

2008 Law Day Address

by Congressman Jim Marshall*

Dave, thanks for that kind introduction. It reminded me of how supportive my colleagues on the law faculty were of my campaign to become the mayor of Macon. Unanimity among law professors is a rarity. When it happens, you expect they reached the same result for different reasons. I am certain some of my colleagues shared Dave's view of things. But I suspect others backed me because they felt I had overstayed my welcome at the Law School. I will try not to overstay my welcome today.

President Underwood, Dean Floyd, students, faculty, and staff, fellow lawyers, friends, thank you for asking me to be with you today as we celebrate Law Day and honor the Mercer Law School class of 1948.

We honor the class of 1948 today for the extraordinary accomplishments of its members in the practice of law, their contributions to the Bar, their contributions to the administration of justice, their contributions to government at all levels, and their contributions to Mercer University and the Walter F. George School of Law.

I knew nothing of the class of 1948 when I joined the Mercer Law faculty in 1979. But I did know that a Mercer Law graduate, Griffin Bell, was the Attorney General of the United States. Our immediate past Attorney General¹ would have been well-advised to follow Judge Bell's approach to handling pressure for political favors. I understand that Judge Bell, when serving as Attorney General, would readily take calls from politicians. Then he would post their names on his door and

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Established in 1958, Law Day celebrates the contributions of the legal system in maintaining civil liberties. The theme for 2008's celebration is "The Rule of Law: Foundation for Communities of Opportunity and Equity." These remarks were given at the Mercer University Center, Macon, Georgia on March 7, 2008.

1. Alberto Gonzales served as the United States Attorney General from Feb. 3, 2005 until Sept. 17, 2007.

encourage the press to ask those politicians why they had contacted the Attorney General. So much for politicians trying to influence Attorney General Bell's prosecutorial discretion.

Most members of the class of 1948 served in World War II before entering the law school. Professor Jim Rehberg recalled that they "were a serious bunch" in their olive drabs and khakis, in surplus uniforms left over from military service. Many were married with young families. Most satisfied their \$250 tuition with that historic leveler: the G.I. bill. Yes, you heard me right. Mercer Law School's annual tuition was then \$250.

All the military branches were represented. John Hemingway, Doug Barnard, Griffin Bell, and even the baby of the class, Baldwin Martin, served in the Army. George Burkhalter and James Wood were Air Force pilots. Lamar Sizemore, Virgil Shepherd, Jim Rehberg, and Cloud Morgan served in the Navy. John Mattox was a Marine.

Members of this Mercer Law class personally knew the horror of violent combat, personally knew the price of freedom, and personally bled to protect the rule of law. And their extraordinary public service as strategists, advocates, planners, logisticians, and active combatants continued following boot camp at Mercer, but now in our alternative form of dispute avoidance and dispute resolution: the practice of law, our blessed, day-to-day substitute for violence and war.

I have mentioned Griffin Bell's service as Attorney General. Lamar Sizemore served as an assistant Attorney General. Seven members of the class were judges: Griffin Bell, Harold Carswell, Roscoe Lowery, Cloud Morgan, Marion Rainey, John Williford, and James Wood. Jim Rehberg was a law school professor fondly known as The Death Ray. Doug Barnard served in Congress, chairing the Banking Committee, while John Miller chaired the board of Savannah Trust. Roscoe Lowery chaired the Georgia State Board of Workers Compensation. John Miller and Albert Reichert were bar examiners. Virtually all members of this class had successful law practices. And most, like Baldwin Martin, were extraordinary leaders in service to their churches and communities. Many also served Mercer. All of this and more from a Mercer class that numbered merely twenty-seven graduates. Again, you heard me right, merely twenty-seven graduates.

We are honored today to be joined by the following members of the Mercer law class of 1948: Doug Barnard, Griffin Bell, Roscoe Lowery, John Miller, Jim Rehberg, and Albert Reichert. Please join me in saluting them.

