

file finals 78

FINALS, MAY 21, 1978

THE GRAND MARSHAL ASKS THE AUDIENCE TO RISE FOR THE NATIONAL ANTHEM.

PRESIDENT:

PLEASE REMAIN STANDING FOR THE INVOCATION BY THE REVEREND DAVID WARD, RECTOR OF ST. PAUL'S MEMORIAL CHURCH HERE IN CHARLOTTESVILLE.

MR. WARD GIVES THE INVOCATION.

PRESIDENT:

THANK YOU, MR. WARD.

MR. RECTOR, LADIES AND GENTLEMEN:

IT IS A GREAT PLEASURE TO WELCOME YOU TO THESE FINAL EXERCISES AS THE 152ND FULL SESSION OF THE UNIVERSITY DRAWS TO A CLOSE. IT HAS BEEN A GOOD YEAR, AND I KNOW ALL OF YOU WILL SHARE MY PRIDE IN THE FINE RECORD COMPILED BY THIS YEAR'S GRADUATING CLASS. THERE IS A LONG LIST AT THE BACK OF YOUR PROGRAMS OF THE MANY PRIZES AND HONORS THEY HAVE WON.

THIS YEAR'S GRADUATING CLASS HAS CONTRIBUTED SIGNIFICANTLY TO THE UNIVERSITY'S DISTINCTION. I REMIND THOSE OF YOU WHO WILL LEAVE THE GROUNDS TODAY THAT YOU WILL NOT BE LEAVING THE UNIVERSITY COMMUNITY AND THAT YOU WILL ALWAYS BE A VITAL PART OF THE UNIVERSITY AS ALUMNI.

I HOPE YOU WILL KEEP THAT IN MIND, AND I HOPE YOU WILL COME BACK OFTEN.

THE DIPLOMAS WILL BE PRESENTED IMMEDIATELY AFTER THESE EXERCISES AT SEVERAL DIFFERENT LOCATIONS ON THE GROUNDS. THE LIST OF THESE LOCATIONS IS ON THE BACK OF YOUR PROGRAMS.

PRESIDENT INTRODUCES SPEAKER:

JUSTICE THURGOOD MARSHALL HAS HAD A MOST DISTINGUISHED CAREER ON THE BENCH, AND AS A LAWYER, BUT ABOVE ALL AS A TIRELESS AND EXTREMELY EFFECTIVE CHAMPION OF CIVIL RIGHTS. BORN IN BALTIMORE, HE TOOK HIS A.B. FROM LINCOLN UNIVERSITY AND HIS LAW DEGREE FROM HOWARD UNIVERSITY WHERE HE RANKED FIRST IN HIS CLASS. HE WAS ADMITTED TO THE MARYLAND BAR IN 1933, AND HE RETURNED TO BALTIMORE TO PRACTICE LAW. HE WENT TO WORK FOR THE N.A.A.C.P. AS A LAWYER IN 1936, AND HE BECAME THE DIRECTOR AND COUNSEL OF THE N.A.A.C.P.'S LEGAL DEFENSE AND EDUCATIONAL FUND IN 1940.

AS CHIEF LAWYER FOR THE N.A.A.C.P., JUSTICE MARSHALL SHOWED THE CAREFUL LEGAL SCHOLARSHIP AND THOROUGH AND REASONED APPROACH TO HIS CASES WHICH HAS BEEN THE MARK OF HIS CAREER AS AN ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT. HE ARGUED AND WON A SERIES OF CIVIL RIGHTS CASES WHICH SET THE LEGAL PRECEDENTS FOR HIS ARGUMENTS IN THE CASE, BROWN VS. THE BOARD OF EDUCATION, IN 1953 AND 1954. THE SUPREME COURT'S

DECISION ON THIS CASE ON MAY 17, 1954, OF COURSE, WAS THE DECISION WHICH DECLARED RACIAL SEGREGATION TO BE UNCONSTITUTIONAL. AS A LAWYER, JUSTICE MARSHALL WON THE RESPECT OF OPPONENTS AND JUDGES ALIKE; AND AFTER ONE CASE THAT HE ARGUED BEFORE THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, THE THREE JUDGES, STILL IN THEIR ROBES, STEPPED DOWN OFF THE BENCH TO CONGRATULATE HIM ON HIS SUPERB PRESENTATION.

JUSTICE MARSHALL WAS HIMSELF APPOINTED TO THE BENCH IN 1961 AS A UNITED STATES CIRCUIT JUDGE FOR THE SECOND JUDICIAL CIRCUIT. IN 1965 HE WAS MADE SOLICITOR GENERAL OF THE UNITED STATES, AND PRESIDENT JOHNSON APPOINTED HIM TO THE SUPREME COURT IN 1967.

