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Commentary: 1997 Commencement Speech: The Honorable Robert M. Bell: Chief Judge, Court of Appeals of Maryland

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1997 COMMENCEMENT SPEECH

The Honorable Robert M. Bell

Chief Judge, Court of Appeals of Maryland

Dean Sebert, honored guests, public officials and other dignitaries, members of the class of 1997, their families and friends, and ladies and gentlemen, all distinguished in your own right, I am honored and thrilled to have been invited to participate in this great law school's day of celebration and to share its pride as it certifies as worthy to take their places with their predecessors, the men and women of this the 70th graduating class of the University of Baltimore School of Law.

Indeed, and in truth, this is a most important occasion for all who have gathered here tonight. The reasons may be different, but that the occasion is not significant, logically and reasonably, cannot be gainsaid.

The dean, the administrators, professors, and staff must look forward to this day every year for I am sure that it is, and must be viewed, as a time of renewal and rejuvenation. To see the positive results of one's best efforts must be one more justification for having chosen to pursue a career dedicated to the teaching and shaping of young minds and the perpetuation of learning. Such a career, sadly, all too often does not receive the credit to which its members are entitled and, in fact, seemingly is a thankless one. Moreover, the tangible successes you see each year I am sure revitalizes you for the next challenge which, I am sure you will agree, seems always to be imminent.

For the family, relatives, and friends of our graduates, this occasion is an opportunity to share in the success of their loved one - to experience with him or her the achievement of an important goal. This speaks loudly and forcefully of the effect and importance of love and support.

For the graduates, the focal point of this Ceremony is a symbol of success, the achievement of a truly significant goal. To be sure, this is not their first achievement; each graduate necessarily can lay claim to earlier examples of notable accomplishments; in truth, however, this latest

achievement is the most notable to date and for many, one that long has been coveted, with the result that it will also long be cherished. In addition, therefore, this occasion is confirmatory of what they already know, that they have the stuff of which success is made. And, because a graduation is, in effect, an event marking a transition from one level of experience to another, ordinarily a higher level, it is for the graduates a time of transition from academy, the preparatory school for hopefully, the real world of the legal profession.

The significance of this occasion to me is twofold. First, by receiving an honorary degree from this prestigious and excellent law school, I share a closer kinship to some of the giants of the Maryland Bar, who matriculated from this law school. Like my distinguished colleague, Chief Judge Martha Rasin of the District Court of Maryland, the first of her gender to occupy that position, my dear friend and colleague, Arrie W. Davis of the court of special appeals, the Attorney General of Maryland, Joseph Curran, former Governor William Donald Schaefer, who appointed me to the court of appeals, Peter J. Angelos, Esquire, among other renowned and illustrious lawyers and jurists, I now can claim the University of Baltimore Law School as alma mater, albeit only honorary.

Second, as the constitutional head of the third branch of government, the judiciary, I am afforded the chance to congratulate and address a group of soon to be "fellow alums" in advance of their qualifying for admission to the bar. In addition to discussing the legacy of the bar to which they aspire, this opportunity also allows me to share my vision of the profession. It is this role, of the three that I am required to perform -- as judge of the court of appeals, as the administrative head of the Maryland judiciary, and as spokesperson for the judiciary -- that I enjoy the most.

No words of mine could possibly do adequate justice to the graciousness of this occasion. Today,

after what to some of you must seem, I am sure, a lifetime of study, you stand just one step removed from the brink of entry into the legal profession, of becoming a full fledged lawyer. That one step involves passage of the bar examination and the concomitant and equally critical character examination. I simply offer my congratulations to the members of the graduating class. They, and all who supported and helped them, are justifiably proud of this accomplishment. I urge them to savor it, enjoy the moment.

