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61st Commencement Address

Archibald Cox

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COMMENCEMENT ADDRESS AT CONNECTICUT COLLEGE

By Archibald Cox
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Sunday, May 27, 1979

May I take a moment to say to the Class of 1979 that I am honored by the invitation to share in your Commencement -- honored for any number of reasons but chiefly because the old put special value on the good opinion of the young. Pleased too, because I have come to enjoy ceremonial occasions which look to the future. Commencement ceremonies link the future to the past and so give the best proof that there is a future -- proof of the continuity of change.

With the pleasure and the appreciation of the honor there also comes a certain puzzlement. What is the function of a commencement address by a professor? If four years of professorial lectures have failed to do the trick for you, what can one more professor do in the last few minutes? Dare I add, "even a Harvard professor?"

Those of you who go on to three years of law school -- a course I heartily commend -- will learn that law professors have more questions than answers. Being no exception I begin by asking --

What will you take from here?

In The Culture of Narcissism Christopher Lasch

writes that you will take nothing important:

Not only does higher education destroy students' minds; it incapacitates them emotionally as well. . . . Far from preparing students to live "authentically," the higher learning in America leaves them unprepared to perform the simplest task to prepare a meal or go to a party and to get into the bed with a member of the opposite sex -- without elaborate instruction. The only thing [higher education] leaves to chance is higher learning.

I am more optimistic. I dare to hope that you will take from this college what Woodrow Wilson called "the spirit of learning." In a notable address, while President of Princeton, he spoke of the need for college teaching by great scholars but warned against excessive concern for the "higher learning."

Their teaching will follow [the student] through life only if they reveal to him or her the meaning, the significance, the essential validity of what they are about, the motives which prompt it, the processes which verify it. . . . What we should seek to impart in our colleges, therefore, is not so much learning itself as the spirit of learning.

A.

What is the spirit of learning -- the spirit of scholars dedicated to the search for truth? Surely, not

the naive supposition that there is absolute truth. Quite the reverse: those who exemplify the spirit of learning postulate only that men and women by free and open inquiry can progress towards better understanding of themselves and the universe about them, and meanwhile they see value in the search.

I emphasize the "free and open inquiry." Dedication to the free pursuit and exchange of knowledge is surely the core of our scientific and cultural heritage. We should keep a sharp eye therefore on the government's pending case against The Progressive Magazine which seems to assert that some knowledge of hydrogen bombs is so dangerous that the man who discovers it by lawful and proper inquiry may not spread what he knows among his fellows. Perhaps the claim can be limited to the peculiar kinds of information that plainly have not use except for waging war. Knowledge of the planned date and time of the sailing of a troopship would be an example. In such a case the claim of a First Amendment right to publish rests upon a claim that the knowledge will promote political debate assisting us to govern ourselves. If the information that The Progressive seeks to publish does have other uses -- indeed, if it is even conceivable that it has other uses -- then the government's suit raises still more vexing questions

for it would challenge the spread of knowledge in a manner unknown since the Inquisition. Mindful that knowledge can be put to evil uses as well as good, the western world staked its future upon the hope that the potential for good outruns the risk of evil. We should not lightly abandon that conviction.

B.

The physical scientist knows that to bow before the burning bush is no substitute for the patient exploration of observable data and the constant checking and rechecking of induced hypotheses. The historian and humanist know that the record of human experience is replete with proof that some of the greatest wrongs have been done and many of the most civilizing and liberalizing ideas have been suppressed in the names of Truth and Conscience. The "spirit of learning" is the way of freedom and reason, of mutual trust, civility and respect for one another. The "spirit of learning" is willing to reach conclusions and to act upon them until a better hypothesis appears, yet it is a spirit that is not so sure that it is right.

These qualities might not matter so much, I suppose, if we were content with authority, uniformity,

and security of a sort for the conformist. But if men -- and women too -- are of equal dignity and worth, if though destined to live and work together our goal is the freedom of each to choose the best he can discern, if we seek to do what we can to move toward the realization of these beliefs, then authority will not suffice, conflicts are inevitable -- even desirable because conflict is creative -- and some means must be found to mediate between the self-interested, passionate factions each demanding all for itself and the extinction of opposition, and so initially repelling the very thought of mediation. The only means of mediation consonant with freedom -- so far as yet discovered -- is to impart to the State and its citizens the scholar's willingness to act with moderation, prefer fact to theory, and remember that most things in this world are relative and not absolute.

Some years ago Alfred North Whitehead, when asked to explain the extraordinary achievements of the American people, replied that no other people in the history of mankind had even shown such innate qualities of toleration and cooperations. Toleration flows from the spirit of learning -- from that and from the traditional American belief in human dignity.

Cooperation flows from many sources. Perhaps one is necessity. The hardships of the frontier taught our forbears that, despite the value they placed upon individual liberty, they were all fellow voyagers in the same boat, that no one could move very far toward personal goals unless the vessel moved, and that the vessel could not move while some voyagers pulled ahead, some backed water, others demanded a new boat, and more and more dropped out to go fishing.

C.

