

Yale Law School Commencement Remarks
May 24, 2010
By Dean Robert C. Post

MACING

Thank you, Guido, for these Maces. This is the third time that these maces have been handed down to a new dean at the Yale Law School. The first time was in 1994; the second time was in 2004, and at that time Tony Kronman, the holder of the maces, predicted that at the moment that the maces would be conferred for a third time, they would become a tradition.

This is the third time, and it is the charm. I am happy officially now to pronounce that these maces are, in fact, a tradition. Because they are now officially an *ancient* custom of this school, they require interpretation. To interpret them is to clarify the authority which they symbolize.

In my view, these maces represent, first, the continuity of our present principles with those of our past, rightly understood, and these maces represent, second, the interdependence of our national and international responsibilities. These maces symbolize an authority so capacious that it can transform us into a *community* that is nevertheless *cosmopolitan*, and

that can also shape us into a pedagogical and scholarly enterprise that is *both* cutting edge *and* faithful to its historical roots.

We are fortunate indeed to work under the sign of such benign authority. But notice, first and foremost, that these maces do not, like the ancient and paradigm maces of the English Parliament, derive from weapons of war. They are simple and peaceful walking sticks. We lean on them, just as we lean on the authority that they represent, to help us on our journey.

And this suggests what is most important for us to keep in mind in a macing ceremony like this, which is that we must always and carefully decide the destination of the journey for which we invoke the assistance of these maces.

GRADUATION

It is now my great pleasure to welcome all of you, distinguished guests, faculty colleagues, families, friends, and members of the graduating class, to the 2010 Commencement Exercises of the Yale Law School.

We gather today to celebrate a moment of consequence in the lives of 196 JD candidates, 23 LLM candidates, 1 MSJ candidate, and 2 JSD candidates. When these 222 individuals finish their academic requirements, when the final staple goes through the final paper, and when the last examination is at last graded, they will be, quite simply, the finest new law graduates on the planet.

All the music, all the marching, all the medieval badges, robes, and ceremony that surround us this day, are meant to mark this single, decisive moment of high transition in the lives of these 222 graduates. As with all such moments of transition, it is an occasion *both* to take stock of the past *and* to assess the bright but inscrutable future that lies before us.

If we gaze backwards to the past, we can see that there is a long and winding pathway that has led to this graduation. Members of the graduating class have had to accomplish a great deal to arrive at this moment.

It is important to stress at the outset that these accomplishments, however heroic, are not those of our graduates alone. Behind each and every one of our graduates is a story of family and friends: of parents who nourished and sacrificed, who hovered and let go; of grandparents, uncles and aunts who supported and sustained them; of brothers, sisters, cousins, and friends, who stood by them and with them; of spouses and loved ones who strengthened and inspired them.

The real education of our graduates was earned long before they arrived here at the Yale Law School. We are latecomers in their lives, and we have had them in our care only for an instant.

So, as we call to mind the past that has brought our graduates to this precious time, let us remember first and foremost those who truly made this moment possible. Would the families and friends of the Class of 2010 please rise, so that those assembled here today can honor you?

Let us honor also the faculty of this law school, who sit before you on this stage. It has been their responsibility to educate you, members of the graduating class, in the many intricate ways of the law. On this stage is, by common acclamation, the finest and most influential law faculty in the world. They have worked hard to give you a sense of mastery, so that the law might feel, in your hands, intelligible, familiar and responsive. They have offered you their passion for the study of the law, and in the process they have forever altered the horizons in which you shall sail forward into your life. Let us now, as they are assembled here altogether, thank them also.

We might take this moment also to thank those many members of the Yale community who have worked so hard to make your sojourn among us comfortable and secure. They have rescued your computers, piloted your forays into our remarkable library, maintained this gem of a building, staffed the indispensable dining hall, mailed out your many letters of recommendation, and performed a myriad of other services, of which you might or might not be aware.

