

TEXAS TECH UNIVERSITY SCHOOL OF LAW COMMENCEMENT SPEECH

Frank E. Stevenson, 2016-2017 President of the State Bar of Texas
May 20, 2017

Today, I will explain the Rule Against Perpetuities. Not, of course, what it means—only God can do that. Well, God and Professor Beyer. Instead, I'll explain where it came from.

Because surely at some point over the last three years, you graduates have asked yourselves: The Rule Against Perpetuities—how could anyone have been so whack as to come up with that?

Even though the individual authorship of that and the myriad other zany legal concepts you've learned is now lost in the mists of time, we can be sure of one thing—the learned lunatics who minted them were English, since the intellectual elite of that country supplied so much of America's legal system and, thus, much of the law school curriculum you've just endured.

So, what can we know now about that English intelligentsia of centuries ago? Well, as it turns out, plenty. By examining their descendants: The English intelligentsia of today.

The *London Review of Books* is essentially the field guide to the modern-day English intellectual. Promoted as presenting the essay at its finest, it includes a personal-ads section created to bring together "people with similar literary and cultural tastes."¹ Those personals explain everything.

The first ad ever submitted to that column said nothing about literature or culture. It was instead from a gentleman who described himself as a habitual loafer "on the look-out for a contortionist who plays the trumpet."²

And so it continues to this day. A woman writes, "Love is strange—wait 'til you see my feet."³ A man boasts, "There's enough lithium in my medicine cabinet to power three electric cars across a sizeable desert."⁴ Another beseeches, "Tell me your kidney-stone experiences—I'll set them to music."⁵ And one offers this scrap of self-description: "Sexually, I'm more of a Switzerland."⁶

These absurdist *London Review of Books* personals are revelatory. Knowing this about the nutty national sensibility of the brainy British elite, it all becomes clear. The guy who made up the Rule Against Perpetuities 400 years ago is the ancestor of the dude who today is on the lookout for a trumpet-playing contortionist.

And thus I've handily explained the law of capture, future interests, estates in land, and everything else you've experienced the last three years.

Before I explain the rest, I do acknowledge that I'm the last obstacle to your getting your diploma, getting out of here, and getting to celebrate. Your only solace is you're not alone.

At this moment, all across America, a million-billion commencement speakers are inflicting their insights on freshly minted graduates. Each will eventually conjure up Robert Frost's "The Road Not Taken"—a poem all of us are certain we understand, and none of us probably do.⁷ At least I don't.

So, instead of talking about something I don't understand, I'll speak

to something you don't understand—simply because you can't, just as I couldn't when I sat where you do now. Instead of "The Road Not Taken," the road you *have* taken—where it has carried you, where it leads, and what it might mean.

Sitting here on the verge of graduating from this fine school, you may believe—just as I did—that you know better than you ever will what this school and your experience here have been about. If so, rest assured that you are profoundly deceived.

Yes, you may know now better than you ever will the Rule Against Perpetuities. Or that "consanguinity" means kinship resulting from the same ancestors. Or that "embezzlement" is the darkest form of "larceny" because the embezzler steals what's entrusted to his care. Or any of the million billion other bits of cognitive bric-a-brac amassed in law school.

But that's only information; not education. Hardly the thing worth

three years of your life to acquire. And hardly the thing worth the professional lives of this fine faculty to confer. Tech has done something for you both larger and longer. And while you are nearly finished with Tech, Tech is not remotely finished with you.

The hackneyed commonplace that law school teaches you a way of thinking has but a single feeble thing to commend it. Namely, that it's true. That way of thinking has never been more needed by our profession. And that way of thinking has never been more needed by our republic.

You and I can be justifiably afraid of tornadoes, and the Zika virus, and that Flo woman from the insurance ads. But instead, as a nation, we have become unjustifiably afraid of ideas. And there's nothing more dangerous to a free society than that. Americans are undergoing something called "the Big Sort," choosing to flock with the like-minded in where we live, work, worship, and recreate.⁸ Thus, one-half of the nation and then the other is serially stunned by elections advancing views they never hear, espoused in forums they never see, embraced by people they never meet.