Belief in the value of the common human enterprise is also essential to the spirit of toleration and cooperation -- confidence in its goals and the rules by which it is conducted, trust in its leadership and other members.

Today that confidence is in decline. Men and women turn inwards towards self alone or seek relief in the absurd and perverted. To note the facts is banal yet the banality should concern us greatly.

The reasons for the decline are harder to discern. There is the affluence which reduces dependence upon

each other. There is the growing bureaucracy and fear for loss of individual autonomy. There is the churning of moral and political values which strains the social fabric. There is loss of national power and fear of shifts in control of the world's resources, most notably petroleum; and also fear of uncontrollable inflation. Still, these are hardly explanations. Others before our time faced far greater difficulties yet kept confidence in the joint adventure. In our time, in the United States and much of the rest of the world, man has come closer than even before to conquering three of the four horsemen of the apocalypse: ignorance, disease, and poverty; and, for the moment, the world is relatively free of war. Rarely have there been such opportunities for the flowering of the human spirit.

There is also an heightened sense of man's capacity for evil illustrated by racism, Cambodia and Viet Nam. But this too is nothing new; some of our forbears knew it as original sin yet had the faith to found a new Nation.

Two weeks ago I suggested to a national convention of psychiatrists that perhaps they were to blame.

In the 1930's -- I said -- my college classmates and I were much happier than today's students. Was not the explanation that we, unlike today's students, could not worry about our psyches because we did not even know that we had the psyches of which the psychiatrists have now made us so aware? More seriously, one wonders whether in teaching self-realization the psychiatrists have not forgotten to add that fulfillment comes not from looking in but from looking out, from loyalties to persons and individuals, from commitments.

One gives commitments out of a sense of united enterprise and an appreciation of the opportunities for useful participation. The opportunities for meaningful participation may appear to have been diminished by the external changes in the past two centuries -- by the sixty-fold increase in the population of the United States, by the growth of the vast aggregations of wealth and human organization which enabled us to harness the power unlocked by science and technology, and by the increased role of government, especially a large central government, made necessary by the growth of private aggregations.

I can assure you that the opportunities to shape events are endless unless you cannot be satisfied by anything less than a public pinnacle. I think of Bruce Terris, a young man just a few years out of law school, who wrote the bulk of the principal brief in Baker v. Carr, the case which Chief Justice Warren ranked foremost of his years on the Supreme Court, even about Brown v. Board of Education, because it opened the door to the "one person, one vote rule" in legislative apportionment. I think too of Florence Rubin, neither office-holder nor elected representative, whose dedicated assistance aided by a few fellow members of the League of Women Voters, induced a reluctant Massachusetts legislature to enact court reforms overdue for decades. Surely you will think of innumerable examples in your communities.

In asserting that opportunities for meaningful participation now exist, I do not mean to omit the need for reforming government in ways which counter the effects of bigness. The extraordinary growth of human knowledge in recent decades in science, medicine, industrial development and the exploration of space, has no parallel in the art of government. We give local,

State and federal governments more and more to do in meeting material needs and in providing civil liberties and civil rights. So we must, for the complexity of the modern world increases the forces which people can control when they act together but against which the individual cannot act alone. Somehow we failed to inquire in every instance whether each necessary measure has been framed in such a way as to provide the widest opportunities for meaningful participation and to give the greatest encouragement to the sense of responsibility both for oneself and the enterprise.

Amendments to the Federal Election Campaign Act

There are signs of change, and perhaps your generation will recapture its government. Consider as an example our present method of financing political campaigns. Can you think of a method better calculated to discourage individual participation and destroy the sense that government belongs to the people?

Prior to 1974, expenditures in federal election campaigns had been growing by leaps and bounds. The staggering cost increased the pressure to accept, and even to extort, very large gifts from men whose personal ambitions or business affairs would be directly

and substantially affected by government decisions which the successful candidate or political party could influence. As the role of money rises, so increases the obligation which the successful candidate or party owes to the large contributors who supply the means of victory. No one seriously denies either the sense of obligation or the pressure to make some form of repayment. The larger the contribution, the greater the pressure to reply. The more visible the repayments the greater the alienation of the people.

Amendments to the Federal Election Campaign Act enacted in 1974 under the impetus of Watergate promised a corrective, but the hope of improvement was dissipated first by a Supreme Court decision invalidating the ceiling on campaign expenditures and later by a loophole allowing labor unions and corporations and other business groups to organize political action committees to raise money from their members and from corporate executive, employees and shareholders pretty much without limit. The executives then determine how the funds will be distributed. The rise in special interest campaign contributions from PAC's

phenomenal:

1974	-	\$12.5 million	
1976	-	22.6	"
1978	-	42.4	"

I need hardly tell you where the money goes -- to those who cast the votes in key congressional committees. Consider just one example. A year or so ago, the House Merchant Marine and Fisheries Committee reported out a Cargo Preference Bill favorable to maritime interests but adding greatly to both consumer costs and inflation. Members of the Committee who voted for the bill had received \$82,263. Those who voted the consumer interest against cargo preference received \$1,000. The Committee Chairman had received \$11,200 from Maritime Union political committees in the 1976 campaign. Four new members of the U. S. House of Representatives elected last November, each had a campaign fund of more than \$500,000. The lesson is plain enough.

