

**Commencement Speech  
Texas Lutheran University  
December 2007**

Members of the Board of Regents, President Svenningsen, members of the faculty and administration - thank you for your kind invitation to speak here today.

To the friends and family of our graduates - thank you for your money and your hard work in getting these students to the point where they will cross the stage today and receive their degree.

To the graduating class - congratulations and welcome into the fellowship of educated men and women.

As the introduction indicated I am a judge and a member of TLU's board of regents. I thought I was doing a good job as a board member. I was conscientious. I did my homework and contributed. So I am not sure what I did wrong to get tasked with delivering the dreaded commencement speech.

The commencement speaker is charged with being funny, relevant, wise and understanding. The speech is supposed to contain anecdotes, quotes, even relevant jokes to ensure that the speech will be unique and interesting.

What I am aware of is that my speech is standing between you receiving your degree and enjoying a safe but good time with family and friends. So I will try to keep this brief, and hopefully give a few words of advice that you can remember and use.

As a member of the legal profession I am often drawn to written materials that deal with the law. I have to admit, however, I don't see what the public attraction is to all the law-related TV shows and the numerous Judge Judy type of programs. That's just not how the legal and judicial process works. It's a slow process - cases are not heard and decided in 30 minutes. Law is grounded in history and nuanced.

The history of Jewish law records that there are 613 separate laws to obey. They arrived at that number because 613 separate letters are used in the Ten Commandments. There is no apparent connection in the letters and the laws but that was the number they came up with. This is what is termed, "Rabbinical letterism." They then divided their interpretation of the law into two parts: 248 affirmative laws--one for every part of the human body--and 365 negative laws--one for every day of the year. They divided the 613 laws into light laws and heavy laws. The light laws were not as binding as the heavier laws. They knew they couldn't possibly keep all 613 laws, so they were more lenient on some and heavy on others.

Well on a whim, I did a rough attempt at counting how many federal and state laws were on our books today. I could not come up with an estimate.

Federal statutes are codified in the United States Code. There are 50 titles in the United States Code. Each title contains numerous individual statutes. Many statutes give executive branch agencies the power to create regulations, which are published in the Federal Register and codified into the Code of Federal Regulations. Regulations generally also carry the force of law. When parties are uncertain about what a statute or regulation means, the parties may turn to the courts for clarification. There are tens of thousands of federal judicial interpretations or opinions that have been published.

In our federal system of government, the fifty American states are separate sovereigns with their own state constitutions, state governments and state judicial officers. They retain certain powers to make laws covering anything not preempted by the federal Constitution, federal statutes, or international treaties ratified by the U.S. Senate.

Given all this federal and state law out there - all this sort of makes one long for the simplicity of the ancient 613 laws.

But life is not simple. For as much as we attempt to simplify life's hard issues into black and white - the reality is life is filled with numerous shades of gray. Every day lawyers argue to me the nuances of words written in a statute or the multiple meanings of certain acts or omissions made by some party.

Criminal defendants while confessing to certain crimes, seek leniency for their behavior because of their upbringing (or lack thereof) or current financial predicament.

Well how do we navigate in a world of gray? Hopefully, here at TLU we have somewhat prepared you for this journey by providing you a solid educational foundation.

When Jesus was approached by the Pharisees with the question what law was most important, he quoted the most familiar passage Moses ever wrote - The Shema. "The Lord our God is Lord alone! You shall love the Lord your God with all your heart, with all your soul, with all your mind, and with all your strength." Jesus also then added: "You shall love your neighbor as yourself." The Shema was the most familiar Scripture to all Jews because they were to recite it twice a day. Every Jewish home had a mezuzah by the front door with the Shema in it. The men strapped small boxes with portions of the Shema in them to their foreheads and left arms to remind them of their responsibility to God.

When we hear the Shema we often reflect on the message to love with all our heart. But Jesus also reminds us to love God with all our heart, soul, mind and strength. The Hebrew understanding of the word heart refers to the core of one's being. Proverbs 4:23 says, "Keep thy heart with all diligence; for out of it are the issues of life." The heart is the intellect, which produces thoughts, words, and actions. Proverbs 23:7 says, "As he [man] thinketh in his heart, so is he." Thus, the intellectual part of a man is also seen in the term heart.

Central to navigating this world of gray will be your charting a course based on research,

continuous study, faith, doing and receiving random acts of kindness, and a little chance.

I have talked about the grayness in law. But this grey will appear in all walks of your life. Your generation will shape a whole host of business, legal, social and cultural issues. Intellectual property and patent issues await this generation and its ease with technology. The business world awaits your arrival and fresh set of lens with which to view and audit the corporate boardrooms. Your generation will herald a change in the composition of the legal and medical profession - professions that will reflect more women and minority practitioners than ever before.

Your generation will also tackle the issues of immigration, gay rights, school prayer, free speech, gun control, abortion, flag burning, review of petitions for habeas, privacy issues, the war on terrorism and capital punishment. The debate regarding these issues, if you can characterize it as a debate, has hardly been civil. There is always a danger that in defining a clear line to separate black and white and not recognizing the grey, one fosters an exclusive, divisive and potentially cruel orthodoxy.

