May 21, 2005), [http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1002&context=lectures\\_pre\\_arch\\_lectures\\_grad](http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1002&context=lectures_pre_arch_lectures_grad) [https://perma.cc/CPZ2-6WPH].

<sup>17</sup> CHARLES DICKENS, *A TALE OF TWO CITIES* 7 (Barnes & Noble Books 2003) (1859).

<sup>18</sup> At the time, Penn State Dickinson Law consisted of two campuses, one in Carlisle and the other in University Park, both being governed by a single administration. The campuses were jointly linked through several upper-level classes taught through audiovisual communications and through dual campus organizations and committees. As of June 2014, the two campuses were granted separate accreditation by the ABA, thus providing Penn State with two individual law schools, each with its own administration, although certain upper level classes will continue to be taught through audiovisual means and various activities will remain shared, at least through the 2016–2017 academic year. See generally *FAQs on Separate Accreditation*, PENN ST. L., <https://pennstatelaw.psu.edu/faqs-separate-accreditation> [https://perma.cc/X72S-JHX6] (last visited Aug. 17, 2017). Some have commented in the blogosphere throughout the past several years of the one-school-two-campus approach that

Many of you know I like to tell an occasional story.<sup>19</sup> I believe we *all* by nature search for ways to make sense and meaning out of our lives and our world. One way that we can find meaning is through the telling of our stories, as these can connect us, teach us, and warn us never to forget. Stories can open our eyes to life's possibilities, giving us experience without our needing to have direct familiarity with that experience itself. Stories can grab us in a way that no list of facts could ever do, creating memories and providing details that we actually *want* to know more about. So, just as I did when my children in their early years implored me, "*Dad, tell us a story!*"—let me share this one with you about a young lawyer and recent graduate who was getting ready for his very first jury trial.

Our young lawyer had bought a new suit (his *first* since his law school interviewing days) that seemed to give him an air of confidence. He did his best to prepare, he survived voir dire, he delivered his opening statement, and he fully believed that the smiles emanating from the jurors and judge indicated that he was truly connecting with them. Yes, he was more full-of-himself than even the most self-assured 1-L. And also a bit oblivious, especially as he himself learned shortly after the judge had declared the initial recess. The bailiff approached that young lawyer and commented that the lawyer was wearing a new suit. While our young lawyer assuredly expected a compliment to follow, he instead received what can only be described as a "cutting" remark. Why "cutting," you ask? Because *I— (OOPS, excuse me, I mean the "young lawyer")* had neglected to cut a tag off of his jacket, one that hung down from under his arm and was in full view of the judge, jury, and immediate world whenever he had been gesturing during that morning's proceedings. Was that young lawyer humbled? *Absolutely.*<sup>20</sup> Was he resilient? Who remembers for sure, but I would guess so—especially after the bailiff lent me his scissors to alleviate my embarrassment, and the case continued.

I must confess that even I cannot recall the result of that trial, only the personal trauma. Maybe this story explains why my family double checks my attire at times<sup>21</sup>—and even why I'm wearing this (tagless) robe today as my cover. So, if you remember nothing else about these remarks, do recall this humble tale from your fashion-conscious prof so you at least do not repeat his wardrobe

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one campus (at the expense of the other) may have received preferential treatment from the then-existing administration. *See generally* Stacy Brown, *Penn State Refutes Story About Dickinson School of Law*, SENTINEL (Carlisle, Pa.) (July 26, 2012), [http://cumberlink.com/news/local/penn-state-refutes-story-about-dickinson-school-of-law/article\\_d29831de-d6c5-11e1-8733-001a4bcf887a.html](http://cumberlink.com/news/local/penn-state-refutes-story-about-dickinson-school-of-law/article_d29831de-d6c5-11e1-8733-001a4bcf887a.html) [<https://perma.cc/3KF2-TLVW>].