The answer is also plain. Political campaigns for Senator or Representative should, like the Presidential campaign of 1976, be financed by the public, not the special interests. There is difficulty and room for

argument in some of the details, but anyone who believes in diffusing participation and responsibility and building confidence in the value of the common enterprise should support the necessary legislation.

D.

The question remains -- what view of the value of the enterprise will you take from here? Again I would hope that the spirit of learning provides -- or will come to provide you -- with perspective. The scientist does not know the truth he seeks; he lacks assurance that there is a truth; yet he knows that by putting one foot before the other, despite false starts and blind alleys, he makes a little progress. The humanist knows that participants in the human adventure have never had proof that there is a goal, but that he also knows if we look back towards our remote forbears we can catch glimpses of the bright potential for nobility in men and women and perhaps can see that mankind, despite its capacity for evil, has by reason, trust and forbearance learned to walk a little straighter. The scientist and humanist both reveal the power of creativity -- the unique human

ability to break from the past and to learn and do in common enterprise what he has never learned or done before.

II

You will have seen much earlier in my discourse that I am an optimist -- the result a cynical observer might say of a good digestion and a loving wife. Let me put it to you directly as a colleague did to me when I asked whether he could lend me a ready-made commencement address. He replied, "Can you think of a better time to be alive?"

I think first of the Hellenes. They breathed freedom and had a nobler view of man than ours even though they also faced grief, death and sorrow without papering over the facts of their condition. But the fact is that the citizens of Athens built their state upon the backs of slaves, and there was Sparta as well as Athens.

Would you choose to live in the Elizabethan Age perhaps? Those were years of boisterous confidence and extraordinary creativity, but also of disease, poverty, ignorance and extraordinary cruelty. Men were hanged

for scores of petty crimes. The populace turned out in joy to see men burned, spitted alive, or drawn and quartered. You may say that we kill more efficiently on a larger scale now, but at least we have grown squeamish and kill from a distance, and we do it only when we can call it war.

Perhaps you would wish to live with the Founding Fathers. That was another extraordinary age. A contemporary described Jefferson as "a gentleman of 32 [years], who could calculate an eclipse, survey an estate, tie an artery, plan an edifice, try a cause, break a horse, dance a minuet, and play the violin." Two years later, of course, he wrote the Declaration of Independence and built our faith in the common man. I think that I would like to have lived in that age if I could have been Thomas Jefferson, or even John Adams or Alexander Hamilton.

But suppose that one were not Thomas Jefferson but a slave, or an indentured servant, or an impressed seaman, or a woman dying alone in childbirth in a sod hut in a remote forest clearing? I think I'd rather draw my lot today.

Perhaps you will permit a final word. My college commencement was 45 years ago. At that time Hitler's storm troopers were moving toward their zenith with brutality and oppression for all but the master race. The scourge of infantile paralysis still killed tens of thousands of children and doomed more to lives with crippled limbs. The minimum factory wage was not yet 25 cents an hour. There was no social security, no medicare. Men were supposed to be independent and self-reliant, but 20 per cent of the work force, one out of five, were unemployed. Those conditions are gone. Science and technology cured some, but self-government accomplished others.

First came the New Deal. The practice and theory of government were revolutionized. Laissez-faire yielded to social responsibility. Industry and labor were brought under a measure of control. Industrial workers gained new opportunities and new protection. A vast transfer of economic and political power was accomplished. Some of the power has slipped back, I fear, but the transfer was nonetheless tremendous, and much of the transfer remains.

Next, with the help of others, came the defeat of Hitler and the reconstruction of Europe.

Then came the civil rights revolution -- again within the rule of law. This year we celebrate the 25th anniversary of Brown v. Board of Education. After the decision, State laws enforcing a caste system based upon race were invalidated, and their enforcement gradually stopped. New doctrines were developed to extend the reach of the Equal Protection Clause. New federal statutes were enacted curtailing practices restricting equal voting rights, denying equal accommodations, denying equal employment opportunities, and assuring equal housing.

The application of the Equal Protection Clause to the black people revived concern with other inequalities in our national life, especially discrimination against women.

Granted that the tasks are unfinished. Granted too that resulting bureaucracy seems remote and hard to manage. Surely there is reason for hope in a system that can peacefully produce two great libertarian and egalitarian revolutions within 40 years and also within a framework of constitutionalism.

We are all voyagers in the same boat, I have said; each unable to move very far unless the vessel moves.

The sea is trackless. The mist is dense. Would you wrap yourself in solitude and rest upon the oars? Look sharply before you leave. You may see the vessel move ahead, although almost imperceptibly. And does not the mist lift a little, revealing in dim outline what may be the distant shore? Can the shore be won? Perhaps not ever; it is most assuredly beyond our reach. But there will always be the chance to row still another stroke before the age that is past yields to the age that is waiting before.