Much has changed for the better since this greatest generation served in war and then returned to further peace. Most of this change has been good but not all of it.

Some twenty years ago, Francis Fukuyama famously contended that we had reached “The End of History,”² a state of global equilibrium courtesy of liberal democracy and free market capitalism. He proclaimed that insular nation states would soon be relegated to the dust bins, overwhelmed by global economic interdependence. The march of liberal democracy was unstoppable, he argued, since no other form of government was its equal in assuring personal freedoms and efficiently generating material wealth. He suggested that mercantilists worldwide, intent on profit, would dominate liberal, representative governments, removing trade and travel barriers and assuring peace since profit was less certain without it.

What Fukuyama did not foresee or sufficiently appreciate were the potential threats and turbulence posed by poorly integrated and ungoverned global interdependence. Billions worldwide survive on less than two dollars a day. And they are reminded daily of their poverty thanks to the miracles of modern communication and transportation. Billions worldwide want to be like us. They yearn for modern, well-capitalized, free market economies that enable and entice consumption well beyond their material needs, consumption levels the world cannot possibly sustain. I am dismayed that United States Treasury Secretary Henry M. Paulson, Jr. thinks we should make the Chinese better consumers.

Severe economic disruptions are inevitable. Many will be global in reach. Greater interdependence assures this. Greater interdependence combined with a cost efficient, “just in time delivery” business model also assures that these severe economic disruptions could literally be deadly for thousands, if not millions.

Add to this the threats of global pandemics, climate change, terror networks, resurgent nationalism, and religious xenophobia, and we can only hope the end of history has not yet arrived. If it has, then it will be one of constant conflict. The lethality of hatred is geometrically expanding. Whether chemical, biological, or nuclear, the technology of death and mayhem is readily available, portable, and well within the reach of angry individuals, usually young men, scattered throughout the globe.

In the mid-nineties, Robert Wright published a book entitled *Nonzero: The Logic of Human Destiny*.³ I highly recommend his captivating evaluation of human history and civilization. He identifies individual, family, and group cooperation for the good of the whole as the indispens-

2. FRANCIS FUKUYAMA, *THE END OF HISTORY AND THE LAST MAN* (New York: Free Press 1992).

3. ROBERT WRIGHT, *NONZERO: THE LOGIC OF HUMAN DESTINY* (Vintage 2001).

able ingredient for the success of civilizations and, hence, for the success of the individuals, families, and groups within those civilizations. While civilizations come and go, Wright argues, civilization itself continues to advance, since the useful technologies and ideas developed within a failed civilization typically survive to be used by others.

To whom do we pass our civilization's progress if global civilization fails—if its individuals, families, and groups (many now organized around non-state actors) are unable to cooperate for the good of the whole, plundering the common pool with zero-sum panic weakly defended with references to Ayn Rand,⁴ the tragedy of the commons writ large across the globe?⁵

Now many of the law students here today, mired in the seemingly pointless minutia of courses in procedure or evidence or befuddled by Professor Cole's "Land of And," probably wonder what in the world anything I have just said has to do with Law Day or this year's Law Day theme—"The Rule of Law: Foundation for Communities of Opportunity and Equity." I am confident, however, that every member of the Class of 1948 gets it. They know personally both the lawyer's opportunity and the lawyer's duty to help humanity conquer the challenges I have just described.

Our present circumstances call for lawyering on the grandest stage, a stunning opportunity for service, for doing well personally while doing good universally. Opportunity and equity will not flourish for future generations across the globe unless lawyers play a major role.

There are concrete tasks lawyers will help accomplish within the United States. One is reorganizing and refocusing our government to address these asymmetric challenges. This, unfortunately, will keep lawyers busy for quite some time. As former Congressman Doug Barnard and Attorney General Bell will tell you, major change in Washington is unlikely without a sense of urgency. Altering routines, ceding turf, and requesting current sacrifice are not strengths of the political class. Many pay-me-now or maybe-pay-me-later decisions must be made, easy targets for political grandstanding and attacks.