<sup>19</sup> I use storytelling as part of my pedagogy in my courses, occasionally "calling on" the parties, lawyers, and judges whose fates, arguments, and ultimate responsibilities are discussed in the cases I assign for class. This provides students with both the "prequel" and "sequel" to these cases, thereby aiding in the greater understanding of these decisions and making the cases and their arguments all the more "real." *See generally* Michael A. Mogill, *Dialing for Discourse: The Search for the "Ever After,"* 36 WILLAMETTE L. REV. 1 (2000).

<sup>20</sup> Yes, that "young lawyer" was indeed me. And yes, this is indeed a true story.

<sup>21</sup> Seriously!



malfunction. Who knows, given social media today, maybe this (true) story will soon be trending in the minds and profiles of some of your friends! And please never forget the “sheer” fact that you have remained resolute and have not deviated from your goal of achieving your law degree, despite assorted moments of fumbling, and being humbled, along the way.

*LOOT*: A wiser person than I once said, “With great power comes [...*Say it!*—] ‘*great responsibility*.’”<sup>22</sup> We hope that we have helped to create a vision of what you will become: through the experiences you have had here, the knowledge you have gained, the people you have encountered, the relationships you have formed, and the discussions in which you have engaged. Soon you will formally graduate. And, as lawyers, you will have the opportunity, the *privilege*, to serve your clients and community, because lawyers are truly the bulwark of a free society, helping to define the rights and responsibilities of individuals towards each other and towards their government. You have the power to change the course of lives and the shape of that society. You can help someone buy a house or start a new business, aid victims of domestic violence or veterans returning from serving their country, keep thugs off the street, and assist the innocent in avoiding unjust punishment—thereby protecting individual rights, preventing violence, and assuring that our government works as intended. Remember why Dick the Butcher was afraid of you? Because you are the glue that holds society together! Respect for the law is, at bottom, a commitment to rules and reason over force as the means to resolve our disputes and differences. As lawyers, *we* take the lead. So when you are asked what you do, and you say, “*I am a lawyer*”—say it with enthusiasm, pride, and passion. And through your reputation and excellence, through your service to your clients, your community, and the profession, you will defeat the likes of Dick the Butcher and all such naysayers. It is up to us to act—to get involved, be problem solvers, and speak out for fairness. Only then will we live up to our calling as the guardians of justice. For, as the Reverend Doctor Martin Luther King, Jr. noted from a jail cell in Birmingham, “Injustice anywhere is a threat to justice everywhere.”<sup>23</sup>

And now for the truly serious part. Remember that it is not all about the money, the proverbial “loot.” I maintain that there are other significantly more important rewards. I read an article recently, which I will simply call *The Pow-*

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<sup>22</sup> I have used this quote in several classes (to remind my students of their “great responsibility”) by reciting the first half and having them respond in kind with the last two words. The actual source of this quote is unclear. Some credit President Franklin D. Roosevelt, while popular cultural references generally confer its originality to the uncle in SPIDER-MAN (Columbia Pictures 2002), the first of the recent life-action movies inspired by the comics; however, the earliest usage of this phrase is most widely (but perhaps incorrectly) attributed to the philosopher Voltaire. See *With Great Power Comes Great Responsibility*, QUOTE INVESTIGATOR (July 23, 2015), <http://quoteinvestigator.com/2015/07/23/great-power/#note-11700-13> [https://perma.cc/39UT-VSE4].

<sup>23</sup> MARTIN LUTHER KING, JR., *Letter from Birmingham Jail*, April 16, 1963, in WHY WE CAN'T WAIT (Signet Classic 2000) (1964).