IT IS A GREAT HONOR TO WELCOME JUSTICE MARSHALL TO THE UNIVERSITY TODAY, BOTH AS OUR SPEAKER AND AS THE FATHER OF A MEMBER OF THE GRADUATING CLASS.

LADIES AND GENTLEMEN, THE HONORABLE THURGOOD MARSHALL!

SUPREME COURT JUSTICE THURGOOD MARSHALL

It is customary on giving speeches to say how honored and pleased the speaker is at being invited to stand before the invariably august body that is present. Sometimes this is a mere convention, and the speaker would rather be in any of a hundred other places. For several reasons, however, I am truly honored and pleased to be here today.

The University of Virginia is of course one of the outstanding universities of this country. It was conceived in grandeur, and has, more than most other institutions, fulfilled the ambitions and ideals of its founder, Thomas Jefferson. Jefferson started planning this great University over twenty years before it was chartered in 1819. His conception was, at the time, revolutionary -- as befitted the man. He believed that a university should be an "academical village," a small democracy in action; it should consist of different schools devoted to different disciplines, with a curriculum that

expressed the most modern ideas in scientific and liberal thought. He scandalized some of his contemporaries by proposing to omit instruction in "religious divinity;" in his view such instruction at a state institution was inconsistent with the great constitutional principles of religious freedom and separation of church and state. And Jefferson insisted on getting only the best in their fields as instructors, even if that meant going to European colleges and, to use a modern word, "raiding" their faculties.

Thomas Jefferson, in short, conceived and executed in the early 19th century a plan for a very modern university. This university today stands as a testament to the enduring nature of what some at the time thought was a wild vision. His road to this achievement was no easy one -- it took twenty years of planning, perseverance and vision. It also took a willingness to engage in the inevitable compromises of politics, for it was quite a battle to get the state legislature of the time to authorize the funds for this suspicious experiment. But

Jefferson did not disdain the hurly burly of political negotiation, compromise and argument; he thrived on it.

Jefferson believed as deeply as anything that an educated citizenry could make rational and responsible decisions on almost any matter. Indeed, this belief in the intelligence and wisdom of a well-educated people not only drove him to promote public education, at the primary as well as higher levels, but it also informs many of his most eloquent political passages.

I don't know how many of you graduating from the College of Arts and Sciences studied politics and government in your four years at this University. I do know that one innovation that Jefferson favored strongly was that of "electives." A favorite grandson of his had groaned under the rigidities of a set curriculum at another college of the day, and Jefferson was convinced that permitting students to choose their areas of study would improve the quality of their educational experience. There are educators in this country who believe this trend has gone too far, that students are not trained in

the core aspects of what an educated person should know. The way the world looks to me, it seems awfully difficult to say what "core" knowledge should be; and it may be that the last person in this country who could really claim to have mastered the whole of human knowledge was Jefferson himself.

But there are certain core values, embodied in Thomas Jefferson's handiwork in the ^cDeclaration of Independence and the Constitution, as well as in setting up this University, of which I hope you are all aware -- those of you graduating with advanced degrees as well as the undergraduates. And these core values, tried and trite as they may appear, are in my judgment worthy of continued reflection, so that they may be better realized in this country, just as your university so well realized the values of its founder.

I can best introduce them by telling you of a brief incident. At one argument in a United States District Court, an attorney representing a City was arguing in support of an ordinance challenged as being unconstitutional. The details of

the case are unimportant, but at one point in his argument, this attorney told the Court that there was "something higher than the Constitution of the United States." I asked him what he could be thinking of; and the poor man had no answer.

My first reaction, and probably that of many other listeners, was that his failure to answer illustrated that his assertion was wrong, and in a way it was; but in another, equally important way, the lawyer simply failed to come up with the right answer.

His assertion is wrong because our system is perhaps uniquely characterized by adherence to the proposition that this is a government of laws, and not merely of men and women -- and the United States Constitution is the Supreme law of the land. The Constitution is binding on federal judges and municipal courts, on Governors of the States and on Presidents of the United States -- in short, on all governmental decisionmakers in the state and federal systems. There simply is no "higher law" in this country.

The democractizing aspects of the Constitution cannot be overstated. For me, its cardinal principle is that all persons stand in a position of equality before the law. The Constitution gives to each and every one of you an equal right to your own opinions and to participate in the process of your own governance. These are precious rights that we must continually strive to preserve, and whose promise we must seek to attain. There are still far too many persons in this country who cannot participate as equals in the processes of Government -- persons too poor, too ignorant, persons discriminated against by other people for no good reason. But our ideal, the ideal of our Constitution, is to eliminate these barriers to the aspirations of all Americans to participate fully in our government and society. We have realized it far better than most countries, but we still have a long way to travel and we must continue to strive in that direction.

