Farewell

William B. Spong Jr.
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It is an honor to address members of the Marshall-Wythe Class of 1985. We are leaving together. You are in the springtime of your lives, while I am in the late autumn of a full and rewarding life. Our difference in years and perspective emboldens me to make observations that I hope will not overly underscore the familiar platitudes of graduation addresses.

These past nine years mark a period during which nearly 1500 graduates have gone from here to many parts of the United States. Our graduates are the stewards of Marshall-Wythe's quest for greatness. Their performance as professionals — and as human beings — is a major factor in any judgment of the kind of law school Marshall-Wythe is. Our graduates' progress will influence the type of student attracted here in the future, and the success of our placement effort is dependent upon how our graduates are perceived.

I have watched this annual leave-taking in confident expectation that our students will, in large measure, make contributions to society worthy of the hopes of those who initiated the study of law at William and Mary so many years ago. And what were those hopes?

Thomas Jefferson, who was responsible for the establishment of the first university related legal instruction in America, and his teacher, George Wythe, shared a view that the study of law, in addition to preparation for the practice of law, provided a foundation for public service. Indeed, Wythe's underlying purpose was "... to form such characters as may be fit to succeed those who have been useful in the national councils of America."

Through the middle years of the nineteenth century, lawyers were looked to for leadership. A visiting Alexis de Tocqueville identified lawyers as the American aristocracy. Most of the contributions to the early writings and debates
that form the foundation of our government may be credited to lawyers. Yet, earlier this week, Justice Rehnquist, speaking at the University of Chicago Law School, bemoaned developments that find lawyers no longer the balance wheels of our democracy. The Justice noted the demise of the lawyer-statesman, and credited such demise to the maddening scramble for billable hours that occupies much of the energies of today's bar.

Attorneys during this past quarter century have seen the practice of law, long regarded as a learned profession, changed by custom, court decision and the demands of a consumer oriented society. The legal profession is now subject to anti-trust laws. There is a move in the Congress to place regulation of the legal profession with the Federal Trade Commission. Commercial speech about fees and legal services now has constitutional protection to assure greater access to the courts, help the public locate lawyers, and become better acquainted with legal charges. Large firms quartered in imposing suites, marvelously equipped, and populated with many partners, associates, and paralegals are today often located in two or three metropolitan areas. Much of the very nature of modern practice has become an impersonal, highly specialized, quite technical enterprise.

A recent commentator has suggested that the legal profession is being organized into bureaucratic forms, designed to serve a greater number of clients and a greater proportion of the population than in the past. It is also observed that such reorganization presents two challenges. First, the institutional mechanism within the new system must ensure that lawyers treat each client as an individual and not merely as a legal problem passing through the bureaucratic process. Second, lawyers must regard the overall conditions of our legal systems and legal institutions in their entirety and not as specific issues bearing little or no relationship to each other or to our general legal well being.
I do not recite these developments to mourn the passing of law as it was practiced. I recite them to underscore that the practice of law as you will experience it has changed more in the past quarter century than it had during all the previous years since Wythe began teaching. Nor do I wish to discourage you about your chosen profession. On the contrary, I urge you to go forward and practice competently, zealously and ethically. But the law has become a business, and the competitive nature of today's practice will make the profession difficult to regulate from an ethical standpoint — and more difficult for the lawyer of tomorrow to experience the useful life envisioned by Wythe.

You should try to avoid awakening in your middle years, after the coveted partnership is obtained, to discover that a life of billable hours, club memberships and foreign automobiles is not enough; that success and happiness are not always the same; and that your capacity to be helpful to others and relate to others may have been impaired by single-minded efforts in your practice, often in a specialized area of competence not related to human needs and human understanding.

Am I suggesting that you should avoid specialization in one of the myriad of new areas of the law? No. Am I suggesting that you should avoid large firm practice? No. Am I so naive that I would attempt to dissuade you from seeking the most competitive of situations? No.

I am, however, alerting you to the danger of spending your formative years bereft of literature, music, art, an appreciation of nature, and most important, of the joys of family life. Jefferson's idea of taking the study of law away from the apprentice model and into an academic setting, was, I believe, to assure that the practicing lawyer would be a whole person, with an understanding and appreciation of many things beyond the artisan demands of a skilled trade.
Try to avoid becoming a sophisticated artisan — a digit or myopic clone in an emerging market model that is becoming increasingly dominant in the legal profession today. You should cheerfully and diligently pursue the tasks assigned you as a lawyer, but do not do so to the total exclusion of other interests. The time you spend in public service (and I use the term "public service" in its broadest context to include much more than elected public office) will contribute to your growth and your worth as a lawyer and an individual. Certainly this is true of work within the profession to enhance competence, ethical standards and law reform.

But this is a day of joy for you and your families, a day when at last your formal education is ending. Three years ago you came to us from near and far, graduates of nearly a hundred colleges and universities, and you have since shared a rigorous learning experience, a legal education more personal than at most law schools. Our faculty has watched your struggles and knows you better than you may think. An academic, in addition to the pleasure of nurturing young minds, derives the greatest satisfaction from the progress of former pupils. It is our abiding hope that you will reflect the best of what we have tried to give you. We wish you well as you become servants of the law. There is within each of you a capacity to do good, to serve well, and to contribute to society.

The wish of this faculty is little different from the hopes of Jefferson and Wythe. We want you to become useful citizens. We have great expectations of you. We congratulate you and wish you godspeed. In a moment you will receive your degrees, and leave to begin a new life, a life of challenge and opportunity, a life that can be both fulfilling for you and helpful to others.

Today is a time for farewells. Shakespeare tells us that after the death of Julius Caesar, the armies of Anthony and Octavius pursued and confronted Brutus and Cassius at the plains of Philippi. Before descending from the heights above the plain to do battle, Brutus turned to Cassius and spoke:
"... and whether we shall meet again I know not. Therefore, our everlasting farewell take: For ever, and for ever, farewell, Cassius! If we do meet again, why, we shall smile; if not, why then, this parting was well made."²

William B. Spong, Jr.
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Phi Beta Kappa Hall
College of William and Mary
Williamsburg, Virginia

² Julius Caesar, Act 4, Scene 1.