No doubt there is a sense of security in drawing a clear line between black and white issues. I was reminded of that recently during a church bible study. We have been studying Brian McLaren's *The Secret Message of Jesus* and were asked which group we most identified with Herodians, Sadducees, Pharisees or Zealots. Despite Jesus's criticisms of the Pharisees throughout the New Testament, most in our bible study class opted for the law and order, black and white world of the Pharisees.

Well I have focused almost exclusively on imploring you to engage in continuous study so that you appreciate the nuances of gray and understand the ramifications of what color gradation you have selected.

I would like to also remind you that there should meaning behind why you continue to study. Isaiah reminds us to "Stop doing wrong, learn to do right. Seek justice, encourage the oppressed. Defend the cause of the fatherless, plead the case of the widow."

In that vein, I hope that you have taken advantage of The Jon and Sandra Moline Center for Servant Leadership and take the lessons you have learned there as you venture forth. TLU and the Center for Servant Leadership hopefully has encouraged and assisted you in developing a commitment to active community service and a sense of moral purpose. Your experience at TLU has allowed for the uncertainty - the grey that I have talked about - and in the process allowed you to ask the difficult questions of why we do things, why we serve, and how can your leadership skills and service experiences shape your future decisions. Continue to ask those questions of yourself. The answers you come up with will likely change over time. That's ok as long as your spirit to serve continues.

Oftentimes you never know when you will be called to serve. Although I had been a volunteer in various charities and chambers of commerce, my start in public service was wholly

unexpected.

One day a former State Bar President saw me in the foyer of a San Antonio office building. She stopped me and asked whether I had contemplated running for public office. The question took me by surprise, and the conversation was very brief. I responded perhaps one day - thinking to myself I would run for the local school board after my kids grew older. Much to my surprise, a few weeks later I was called by the Governor's office and asked to interview for a vacancy on the Texas Supreme Court.

After several rounds of interviews, I was asked to meet with Governor Perry. We had never met before. It never ceases to amaze me how events in one's life happen so unexpectedly. I happen to notice that on the Governor's desk was Stephen Ambrose's book on D-Day. I mentioned to the Governor that I had just recently finished reading the book and that I learned more about D-Day from a read of that book than I ever did from my father. My Dad said all of five words about his experiences during the war. He died the year before I met with the Governor. Those remarks led to a discussion between the Governor and I about the values we learned from our fathers. The next thing I knew I was appointed as a Justice on the Texas Supreme Court.

You never know what a good book and an open spirit will lead. Sometimes it is not a smooth road. The thrill of my appointment to the Texas Supreme Court and move to Austin was short lived; I was immediately hurled into running for election while handling the demands of a new job as an appellate judge on the state's highest civil court. On the campaign trail, I refused to speak on issues that could possibly appear before the court. I believed, and still believe, that a judge should not publicly comment on issues of the day in a manner that would appear as if the judge has pre-judged the case. The litigants deserve a fair and unbiased view of the case. My opponents portrayed me as undeserving, a mere affirmative action token, and a closet liberal. I was defeated in the primary and I again packed and unpacked my family and returned to San Antonio. I returned to a successful private practice at an international law firm where I was a partner. I was again an overpaid lawyer and life was good. A few months later the President nominated me to the federal bench. Duty and Service and the importance of the cases overcame the substantial financial sacrifice. Don't let materialism and debt overly influence your career decisions when you receive your call to serve.

I have talked briefly about the need for you to continue your education, and I have encouraged you to use your skills to do right and serve. I would like to now counsel you to be an optimist. Of the three, this may actually be the most difficult task.

We are inundated with popular books that claim any number of issues will be the straw that broke our collective societal back. TV political pundits rail so on all candidates that we are led to believe that our democratic experiment has wholly failed. Discourse is no longer civil and we race to the gutter to express any disagreement.

Well I studied something real useful in college. I received a degree in medieval history. So, I tend to look at things in a historical context. In the year 1000, folks thought that life on earth

was coming to an end. In the year 1300 a university professor complained that “students attend classes but make no effort to learn anything.... The expense money which they have from their parents or churches they spend in taverns....” Some griping and criticisms never change.

So when hearing the naysayer I say remain an optimist. Generations before yours have faced greater uncertainty and adversity in their times ... and flourished.

I inherited that sense of optimism from my father. A man, by all accounts, who had no reason to be so optimistic. He was raised by a single mother who had just crossed the border from Mexico during the Great Depression. He left school after the sixth grade to pick peanuts and do odd jobs to raise a few pennies to help out. He enlisted during World War II and landed on the beaches of Normandy on D-Day. He was assigned to the medics and like all medics did not carry a weapon. When he got back home, he married my mother and raised 4 boys. When I was 9 years old Mom died, and Dad raised us alone. His 4 boys went on to receive 8 university degrees and 3 military commissions. The success of my brothers and I are largely attributable to Dad's belief in the value of an education and optimism about this country.

I remain optimistic by looking back and reminding myself of what is important and I remember the words of St. Augustine written in 425: “This heavenly city, then, while it sojourns on earth, calls citizens of all nations, and gathers together a society of pilgrims of all languages, not scrupling about diversities in the manners, laws and institutions ... but in recognizing that, however various these are, they tend to one and the same end of earthly peace.”

So I close reminding you to continue your broad liberal arts education, remain an optimist, and use your skills in some way to advance the collective good because as Proverbs remind us that if you look for insight and raise your voice for understanding then you will understand righteousness and justice and equity and then every good path and wisdom will come into your heart.

Congratulations and best wishes.