*er of Good.*<sup>24</sup> It related the story of Nicholas Winton, who in December 1938 was a twenty-nine-year old London stockbroker and, at the insistence of a friend, took his “holiday” to Prague. But this did not turn out to be a vacation; instead, it ultimately became a *mission*. Winton learned of the plight faced by the Czeck Jews, and he devoted his time to setting up his own humanitarian operation to rescue their children and give them shelter in private homes in Britain. He took on the challenge with considerable risk to himself and became dedicated to finding funds to use for transportation, for visas and passports, for repatriation costs, and for finding foster homes for the children he would attempt to rescue. Over the next several months, before the Germans invaded and sealed Czechoslovakia’s borders, he rescued 669 children. As I relate this story, as a parent myself, I find it impossible to imagine the emotions of those parents as they sent their children to safety, knowing that they would likely never be reunited. It is likewise inconceivable to imagine the fears of the children leaving their loved ones and the only lives they ever knew. And today many of these rescued children, some of whom refer to themselves as “Winton’s children,” are now grandparents. As for Nicholas Winton—he was knighted for his services to humanity and still resides at his home in Maidenhead, Great Britain, a spry 104 years young.<sup>25</sup>

Reading that story led me to recall some words that were shared by Nobel laureate Elie Wiesel, professor emeritus at Boston University, when he addressed a recent ABA conference. Wiesel is a survivor of the Auschwitz death camp, and his book, *Night*,<sup>26</sup> vividly details why he has lived his life under a shroud of darkness.<sup>27</sup> He is most assuredly “a living conscience of the Holocaust.”<sup>28</sup> He addressed the meeting’s theme, “Freedom, Justice, Liberty: Without Lawyers They’re Just Words,” and this is what he remarked:

“I would add one word to your three[: ] *Compassion*. Compassion without law is just complacency. Law without compassion would be cruelty.”

....

“I should have no faith in the law. I have seen the law put to unlawful [and brutal] effect. What do you do when the law is inhuman?” . . . “[I]t is important

<sup>24</sup> Gelman Educ. Found., *The Story*, NICHOLAS WINTON: THE POWER OF GOOD (May 28, 2009), <http://www.powerofgood.net/story.php> [<https://perma.cc/5BMQ-NWWX>]. Mr. Winton was recently presented with the Order of the White Lion, the Czech Republic’s highest state honor, during a ceremony at Prague Castle, in recognition of his rescue of the children. *Nicholas Winton Honoured by Czechs for Saving Children from Nazis*, BBC (Oct. 28, 2014), <http://www.bbc.com/news/uk-29798434> [<https://perma.cc/WQL4-9TGK>].

<sup>25</sup> Nicholas Winton passed away on July 1, 2015 at the age of 106. Robert D. McFadden, *Nicholas Winton, Rescuer of 669 Children from Holocaust, Dies at 106*, N.Y. Times (July 1, 2015), <https://www.nytimes.com/2015/07/02/world/europe/nicholas-winton-is-dead-at-106-saved-children-from-the-holocaust.html?mcubz=3> [<https://perma.cc/96KF-NTK4>].

<sup>26</sup> ELIE WIESEL, *NIGHT* (Stella Rodway trans., Bantam Books 1982) (1956).

<sup>27</sup> See Steve Almasy & Ray Sanchez, *Elie Wisel, Holocaust Survivor and Nobel Laureate, Dead at 87*, CNN (July 3, 2016 6:48 AM), <http://www.cnn.com/2016/07/02/world/elie-wiesel-dies/index.html> [<https://perma.cc/9286-VGM2>]. Elie Wiesel recently passed away on July 2, 2016. *Id.*

<sup>28</sup> Steven Keeva, *Words Worth Noting*, 82 A.B.A. J., no. 10, Oct. 1996, at 114.

to listen to the victims, not the victimizers. People come to lawyers because they feel victimized. They come to you for protection, and it is a beautiful thing that you help them.”<sup>29</sup>

Remember these words: Freedom, Justice, Liberty, and Compassion—without *you*, they’re just words.