What you've learned at Tech plays antidote to that. You've been shown that even the most principled and fiercely held issues can have two sides. In fact, you've been taught to argue one side and then the other. Thus, while you each started here with a sharp mind, you are finishing with a supple one—which is far more precious. A mind that does not quail at ideas—even the most challenging ones. That will be a quality that distinguishes you for the rest of your life. And every time it does, that will be harvest of your time here. In short, that will be Tech.

Tech has also taught you that words matter. And that will set you apart, too.

Within the cyclonic shouting match that currently passes for our national dialogue, and from every point across the political spectrum, the people with whom we simply disagree we describe as "traitors;" policies we simply find unwise we call "Ponzi schemes;" actions we simply dislike

“...BECOMING
A LAWYER DOES
MORE THAN GRANT
A PRIVILEGE;
IT CONFERS A
CONSANGUINITY.”

we brand as “criminal.” This amped-up misuse of language constitutes a form of larceny—the hijacking of words from their intended course of calmly rational exchange, off-course into a gale of emotional invective.

You won’t be a part of that for the simple reason that you can’t. You’ve been taught here that, as lawyers, you are the custodians of language. No other profession holds language so fully in its care.

Thus, for you, such antics would be far darker than mere larceny—they’d be embezzlement. And you will not consort with the embezzlers of language—in fact, you’ll denounce them. And every time you do, that will be Tech.

In the words of the Texas Lawyer’s Creed, you’ve learned that “civility and courtesy are expected and not a sign of weakness,” that lawyers “can disagree without being disagreeable,” and that effective advocacy “does not require antagonistic or obnoxious behavior.”⁹ And all of that will set you apart also. And—over its myriad manifestations, multiple episodes, and many years—all of that will be Tech, too.

Thus, when you *respond* while others simply react, that will be Tech.

When you *reflect* while others simply reject, that will be Tech.

When you *reason* while others simply rage, that will be Tech.

You may be tempted to think you know today the sum of what this Texas Tech University School of Law has done to and for you, but you must not be so credulous. That’s something you’ve only just started to learn. You’ll spend the rest of your life figuring that out.

By extolling how law advances the high virtues of citizenship, I do not mean to gloss over the fact that the practice of law can be difficult—at times even trying. The occasionally unreasonable or uncomprehending client; the calendar contortionism of career and contentment; commercialism’s slow assault on professionalism; and how our tablets, pads, phones, and other gizmos incarcerate us in a roaming Alcatraz of constant connectivity. Still, I wonder how many of these complaints—at least at their core—are terribly new.

I recently read the insights of an acclaimed New York lawyer who finds himself “drawing a line” between the lawyers before and after the war. “The great aim of the old lawyers was to master the elements of law; they depended upon an eloquent presentation of their causes; they stood nearer to the courts than the lawyers of to-day; . . . ‘commercialism’ did not exist; [and] there were less legal tricks or technical legerdemain to resort to . . .”¹⁰

Sound timely? Yes, it does to me, too. But the book containing those observations was published 110 years ago. And “the war” that allegedly drew the curtain on the halcyon days of our profession concluded at the Appomattox Court House, and not on the Missouri’s decks.¹¹

Go back another 200 years and again it seems there’s nothing new under the sun. Jonathan Swift was writing *Gulliver’s Travels*—which includes the episode in which the Lilliputians decide Gulliver’s watch is the god he worships because “he seldom did anything without consulting it.”¹² Strike “watch,” substitute “smartphone,” and voilà, we are all Gulliver.

We cannot will ourselves ever-grateful clients or inexhaustible soul-enriching work. But this school has taught you how to secure an ample measure of gratification by the most optimal means—namely, through service. Freeing someone from some sort of legal bondage through pro bono work—something only lawyers can do—will yield the most satisfying accomplishments of your career. I am confident that each of you will seek that kind of service. And when you do, that will be Tech, too.