This brings me to my second point about my poor lawyer's assertion. As I said a moment ago, his statement was

profoundly true in a way, for there is something "higher" than the Constitution -- that is, quite simply, the people. I do not mean that "the people" are not bound to live under our system of laws -- any other proposition could lead to violence and from there to anarchy. But what I do mean is what Thomas Jefferson said in the Declaration of our Independence -- that just governments derive their authority from the consent of the governed. And because of this, you have not only a right but a responsibility to the government of this country.

Let me elaborate. Governments derive their power from many sources -- the military or police are instruments of power and may in the short run enforce the government's directives against an unwilling people. But authority is a different question - and no government can govern long, or well, without the authority that comes from a shared consensus among the governed. They must believe that theirs is a rightful, and lawful, and just government.

But in order to preserve this power in the people -- the

power of defining and limiting the authority of their government -- it is first and foremost essential that the people be well informed. Jefferson's commitment to this University was only part of a larger commitment to the value of public education. That vision accounts for the primacy of public schools in the American community, for it was Jefferson's guiding hand that helped draft the Northwest Ordinance, which resulted in public lands being dedicated across the new territories for public schools. Today, however, just as in Jefferson's times, we still see students of less privileged backgrounds than your own, or people who are just less lucky, being denied quality education at all levels. Voters turn down school financing referenda, legislatures oppose integration of school systems. There is appalling ignorance even among some of the supposedly well-educated youth of our country, and the extent of illiteracy remains staggering. Education towards the goal of an informed citizenry requires all of the qualities that Jefferson

embodied: commitment to difficult projects, confidence in the soundness of one's own vision and perseverance in working through a problem.

As the areas of human knowledge have expanded, so have the aspirations of the American people. It is vitally important that the aspirations of our government keep pace with the knowledge and expectations of our people. With the explosion in human knowledge and expertise, it sometimes seem very difficult to understand what the Government is doing, to understand what our problems are, and to keep up. Yet the duty to keep up, to be informed, to be knowledgedable in some area of human endeavor, is an essential one, not only for the continued survival of our government but in the long run for our civilization. It is hard work being well-informed; but it is essential work for the citizens of a democracy.

It is a work, moreover, for which people in your position have been specially prepared. The privilege of attending so fine a university as this one must bear with it an unceasing responsibility to use your knowledge and training for improving

the lives of others. Whether you pursue this as a lawyer dedicated to the public interest; a doctor serving those in pain and sickness; a scholar adding to the store of human knowledge and sharing that knowledge with others; an engineer applying new technologies to serve human needs; an artist improving the quality of life by creative efforts; or just by seeking to be a good person who values helping others -- matters not. What matters is to remember always the obligation you bear to the society that has placed you in a position where you could afford to spend four years of your lives -- and for many of you, there have been and will be several more -- in an institution of learning.

I said at the beginning of my talk that there were several reasons why I was truly honored to be here today. I have already mentioned the first -- that this University represents something special in the American tradition. The second one is because you are young, you are a new generation just starting out. Those of us who are a bit older (like myself -- and I said, just a bit), no matter how hard we may have worked to

serve humanity -- our time is coming to a close. I don't for a moment mean our lives, since I for one intend to keep on plugging at my present job for many years to come. But I recall to you now Thomas Jefferson's answer to the pleas of a friend in 1814. His friend begged Jefferson to take a stand then and there as a leader in the fight against slavery.

Jefferson's answer, though hardly commendable, shows a human truth; he said, "No, I have outlived the generation with which mutual labors and perils begat mutual confidence and influence. This enterprise is for the young -- for those who can follow it up, and bear it through to its consummation."

You people here today, about to use your degrees, it is for you now to undertake the projects of this age -- in Jefferson's words, to follow them up and bear them through. It is not for me to tell you what these are -- each generation must find its own calling. But you have the energies of youth -- and while you have them, use them, that you may look back on your lives with as much of a sense of accomplishment as Jefferson no doubt did.

This is a great country, but fortunately for you it is not perfect. There is much to be done to bring about complete equality. Remove hunger. Bring reality closer to theory and democratic principles.

Each of you as an individual must pick your own goals. Listen to others but do not become a blind follower. Do not wait for others to move out -- move out yourself -- where you see wrong or inequality or injustice speak out, because this is your country. This is your democracy -- make it -- protect it -- pass it on. You are ready. Go to it.