

NORTHEASTERN UNIVERSITY SCHOOL OF LAW**COMMENCEMENT ADDRESS****BY NONNIE S. BURNES '77-'78****May 25, 2007****To be a great lawyer, you have to have an attitude**

Thank you, Chairman Finnegan, President Aoun, and Dean Spieler. I am honored to be recognized by the law school that I love. This law school has opened many doors for me and I continue to be challenged by it to put my legal education to productive work every day. Even in my new job as Commissioner of Insurance for the Commonwealth of Massachusetts. I know that your eyes glaze over whenever anyone mentions insurance but every day I think about how to make the insurance system work better for business and for the consumers, all to the end that Massachusetts will be a better place for people to live and work.

I am also honored to be in the company of my esteemed former partner, Michael S. Greco, former president of the American Bar Association, who has done so much to further the representation of those who are often unrepresented, and Judge Sonia Sotomayor, who by virtue of her passage from the South Bronx to Princeton University to the 2nd Circuit Court of Appeals, brings an extraordinary appreciation of the texture of life to her decisions.

And for those of you who may not know her, I want to acknowledge my former judicial colleague, fellow trustee and friend, Margot Botsford, a rigorous, but compassionate, legal analyst and a great jurist.

Each of these people on the podium has had a distinguished career marked in large part by their contribution to the legal culture and furtherance of the values that we at Northeastern hold dear – dedication to the role of law in advancing the public good.

Each of you graduates has the opportunity to have such a career. Yours may not be as public as theirs has been; yours may not get the recognition that theirs has. It will be no less valuable, because each of you has the opportunity to be a great lawyer. You have that opportunity no matter where or with whom you practice.

One of the hallmarks of Northeastern University School of Law is training great and highly ethical lawyers who intend to advance the public good, wherever they practice. You do not have to be in a legal services organization – although you may be – nor in a public interest law firm – although you may be – to be a great lawyer and advance the public good. You can be a great lawyer in the Northeastern mode from anywhere.

Your law school has given you the tools and the experience to understand how important each of you is in working for the public good. Each of you has met the school's public interest requirement. Some of you have been trained to understand the complexities of combating partner abuse; some of you have considered the challenges confronting the nation's inner cities; some of you have examined questions concerning race and justice facing urban communities; some of you have explored the relationship between law and public health. All of you have had a year's worth of work in the legal environment as you participated in your coop jobs. Each of you has now experienced what takes most lawyers many years to appreciate – that to address complex and difficult legal and social problems one has to be thoughtful, rigorous, imaginative, courageous and tenacious. In short, you have to be a great lawyer.

But to be a great lawyer, you have to have an attitude -- the right attitude. You have to look for the opportunities to work for the public good wherever and however you choose to practice your profession. You will not always have this wonderful law school finding these projects for you; you may find yourself practicing in a setting where doing the public good is not the number one item on your associates' agenda. You will have to make your own way.

Let me give you a metaphor.

Every year I go skiing in British Columbia. The mountains are beautiful and steep. The snow is deep and powdery. But in the trees there is danger from something called tree wells. When it snows a lot, the snow builds up around the tree. A hole develops around the tree. Sometimes the hole can be almost as deep as the tree is tall – 10 feet or more.

You cannot see the hole from the surface. It just appears that you are looking at a short tree. If you fall next to that tree, you may fall into that tree well and not be able to get out by yourself. If the soft snow next to the tree falls in on top of you, you are really in trouble. So you need to avoid tree wells.

I was taught a handy trick: look at the snow *between* the trees. Don't look at the trees. This way you stay on the safe snow; you are not drawn to the danger.

I like to think of it this way: Don't look at the hazards, look at the opportunities. This, to me, is a great way to approach life. Look for the opportunities.

You can practice law this way, too.

Let me give you a few examples.

In October 1973, Archibald Cox, the special prosecutor investigating the break-in at the Watergate complex in Washington, sought documents by subpoena from the White House. President Richard Nixon did not want to

produce the documents. He offered a compromise. Senator John Stennis would read the documents and provide a summary to Cox.

Cox, a very good lawyer, not surprisingly refused to agree to that format; he insisted on seeing the documents himself. Nixon refused to produce the documents and instructed Attorney General Elliot Richardson to discharge Cox. Richardson refused. Richardson said that he had promised Congress that he would not interfere with the investigation. Richardson resigned.

Nixon then instructed Richardson's deputy, William Ruckelshaus, who had become acting Attorney General to discharge Cox. Ruckelshaus refused -- and resigned.