I want to give special thanks today to Associate Dean Mike Thompson, whose inventiveness and attentiveness and sympathy for every concern, large or small, keeps this complex place running smoothly; to Associate Dean Sharon Brooks, whose endless good cheer and good advice has benefited every student here; to Associate Dean Toni Davis, whose tender care for the Graduate Program has been made us all stronger; to Associate Dean Megan Barnett, whose talented and tireless enterprise has benefited many of you in the audience; and finally to our devoted and patient registrar, Judith Calvert, who has organized this day and who works harder than any of you can imagine to make sure your requirements are fulfilled so that, in fact, you *will* be able to graduate.

Thank you all.

When you, the Class of 2010, first arrived in New Haven, my great predecessor, Harold Koh, asked that you look to the right, and look to the left, and see there not your competitors but your friends and companions, your neighbors in the community of the Yale Law School. Over the past years you have studied with your classmates; learned from them; broken bread with them; partied with them; accomplished great things with them;

depended upon them; dreamed with them. They have helped you reach this day, and they will be with you long into your bright future. They are among the most precious gifts that you will carry away from this place.

So now, in this instant, you should take a moment to appreciate each other and to breathe in the sweetness of being here, all together, for one last time. This is not a moment you will forget.

Not all those with whom you began this journey can be with you here today. Joey Hanzich was a member of the Class of 2010, but he tragically died early on his journey. Each year you have held a tribute to Joey, and the Law School has established a permanent Joey Hanzich 2010 Fund. On this day, we welcome Joey's family—his parents Dorian and Laura, his brother Ricky, and his aunt Darlene—as well as their friends, who have come to celebrate with you the graduation of the class of 2010. To the Hanzich family I say: Thank you for coming. You make this day complete. We shall always miss Joey, and we shall always carry him with us. I ask now for a moment of silence in remembrance of Joey.

Moments of transition, like this, hang suspended between past and future. They are comforting, because they are familiar; they culminate all that has gone before. But they are also bittersweet, because something must end in order for change to take hold. In every ending is the challenge of a new beginning. Moments like this are therefore *charged*, in part with the excitement of new creation, but also in part with the vague disquiet of the unknown.

Your future is without doubt bright. You are now equipped with one of the great degrees in legal education anywhere in the world. You have acquired magnificent friends and astonishing peers. You have been trained by masters. And you have earned the support of a school that will stand by you throughout your careers.

And yet, of course, in the nature of things, the future is uncertain. And I can't help but think that this uncertainty may resonate with aspects of your collective history. For you, the Class of 2010, came of age in the fires of 9/11, which incinerated our hopes for a peaceful and new world order that could attend the end of the Cold War. And you, the Class of 2010, have also endured tumultuous and historic economic disruption. When most of you

first came to this Law School in Fall 2007, my guess is that very few of you were apprehensive about the economic future of the legal profession. But then, of course, all hell broke loose.

Beginning in your first year, in December 2007, and accelerating abruptly in your second year in Fall 2008, the stock market collapsed, Lehman Brothers went bankrupt, credit froze, and our economy went into free-fall. Legal institutions were swept into this maelstrom. Between December 2008 and December 2009, about 43,000 legal sector jobs were lost. The 138 largest United States law firms laid off over 12,000 people in 2009. Overnight, large distinguished firms that had been pillars of the legal establishment simply disappeared.

We are grateful that Yale Law graduates have emerged from this tempest largely unscathed. You in this courtyard are among the lucky few who are equipped to navigate this fierce storm with relative impunity. But the harsh economic weather must, nevertheless, weigh on your minds.

The world *into* which you now graduate is not the same as the world *from* which you entered this Law School. And this shift cannot help but

color your expectations on this otherwise splendid day. I thought, therefore, that I would say a few words at this time about how you might face a future that continues to shift like a kaleidoscope into ever new and unpredictable patterns and shapes.

One of the great American poets of the last century was Wallace Stevens (1879-1955), who lived here in Connecticut and who practiced law throughout his life. He once wrote a poem that he called *An Ordinary Evening in New Haven*. That poem is an extended meditation upon the original meaning of the name of this city. This place was called “New Haven” because it was meant to be a new refuge, a new sanctuary for the righteous and for the godly. It was meant to be a shining beacon within a hostile New England wilderness.