We are *all* so very happy to share this day with you and with your loved ones who have supported you throughout this process. This is a day that hopefully fills you with a measure of pride and joy (*and* one which delights those in attendance with the thought that they have scored some lifetime free legal advice!). As you move on, I urge you to never lose sight of what brought you to this day. The truth is that we all face a world of uncertainty, and there really is no one script on how to proceed. Life is *not* a straight line. Maybe John Lennon said it best in his song about his darling son: “Life is what happens to you while you’re busy making other plans.”<sup>30</sup> I suppose I am Exhibit “A” of that sentiment: when I chose my law school, it was not with this career or this day in mind; and when I graduated, I swore that I would never again see the inside of another classroom, let alone another commencement tent.<sup>31</sup> But new challenges and opportunities *will* present themselves, and you may see your goals change. We all have our hopes, our dreams, our fears—and that’s only human. And yes, I admittedly still have had that fear at times, especially as I approached the podium this morning. But standing here now I remember not my earlier fear, but rather how I count myself very fortunate to have such talented students and to work alongside dedicated colleagues and staff who truly care about your educations. So it’s OK to be scared by a new challenge or opportunity—just don’t let that fear stop you from approaching it.

I realize that you’re getting anxious to snap those selfies of your entire class,<sup>32</sup> but first I have one request—and no, it’s not about my speaker’s fee! I recently sent you an email asking that you share your thoughts about how you would characterize your time here at the law school and in the greater Carlisle community. And while there were many apt descriptors, one in particular was repeated often and resonated with me. It was the word “family,” further qualified as: “being part of a ‘welcoming and involved community.’” I consider my-

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<sup>29</sup> *Id.* (emphasis added) (quoting Elie Wiesel, Address at the A.B.A. Annual Meeting (August 1996)).

<sup>30</sup> JOHN LENNON, *Beautiful Boy (Darling Boy)*, on DOUBLE FANTASY (Geffen Records 1980); see also *Lyrics: Beautiful Boy (Darling Boy) by John Lennon*, SONGFACTS, <http://www.songfacts.com/detail.php?lyrics=3622> [<https://perma.cc/SGL6-CK5S>] (last visited Aug. 18, 2017).

<sup>31</sup> I made my choice of law schools based on my desire to practice public interest law, which I did for nearly a decade. I admittedly would have made a different decision based on the schools that had accepted me if I had any idea at that time that I wanted to go into academia. And, yes, our commencement was held under a tent, given the adverse weather conditions we faced.

<sup>32</sup> This is a popular culture reference to the seemingly ubiquitous taking of “selfies” (i.e., one’s use of a cell phone to take a picture of oneself), which can include collaterals in the proximity of the selfie taker. Selfies were evident at times during the ceremony when students stood in unison on different occasions to receive the audience’s applause.

self very lucky to have two wonderful families, one at home and the other here (my home away from home). I have seen you, the members of this law school family, support each other through your successes and disappointments, provide solace and comfort to those of you who suffered personal losses, and help one another sustain your humanity. And yes, as with all families, we may have been a bit dysfunctional at times. But I believe that the rest of the world can use a bit of what we have here. And so I ask that you take our sense of “family,” of a “welcoming and involved community,” with you always and use it to help create that same supportive and nurturing environment wherever you may go.

Now, I am aware that I am standing between you and *your* moment on this platform, so it’s past time for those two most valued words in any speech: “*In conclusion, . . .*” I have always valued and will continue to believe in the importance of a *student*-centered culture—one in which you and your learning, your progress, and your future careers are my utmost priority. And, if I have been successful in that task, I owe much of that success to *you*: for challenging me and teaching me through your valued comments and contributions. It has been a pleasure to have played a role in furthering your careers—*our* pleasure. *We*, the faculty, have attempted to be rigorous yet supportive, challenging yet sensitive. We have attempted to provide an atmosphere in which you could speak freely yet professionally while disagreeing with one of your colleagues or professors. Working with you is the best part of our jobs. After all, you are the lifeblood of this school, you are our future leaders, and you are our legacy.