The legal profession into which you seek entry is a very special fraternity, a great profession, venerable and learned. It is infected with the public interest and traditionally has been characterized by a high level of collegiality. As Shakespeare described it, "adversaries in law strive mightily, but eat and drink as friends." The membership of that very special fraternity consists of men and women who, since the birth of this republic, have stood watchful sentry over the lives, property, liberty, and freedoms of our people. Therefore, for these and other reasons, all of the citizens of this society, not simply lawyers and judges, have a great stake - a very great stake - in the profession of the law. Though not always practiced in fact and despite the Constitution's flaws, i.e., with respect to women and African Americans, our society was founded on, and continues to espouse, and, in fact, articulate it with urgency, fervor and persistence, the concept that every citizen must receive equal justice under the law.

Lawyers, it has been said, are the flesh and blood of the law. The cold print of the Constitution traces and prescribes an outline of protection for the rights of our citizens; however, without the lawyer, those constitutionally guaranteed rights would be dry, hollow and, indeed, lifeless. Moreover, it is to the lawyer that this country and its citizens have looked, and, I submit will continue to look, to ensure that those rights remain secure.

Ours is a complex society and more and more people are turning to the courts and the legal profession as a first, rather than a last, resort to provide authoritative and timely solutions to the vexing problems that so plague our lives. Not a day passes in this state or, indeed, in any court in this country where the consequences of some court ruling, shaped in large measure by the arguments

and advocacy of lawyers, does not touch the lives of substantial numbers of our citizens, impacting across a broad spectrum of matters of great public concern, and running the gamut from street crime to the environment, from the death penalty to the nature and extent of a tax levy, to disputes over abortion, prisons, schools, and a host of countless other subjects of enormous public significance. No small wonder then that there is so much public attention focused on lawyers; that they are subjected to public scrutiny to a degree far greater than the members of any other profession. Indeed, no profession has a more exacting, a more demanding code of responsibility than the legal profession, and no profession demands more from its members, or calls for higher standards of honor and integrity.

Plato has observed that those having torches will pass them on to others. In a variation of that theme, the poet John McCrae, in his poem "In Flanders' Fields," wrote, "To you from failing hands we throw the torch; be yours to hold it high." Those of us who may qualify as "old hands," even if they are not failing are primed to pass to you and your brethren and sisters the profession's torch to hold high as a reminder of the most sacred obligation inherent in the profession you have chosen. In this way has its greatness and veneration been continued and the profession's social responsiveness been sustained and assured.

Certainly you are, by virtue of the training you have received at UB and as a result of the legacy of which you are a part, both ideally suited to take and absolutely prohibited from refusing, the torch.

Being reminded of the sacred obligations of the profession or simply holding the torch high may not be enough. As much as the public relies on lawyers and as much good as lawyers do, it cannot be gainsaid that the reputation of lawyers and of the legal profession is not at its zenith, or, if it is, then that reputation has never been such as to give truth to the manner in which judges and lawyers regularly characterize it -- as a learned and noble profession. Indeed, today, lawyers have been featured in beer commercials, characterized as uncomfortable, unfeeling, and motivated only by self interest. Such an image undermines, if not negates the nobility, i.e., the honor, integrity, and dignity, of the profession. So too does the prevalence, and

content of lawyer jokes raise serious questions with respect to the accuracy of the claims by judges and lawyers that the profession is venerable and dedicated to the highest ethical standards. Nor has the collegial aspect of the profession escaped unscathed. The fear has been expressed, and recent events seem to confirm, that collegiality may have fallen victim to the ascendancy of the business aspect of the profession.

Not all lawyers, or even most lawyers, contribute to the diminished reputation of the profession; in fact, the lawyer who fits the image of the lawyer jokes is the exception, definitely not the rule. As the director of communications of the Maryland State Bar said in a Law Day article:

The profession's image is diminished most often from within, by its own members. The unscrupulous acts of a small group of unprofessional lawyers make all lawyers look bad. Attorneys who steal clients' money, who microwave cats, or who spank clients or hire hitmen are few and far between, but they grab Maryland news headlines and the whole profession suffers. These misdeeds reflect negatively on every attorney in Maryland, and the image plummets once again.