But shepherding along the American governmental process is a small part of the challenge. The world's diverse peoples and economies,

4. See, e.g., AYN RAND, CAPITALISM: THE UNKNOWN IDEAL (New American Library 1967).

5. Common-pool resources are goods—such as forests and fishing grounds—subject to destruction from overuse and pollution. These resources might be held by the government for common use. An individual's inclination to overuse is often fueled by the belief that individual restraint for the good of the whole is pointless since selfish depletion of the resource by others is inevitable.

already interdependent, must become better integrated. Accomplishing this without violence will require education, negotiation, compromise, complicated international agreements, and legislation, plus the development and use of effective, non-violent, international processes for dispute resolution—tasks for lawyers throughout the globe. The world's diverse populations and groups must clearly, not wishfully, see the challenges and opportunities facing global civilization. Good lawyers are adept at helping their clients see such things. This talent is not unique to lawyers, but lawyers without it are uniquely unsuited to their trade.

Humanity must enlist those with such talents, lawyers in particular, to the critical task of better integrating the globe's interdependent populations and helping humanity find a sustainable future. Lawyers serve every nook and cranny of the globe. They must formally and informally network with one another, first educating one another about the globe's challenges and then exploring ways in which lawyers globally can help humanity address these challenges. Lawyers should accept, even cherish, this civic duty as a professional obligation. Nothing could be more meaningful and rewarding than serving such a cause.

You may have heard the story of the rich man who went to heaven and was met at the pearly gates by St. Peter who asked him why he should be admitted. The wealthy man replied that he had been baptized and was without sin. Peter frowned, whipped out his laptop, linked to the celestial network, checked the man's records, and saw they were totally clean. He raised his eyebrows and said to the man, "That is amazing, now tell me why you should be admitted to heaven. Tell me what you have done for others during your lifetime. You have got to have a net positive ledger to enter heaven." This irritated the wealthy man, who was used to a bit more deference. So he snapped that he had once given a street beggar twenty-five cents, so he had done some good, his balance sheet was positive, and he should be admitted. Peter said, "Wait right here. I have got to run this by the head man." He was gone for a while, returned with a quarter in his hand, and said, "The Lord told me to give you two bits and tell you to go to hell."

Lance Armstrong has raised millions for cancer research with his LiveStrong campaign.⁶ "Live Generously" is the slogan chosen by United Jewish Charities.⁷ In this interdependent world, state and non-state actors can be both strong and generous. But they will not be

6. Press Release, Lance Armstrong Foundation, New Charity Single Benefiting the Lance Armstrong Foundation (June 27, 2006), available at <http://www.livestrong.org/site/apps/n1/content2.asp?c=jvKZLbMRIsG&b=738961&ct=2684973>.

7. United Jewish Charities FAQ, <http://www.ujc.org/page.html?ArticleID=100762> (last visited Apr. 2, 2008).

strong for long without also being generous. Lawyers can help us see this. Their success in doing so may determine our success as a global civilization. Finding a sustainable future will require both leadership and voluntary concessions from strong nations, nations that might choose to offer neither.

Let me end by reciting an updated version of one verse from a song first sung on the steppes of Russia more than a thousand years ago:

A soldier buried long ago on a battlefield
hears lovers laughing as they pass by,
and the soldier asks
“Are these not the voices of those who come
to honor and remember me.”
But the lovers reply
“Not so my hero. We are those who remember not,
for the grass is green and the earth has smiled
and the dead must be forgotten.”
Then the soldier says from his deep dark grave
“I am content.”

Soldiers and lawyers are combatants in related arenas, seeking peace and prosperity for those they represent. If nothing else, they both deserve contentment if they have lived generously, sharing their gifts in causes greater than themselves. Lawyers who join the effort, the battle to help humanity become better integrated, to help humanity find a sustainable future of opportunity and equity for humans throughout the globe, such lawyers will certainly find contentment.

God bless you all.