Solicitor General Robert Bork then became acting AG and followed Nixon's instructions, firing Cox.

You all know the rest of the story. But my message here is that Richardson and Ruckelshaus were great and ethical lawyers and refused to do something that they thought would violate their promises to Congress, violate the rule of law and upset the balance of powers. They did not focus on the potential hazards to their careers; they only saw the path to do the right thing.

I hope that you are comparing their actions to those we are now seeing being reported in the press about the people who were involved in the firing of the seven – or is it eight? Or is it now nine? -- United States Attorneys in December 2006. We now hear that there were those who thought that this was wrong, at the time, and they thought of resigning. But no one did, at the time. And think about George Tenet, who is now saying that he knew all along that the intelligence justifying the invasion of Iraq was wrong. Now, six years later, he says he thought about resigning at the time – but didn't.

It did not take Richardson and Ruckelshaus six years to decide to resign. The scenario I just described to you all transpired in an afternoon and evening.

You may be thinking that only people with big and important positions have the opportunity to do great and ethical things. Not so.

Let me give you another example.

A couple of weeks ago I went to the annual dinner of the Boston Bar Association. At that dinner the BBA honored those Massachusetts lawyers who are representing alleged terrorist detainees at the Guantanamo base in Cuba. These lawyers and others around the country are seeking some sort of meaningful hearing for those men who are being held at Guantanamo without any process being given them. Most detainees have had no hearing but those who have often faced their accusers without counsel and without knowing what the evidence was against them. The lawyers who were honored by the BBA come from some of the most prestigious firms in the country –

and from very small firms of two or three people. These lawyers were – and are – contributing their time and talent to protect the rule of law.

They have also put their careers on the line. In January of this year, Deputy Assistant Secretary of Defense Charles “Cully” Stimson criticized the lawyers representing these suspected terrorist detainees. He called on corporate executives to force the big law firms to choose between their pro bono and paying clients. That is, he suggested that the corporate executives tell these law firms that the corporations would withdraw their business from these firms if they continued to represent the “terrorists.” Fortunately, there was a torrent of outrage from lawyers, law professors, legal ethicists and bar association officials. They loudly reminded the public – and Mr. Stimson – of a lawyer’s obligation to represent people in legal trouble. And, not incidentally, to follow the rule of law.

I am proud to say that one of the leaders of those voices was your dean, Emily Spieler, who with Harold Koh, dean of the Yale Law School, drafted a letter of objection which was ultimately signed by over 160 of 190 law school deans in the US.

That is great lawyering on both accounts.

My favorite great lawyer story, though, is about my law school classmate, Monica Halas. Monica went to work for Greater Boston Legal Services when she graduated from law school and she is still there 30 years later. They are lucky to have her.

This is the story of the \$10 million word. In 2002 Monica convinced the legislature to remove the word “one” – that’s o - n - e – from the statute and brought in to the Commonwealth an additional \$10 million – that’s right -- \$10 million of additional unemployment benefits. And that was just for the first year.

Here is how a great lawyer seizes an opportunity.

In 2002 there was a federal statute that allowed the states some flexibility in determining whether an applicant was eligible for extended unemployment benefits. The federal law described two tests for eligibility. The Massachusetts law implementing that federal statute required the state to pick one of the tests. That meant that some workers received these benefits but some were not eligible.

Monica combed through the federal statute and determined that the state could use *either one* of two tests, not one or the other. If the legislature removed the word *one*, the statute would allow the state to identify which of the two tests was the appropriate one. The state could use either method; it just had to say which one it was using for any given applicant.

But someone had to get the legislature to change the law, and it had to happen before year end. There were a lot of tree wells around this problem, but Monica saw only the path between the trees. She went to work and convinced the legislature to remove the word *one* from the statute. The result was the 10 million additional dollars that flowed into the Commonwealth for unemployed people who needed extended benefits.

It would be pretty hard to top this story, but I can tell you that every day lawyers are offered the opportunity to advance the public good, in big ways and little, no matter where they work. You just have to train yourself to look for those opportunities. And don't look at the barriers to accomplishing your goals. Suppose Monica had not used her eagle eye in reading the statute; suppose she had said, "No one can get the legislature to change a statute so quickly." She would have been looking at the hazards and she would have missed the opportunity to do great good.

So, cultivate this attitude: when you see an opportunity to advance the public good, do not be deterred by the surrounding dangers. Seize that opportunity and be a great lawyer.

Congratulations and good luck.