Stevens writes that if we want to make our own lives into a “new haven,” we must meet three conditions. First, we must not fade into what he calls “the anonymous color of the universe.” We must instead grapple with the vivid but stubborn facts of life. We must penetrate, he says, “Straight to the transfixing object, to the object / At the exactest point at which it is itself.”

It takes great discipline to face down reality in this way. Yet we can not rest satisfied with such discipline. This is because we cannot allow ourselves to be dominated by whatever reality our most critical and piercing analysis reveals. A second condition for creating a haven, therefore, is that we must always be alive to the immanent possibility of transforming reality. Stevens writes that we must envision the world around us populated with

things seen and unseen, created from nothingness,

The heavens, the hells, the worlds, the longed-for lands

Stevens here is making the same point as Oscar Wilde once did, when Wilde remarked that “A map of the world that does not include Utopia is not worth even glancing at, for it leaves out the one country at which Humanity is always landing.” Without constant recognition of the Utopian potential for improvement, we will be condemned to inhabit a world that is merely dreary, anonymous and fateful.

So, on the one hand, we must see things as they actually are, etched with acid fidelity to the facts. And yet, on the other hand, we must always also imagine things as they might be.

The third condition Stevens sets forth is perhaps his most subtle. It is that we must negotiate this tension between reality and imagination not merely in singular, unique moments, not merely in special distinctive occasions like this graduation, but in the mundane details of prosaic, quotidian life, which Stevens calls the “commonplace.”

Stevens writes that you can make your own life into a New Haven, into a refuge and sanctuary that is vivid and significant, only if you are willing to transform the commonplace practices of your *everyday* life. That is why he entitles his poem an “*ordinary*” evening in New Haven. What matters most is what you do day in and day out. Special occasions, unusual crises, decisive turning points, these are of course important, but ordinary life, everyday life – that is what really matters if you wish to create a haven for yourself in this world.

These are three lessons that we have tried to teach here, in this little corner of New Haven. We have educated, trained, and disciplined you to face down the facts; to know how reality works, and never, ever, to blink at what you see and what you know. Yet we have also simultaneously sought to impress upon you the endless, glowing possibilities of transformation that always inhere in the practices of law. We have continuously urged you never to lose sight of the “The heavens, the hells, the worlds, the longed-for lands.”

We have done this so that you will not rest content with the flawed institutions you will certainly find when you leave these walls. We have done this so that you will not lose sight of the utopian and dystopian possibilities that will constantly attend everything that you do after your graduation. And we have done this so that, in your everyday adult life, you will have the pleasure and the responsibility of being always aware and alert and vividly alive to the potential of reshaping law, so that the law might become a more adequate instrument for your ideals and principles.

The essence of your education here at Yale in New Haven—what I think makes us absolutely distinct among educational institutions anywhere

in the world—is our unrelenting effort to empower you with *both* the *knowledge and the confidence* to remake legal institutions. Over the past years, we have persistently encouraged you to work together with your instructors and your classmates to imagine and to build legal institutions. We have trusted you to envision these transformative possibilities, because we have entrusted you with our future.

This trust that we have given you is a gift that comes with a price. That price is not merely your tuition; it includes also an obligation to use the benefits of this education to improve the public good. You are now trustees for all those who wanted to be here but could not come. Indeed, you are now trustees for everyone who cares about the law and about our nation. You have the obligation to put to good use the invaluable lessons you have learned here. And this debt can best be discharged if, after graduation, you inhabit the daily routines of your professional life with capacity, imagination, moral compass, and courage.

We know that you will repay our trust. You have already accomplished dazzling feats. While you have been here, you have never faded into the anonymous colors of the universe. We have watched with

pride as you have acquired the discipline and competence to remap the geography of the law. And we are so happy now to be sending you out into the world as persons who know how to go “Straight to the transfixing object at the exactest point at which it is itself,” and yet who know also how to refresh the law and to make it responsive. It is a great satisfaction to us to witness you inhabiting this tension in your daily engagements with the law.

Make no mistake. After this graduation, you will be tested. As Stevens writes,

Life is a bitter aspic. We are not
At the center of a diamond.