I will always cherish the honor you have presented me by allowing this (once) “young lawyer” to share his remarks and celebrate in your happiness today. Please accept my respect and my heartfelt congratulations on having weathered these past three years. You were versed in the “3 R’s”<sup>33</sup> early in life; I urge you to move forward with what I call the “4 L’s”: live, laugh, love, and learn. Years from now, as you hover about on your gravity-defying living room furniture having just watched the holographic State of the Union speech delivered by President Kardashian (and the rebuttal by Senator Bieber),<sup>34</sup> your minds may wander back to the many accomplishments you will have then achieved in

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<sup>33</sup> There were traditionally three “R’s” that represented the foundational skills that students needed to develop and master in their earlier years: reading, ‘riting, and ‘rithmetic. There has recently been the suggestion that a 4<sup>th</sup> “R,” for ‘rithms (actually, algorithms, or basic computational skills), should be added. See Valerie Strauss, *A Fourth “R” for 21st Century Literacy*, WASH. POST (Jan. 2, 2012), [https://www.washingtonpost.com/blogs/answer-sheet/post/a-fourth-r-for-21st-century-literacy/2011/12/29/gIQAx2BWP\\_blog.html?utm\\_term=.8082e4ac6a99](https://www.washingtonpost.com/blogs/answer-sheet/post/a-fourth-r-for-21st-century-literacy/2011/12/29/gIQAx2BWP_blog.html?utm_term=.8082e4ac6a99) [https://perma.cc/SB68-EZXU]; see also Cathy Davidson, *What Are the 4 R’s Essential to 21st Century Learning?*, HASTAC (Oct. 31, 2011), <https://www.hastac.org/blogs/cathy-davidson/2011/10/31/what-are-4-rs-essential-21st-century-learning> [https://perma.cc/33SB-4R6N].

<sup>34</sup> Here is yet another series of popular culture references—the first one to reality TV “star” Kim Kardashian, who seems to be famous just for being famous, and the second to the pop singer and sometimes mocked Justin Bieber—both of which are used to reflect on our culture of occasionally electing various such “icons” to public office. For historical examples of such phenomena, one need look no further than two former governors: Minnesota’s Jesse (“The Body”) Ventura and California’s Arnold (“*I’ll be back*”) Schwarzenegger.

your careers. You may never be faced with the challenges of Nicholas Winton, but you will likely have the opportunity to be involved in helping those far less fortunate than you. Let me suggest that real success will not come from external status, money, or praise. It will ultimately come from a feeling of contribution, from knowing that you are using your gifts in the best way possible: *to help others*. So be optimistic, be inspired, be involved in your communities, be passionate about what you do, and be compassionate towards those in need as you move forward. Never stop working to make the world a better place.

As you venture out into that “real” world beyond this tent, recall these words. *Rock*: be one for your clients. *Paper*: know but continue to question the content and context of words and deeds. *Scissors*: stay on that proverbial cutting edge. Finally, recall the truth that—*no*—it is not all about the *Loot*. And just remember that, while I sincerely hope that you all do “well,” I ultimately *charge* you to do “good.” Thank you, and congratulations!

*...After the faculty and students had recessed and began to gather for our now long delayed picnic lunch, I was soon surrounded by a number of students and their families who wanted to talk about my remarks and thoughts. The students kindly reaffirmed that they were glad to have chosen me to address them, and that my words had resonated and would play a role in whatever career they would pursue. The parents added their appreciation for what one termed the “simplicity yet importance” of my remarks. Some asked for copies of the speech, which to my embarrassment amounted to several unnumbered (and wrinkled) pages of my un-spellchecked typing and various illegibly scribbled edits. Both students and several of my colleagues alike asked that I instead publish these words to a far wider audience, in the hopes that this message would be more broadly received for the benefit of their peers and profession. And so I promised that I would one day do so. And it is to honor our students and my colleagues that I have kept that promise.*