I believe, in fact, that, as a group, by virtue of hard work, dedicated service, and faithful performance, the legal profession has earned the respect and confidence of the public. The only problem is that the public does not seem to know it. Thus, it is yet up to the new torch bearers to turn the image of the profession around. That can only be done the old fashioned way, by earning it.

The image to which the legal profession and lawyers ought to aspire is one that inspires the same response from their detractors and supporters. Such an image is reflected in Shakespeare's Henry VI:

To Cade's announcement that:
I will make it a felony to drink small beer
There shall be no money
All shall eat and drink on my score
* * *

The gutters shall run with nothing but
Claret wine.

Dick the Butcher replied:

The first thing we do, let's kill all the lawyers.

To engender that response, there has to be a commitment to take on and grapple with the difficult and complex issues of today. To do so as and when they arise and to confront them directly and with dispatch and on a principled basis. Equivocation and hesitation simply will not do. Nor can a personal agenda be allowed to overshadow the work in the public interest. Moreover, the myriad critical issues must be approached with moral sensitivity, a commitment to excellence, doing the very best that can be done each and every time the issue presents itself, an awareness of fairness, with understanding of the difference between right and wrong, and with perseverance. You need not be overly concerned that your exuberance will exact a heavy toll on your career. It need not.

In June 1960, I was arrested for, charged with, and convicted of trespassing along with 11 or so others, mostly Morgan State College (as it was then known) students following a sit-in demonstration. The dedication and commitment of the lawyers who represented us, among them Robert B. Watts, Juanita Jackson Mitchell and Thurgood Marshall, was patent and unequivocal and uncompromising. So was the respect and gratitude that flowed to them from us. Nor did my personal commitment to doing the right thing, although unpopular in the majority community at the time, ultimately inure to my detriment. I was able to gain admittance to a reputable law school, to gain experience at a reputable law firm and, ultimately, years later, to be designated Chief Judge of the court of appeals, the latter being an experience that I did not entertain. Nor could or should I have contemplated in my wildest dreams. The lesson I have drawn is that standing on principle is worth the risk, especially if the principle is right. Just a couple of additional thoughts and I will conclude. To some, graduation is a vacation, indeed, the end, of learning. It represents the beginning of freedom not simply from homework, but from books and other intellectual endeavors. You of course know better; you know from your previous graduation and the learning that flowed from it what Bayard Taylor, a nineteenth century writer, had to say on the subject:

"Learn to live, and live to learn." You know that education stresses learning and, therefore, encourages one to learn how to ask questions and how to go about getting the answers. Law school refines the process, stressing the development of an analytical framework. While being a good listener is a valuable asset, it is not enough; a lawyer must be more than a passive member of an audience. Moreover, he or she never stops learning.

Finally, what made this occasion possible for you are, in part, your hard work, your dedication, determination, and commitment. The other ingredient is the hard work, dedication, determination, and commitment of countless of your predecessors. Yet another is the support and love of your family and friends. Your predecessors have paved the way for you by charting a course that is more easily discernable and capable of being followed. Your family and friends eased your burden and more likely helped you with stress. Thus, while it is well and right that we, and certainly you, recognize the value of your contribution in assuring this day's dawning, we and you must also acknowledge that you did not do it alone. And it follows inexorably that, for that reason, as well, there devolves upon each of you the responsibility of giving something back, of acting in the public interest. That is, after all, the nature of the profession and it long has been its legacy and its hallmark.

I end where I started - this is a great day for the law school and for each of you. I applaud and congratulate you once again as you make this latest transition. I wish you well in your future endeavors. Next month the court of appeals will swear in approximately 560 new lawyers in Annapolis. As is our custom, we reserve December for this month's graduates. I shall look for you then, for then you will formally enter both the profession and the fray.