But what I invite you to consider this day is that the flaws, the risks, the dangers that lie before you in the future—these are simply the raw materials out of which you will fashion your own new worlds. Our wish for you is that you may possess the self-respect to fashion *extraordinary* things out of your *ordinary* lives. To do this, you do need *not* be confident about what events might bring, but you *do* need to be confident in your own

capacity to master events and to respond to them with grace and intelligence. That is the point of the education you have received here.

Among the responsibilities that accompany the law degree with which you are now invested is fidelity to the rule of law. This fidelity must be a fixed and permanent point in your moral compass. It will require you always to take the long view, never the short view. It will require you to remember that when law is severed from competence, it cannot long survive; but that when law is indifferent to justice, it becomes an abomination. It will require you to seek within the law the fundamental principles and values upon which the historical integrity of the nation depends, and it will require you to maintain faith with these principles and values. It will require you to conserve one of civilization's great achievements.

Because when you leave here you will become leaders in your chosen fields, these responsibilities will not lie lightly upon your shoulders. You will no doubt face many insoluble problems. But it is the wish of all your teachers here that you may encounter the unimaginable adventures that lie before you in the years to come with the same verve and intelligence, with the same unfailing self-respect, with the same moral courage, with the same

pleasure and delight, that you have displayed during your time here among us.

We hope that you will follow the dreams that have grown strong within these walls, so that you may make whatever corner of the world you choose to inhabit, your own, unique, New Haven.

INTRODUCTION OF PETER SCHUCK

It is a tradition at the Law School to invite professors who have retired this past year or who will be retiring at the end of this academic year to speak at our graduation ceremony. This year, we are fortunate that Peter Schuck has accepted our invitation. Peter is a great scholar, a legendary teacher, and a warm and devoted friend. He is the Simeon E. Baldwin Professor Emeritus and Professor (Adjunct) of Law, and he retired last September after thirty years of teaching on our faculty. It is our good fortune that Peter remains an Adjunct Professor—for that means that he will continue to teach and supervise our students.

Peter, I should say, is also one of our faculty poets, and he would like to share with you a doggerel written especially for this occasion. May I present Peter Schuck.

INTRODUCTION OF TONI DAVIS WHO WILL PRESENT
GRADUATE PROGRAM DEGREES

We presently have three graduate degree programs at Yale Law School. The students in these programs have already been trained as professionals, and they have come to us seeking to engage in the advanced study of law.

This year, 2 students will receive the high degree of Doctor of the Science of Law – the J.S.D. These are students who have previously received an LL.M. degree at Yale Law School and who have maintained their course of study in order to compose a rigorous dissertation, which constitutes a “substantial contribution to legal scholarship.”

This year, 23 students will receive the degree of Master of Laws –the LL.M. Each of these students has studied here during the past year, taking

courses and working closely with faculty members in order to meet the strenuous requirements of this advanced degree.

Finally, in the Class of 2010, we have one student who will receive a Master in the Studies of Law – the M.S.L. This student is a professional who is not a lawyer and who during the past year has explored the relationship between law and another discipline.

To present the candidates for these advanced degrees in law, I call upon their advocate, friend, and mentor, Associate Dean Toni Hahn Davis.

INTRODUCTION OF SHARON BROOKS

TO PRESENT THE JD DEGREE

In the Class of 2010, 196 students will receive the degree of Juris Doctor, the J.D. degree. To earn this degree, students have had to complete three years of difficult coursework as well as compose substantial and sustained analytic writing. To present the candidates for this degree, I now call upon our incomparable Associate Dean of Student Affairs, Sharon C.

Brooks, who has served our students with compassion and wisdom during their time here.

INTRODUCTION OF BRETT DIGNAM

Each year, the graduating students elect a member of the faculty to address them at commencement. The choice is entirely theirs—and for that reason, it is a special honor to the faculty member who is chosen. This year, the graduating students have elected my colleague Brett Dignam to be their commencement speaker.

Brett is a Clinical Professor of Law and Supervising Attorney at the Yale Law School. This year, she served for a semester as the director of our clinic. Since she came to Yale in 1992, Brett has taught a myriad of different classes, but she has, centrally, from the beginning, been responsible for our oldest clinic: Prison Legal Services, as well as for our clinic in complex federal litigation.