So, what happens next?

Massachusetts requires everyone who passes its bar exam to come to the historic Faneuil Hall in Boston to be sworn in.¹³ All ceremonies conclude with each newly licensed attorney lining up to sign his or her name in a book. But not just any book. It’s the same book

John Adams signed when he became a lawyer over 250 years ago.¹⁴

It is a highly antiquated and inefficient process, but also a profoundly instructive one. It reminds us that becoming a lawyer does more than grant a privilege; it confers a consanguinity. Even if we Texans don’t sign a book in a material sense, we sign one in every sense that matters. And that process places us in relationship with John Adams, yes, but also with Abraham Lincoln, Thurgood Marshall, Sandra Day O’Connor, Phil Johnson, Mark Lanier, your professors, and every lawyer who came before and every lawyer who will come after. A conferred kinship larger and longer than ourselves.

For each of you, the next and final step of the process you began three years ago will be when you take your own oath—when you will be asked to place your name alongside the lawyers of yesterday, today, and tomorrow. I am blessed to have glimpsed what that means.

Serving as state bar president, I’ve crisscrossed this state meeting Texas lawyers: The 96-year-old in Amarillo who flew to danger from the decks of World War II carriers. The legal services attorney in Edinburg, fresh from law school and luminous with the prospect of serving the least, the lost, and the last. The two guys in blue jeans, excitedly setting up their new law firm in Longview. The assistant county attorney in El Paso, quietly capping her career of celebrated and selfless service to the people of this state.

I was proud of our relationship, one to another, as Texas lawyers. Proud to share that single, defining thing with each and every one of them. Proud to have written my name 37 years ago in the same book they had or would. And that’s ultimately what I’m here to tell you today: That you will be proud, too.

Today you take the penultimate step toward becoming a lawyer—I hope a Texas lawyer. Toward adding your name to a book rich with the names of women and men who forged this republic, brought forth commerce, and advanced justice. Impressive, yes, but there are still names it lacks.

It lacks yours.

Guns up, Good luck, Godspeed class of 2017. **TBJ**

The preceding speech is from the May 20, 2017, Texas Tech University School of Law Hooding Ceremony. It was originally published in the Texas Tech Law Review, Vol. 50 Book 3, p. 623 (2018). It has been edited and reprinted with permission.

Notes

1. David Rose, *They Call Me Naughty Lola: Personal Ads From the London Review of Books* (Simon and Schuster eds., 2006).
2. *Id.*
3. *Id.* at 17.
4. *Id.* at 36.
5. *Id.* at 96.
6. David Rose, *Sexually, I’m More of a Switzerland: More Personal Ads From the London Review of Books 51* (Simon and Schuster eds., 2010).
7. See Robert Frost, *The Road Not Taken*, in *The Complete Poems of Robert Frost* 131 (1965).
8. See generally Bill Bishop, *The Big Sort: Why the Clustering of Like-Minded America is Tearing Us Apart* (Houghton Mifflin Harcourt eds. 2009).
9. *Tex. Law’s Creed—A Mandate for Professionalism* (West eds., 2017).
10. John R. Dos Passos, *The American Lawyer 12–13* (The Banks Law Publishing Co., 1907) (republished Fred B. Rothman & Co. eds., 1986).
11. See *id.* at 25–26.
12. Jonathan Swift, *Gulliver’s Travels* 45 (1726).
13. *Formal Admission Ceremony and Alternate Admission Procedure*, Mass.gov, <http://www.mass.gov/service-details/formal-admission-to-the-massachusetts-bar> (last visited Oct. 24, 2017).
14. See *id.*; *The Young Lawyer—1758 to 1761*, John Adams Hist. Soc’y, <http://www.john-adams-heritage.com/young-lawyer-1758-1761/> (last visited Oct. 26, 2017) (discussing John Adams’ admission to practice law in Massachusetts).



FRANK E. STEVENSON II

served as the 2016-2017 State Bar of Texas president and is a partner in Locke Lord.