If you talk to Brett's clients, or to her legal adversaries in the courtroom, or to her colleagues in the law school, or to her students, you will

always hear the same story: Brett is compassionate, tough, idealistic, realistic, reliable, undaunted, and humane. For the past 18 years, Brett has taught our students to be lawyers in the best sense of the word; she has taught them to be advocates for the forgotten and for the neglected. She is one of those rare individuals who is simultaneously loved and respected. Our students respect Brett because she demands the best from them, and she will settle for nothing less. Yet our students also love Brett because she teaches them that fine lawyering comes out of their soul and is an expression of their integrity and personhood. As Brett instructs our students in legal practice, so she brings out the best in them as human beings.

At Yale, Brett has exemplified the virtues of dignity, empathy, cheerfulness, responsibility, and excellence. She had displayed an uncanny and unerring quality of judgment, always exercised with deep good will. She is the gold standard among us. She is calm and practical, and yet she is always hell-bent for what is right in the world. It is a grave misfortune for us that Brett will be leaving our faculty at the end of June to take a position at Columbia Law School. But wherever she is, our hearts will always be with her, and we will always be grateful to her and wish her all good things.

INTRODUCTION OF MARGARET MARSHALL

Margaret H. Marshall is Chief Justice of the Massachusetts Supreme Judicial Court. For the past several years, Chief Justice Marshall has also been a member of the Yale Corporation, although her term is presently ending.

We are deeply honored that Chief Justice Marshall has agreed to address today's Commencement. She is one of the great figures in the history of American law.

Her interest in law was sparked by her childhood under the system of apartheid in South Africa. She graduated from Witwaterstrand University in Johannesburg in 1966. At that time, she was elected President of the National Union of South African Students, which was an organization dedicated to combating apartheid. She served in that capacity until 1968, when she came to the United States to pursue her graduate studies. Here, as she has said, she was inspired by what she called "the taste of freedom."

She received a master's degree in education from Harvard University and subsequently her law degree from Yale in 1976.

After law school, Chief Justice Marshall worked at Boston law firms before becoming Vice President and General Counsel of Harvard University. She was appointed Associate Justice of the Massachusetts Supreme Judicial Court in 1996 and was named Chief Justice in 1999. Chief Justice Marshall is only the second woman to serve on the Supreme Judicial Court, which is the oldest appellate court in continuous existence in the Western Hemisphere, and she is the first woman to serve as the Chief Justice of that prestigious Court.

As Chief Justice, Margaret Marshall has been a tireless champion for the cause of state courts, the courts that carry by far the greatest burden of adjudication in this country. She has sounded the alarm that “state courts are in crisis” because they are severely underfunded, because they are increasingly unable to offer adequate access to all those who require their intervention, and because state judiciaries have become increasingly politicized. The trend toward contested and financially expensive election

campaigns for state judgeships has endangered both the rule of law and the virtue of an independent judiciary, a virtue that Chief Justice Marshall came so highly to value because of her experience in South Africa.

As Chief Justice, Margaret Marshall has been responsible for historic opinions advancing the frontiers of human rights. She is the author of the decision guaranteeing the right of same sex couples to marry in Massachusetts. Her work will be studied and debated for centuries. She exemplifies a life lived greatly in the law, the kind of life that we hope for each of our alumni. And indeed in 2006, Chief Justice Marshall received Yale Law School's Award of Merit, which is the highest honor we can bestow on one of our own alumni.

It gives me great pleasure to introduce to you to Margaret (Margie) Marshall.

Our ceremony is about to conclude. Please continue to remain in the Courtyard as the champagne reception is unfolded. But before we end, I have a special message specifically for the class of 2010 from a very famous celebrity. [I take out the muppet.]

What did you say? He's shy, because he's under dressed—but he did wear a special hat for the occasion. He has asked me to talk for both of us, although I should report that we disagree about a lot of things. So we want to say to you, together--

We wish for you every success in life and every success in love.

And we wish for you fidelity always to your deepest integrity.

I NOW DECLARE THE THAT THESE 2010 GRADUATION
EXERCISES ARE CONCLUDED AND THAT THE CHAMPAIGNE
RECEPTION IS NOW OFFICIALLY OPEN.