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Williams A. Marsh

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## THIS IS OUR CHALLENGE, NOT OUR FATE

WILLIAM A. MARSH\*

I am deeply grateful to have the honor extended me to address you this evening during this Annual Banquet for Seniors.

I am sure that the small dot that represents our lives in the endless line of time and in the future of the human race will possibly be of no lasting moment. However, much has happened in the last fifty years, a period that until this time has not been surpassed in discovery and event. We have lengthened the life of the individual twenty years, and yet we have also discovered a way to destroy all life instantly. We have engaged in the most devastating and savage wars. Yet we have made the greatest attempt to preserve peace. But rather than concern ourselves as citizens here today with the problems of Viet Nam and/or The Gulf of Aqaba, let us concentrate on some problems here which will challenge those of you who aspire to the teaching of or the practice of law.

We live in the present, we dream of the future and we learn eternal truth from the past. Therefore, it is for this reason that I choose to address you on a subject befitting this occasion and that is, This Our Challenge, Not our Fate.

I regard the privilege of addressing you as imposing upon me two obligations: first, that of being brief; secondly, that of saying such things as are calculated only to merit the attention of those present here for this wonderful occasion. For the breach of the first obligation, I should be without excuse, but the second involves such difficulties, that I must rely upon your kind forbearance if I fall short.

To develop my subject, I deem it both necessary and beneficial to make certain historical references, as those references pertain to Negroes in America.

This nation was built upon the loyalty and patriotism of its citizens. Patriotism . . . the pride of citizenship, the respect for the rights of others, and the jealous zeal to protect individualism. Such a free society must rely upon the respect of others. Force is an alternative to exact discipline, and by its nature it lacerates and destroys individual freedom.

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\* Attorney William A. Marsh, Speech delivered at the Annual Senior Banquet, May 27, 1967.

We are told that the cradle of civilization lies within the fertile valley of the Nile on the Continent of Africa. Moreover, we are told that within that environment the inhabitants are perfectly and normally at home with their culture. However, in another environment, adjustments for those people are difficult, sometimes so much so that they appear to be savages and incapable of learning, even for their own self-survival.

Thank God that modern day Negroes have exposed this myth as not only being erroneous, but without foundation or merit.

At Jamestown in 1619, the Dutch brought to these shores the first Negroes as slaves. These poor human beings were subjected to all types of inhumane treatment. Time passed and in 1863, the foundation of our status here was laid in the Emancipation Proclamation, declaring freedom for Negroes from slavery.

Since that time Negroes have demonstrated their abilities in all areas of our community. But by and large, the demonstrations of these abilities have been confined to the Negro community. It is now time to demonstrate our abilities, based on merit, in the total community.

Negroes in the pursuit of their rights as free citizens may be compared to the Americans who pursued their rights during the American Revolution. We have had to fight, so to speak, to gain our right to participate in the affairs and privileges of the United States, step by step in the area of voting, travel, eating, and even to the point of demonstrating that we are fighting men by being willing to serve as members of our armed forces, in wars and global conflicts that America has and is now engaged in. We fought as organized units on the side of the Federal Government during the Civil War. We were recognized as fighting units for the preservation of the union, and for this we paid dearly because of the vindictive attitude taken by southerners in their massacre of Negro soldiers at Fort Pillow, Tennessee, by troops under the command of General Arthur B. Forest, CSA; vindictive because we were recognized as men and not as mere chattel.

We became of fighting age in World War II, having won the right to fight rather than just being construction engineers in the Corp of Engineers as we had been in the Spanish American War, World War I, and the early part of World War II. We were officers in the Infantry, Ordnance, the Air Force and the Navy. And in conflicts today, in which America is engaged, we are still demonstrating that we choose democracy

as the safe-guard for all human beings, notwithstanding the fact that we are yet fighting here within the boundaries of our own America for the right to be Americans and thereby deserving, as free citizens, the right to enjoy all the fruits and benefits that a true democracy should offer.

There are many citizens of the white race who are willing to accord Negroes all the rights and privileges that they now themselves enjoy, but by and large the majority of the outspoken ones would not like to see Negroes as anything more than laborers at hard tasks, or at best, enjoy what they choose for us to enjoy and accept the place that they have set aside for us.

My friends, these are the type of citizens you will face when you have left this school to pursue your special work. Therefore, eternal vigilance must be your obligation to continue to pursue and preserve all the rights we have won to become first class citizens and fail not for, if you do, all that we have fought and are fighting for will be empty victories. Only by wide awake performance in whatever you do, will you be able to succeed in this, our task.

Old words and phrases which formerly explained high-sounding theories are now of common usage, even within the vocabularies of pre-teens and, as it were, elementary school students. Such words as nuclear fission, outer space, orbiting, projectory, integration and such phrases as academic awareness and preparedness are but few examples.

At one time, Negroes were allowed to participate in their own communities with mediocre abilities, but now that their demands to participate in the total community have become more frequent and more pronounced, mediocrity will neither be expected nor tolerated.

In almost every area of life—in schooling, public accommodations, and above all, voting—the southern Negro has lately made enormous strides toward gaining the equality guaranteed him by the Constitution and reaffirmed in the recent massive wave of civil rights legislation. Ironically, it is in the field of law and administration of justice, that he is most frequently foiled. All too often white segregationists go on killing civil rights workers without fear of conviction, and white police terrorize Negroes and arrest the victims as suspects. To the southern Negro, it still seems that the whole system of law winks at nearly every lawless scheme to suppress him and deny him his rights.

Yes, there is an obligation to the law society. It was stated more

than one hundred years ago by Abraham Lincoln in these passionate words:

Let every American, every lover of liberty, every well-wisher to his prosperity, swear by the blood of the Revolution, never to violate in the least particular, the laws of the Country . . . . Let every man remember that to violate the law is to trample on the blood of his father and to tear the character of his own and his children's liberty. Let reverence for the laws be breathed by every American mother, to the lisping babe, that prattles on her lap . . . let it be taught in schools, in seminaries, and in colleges; let it be written in primers, spelling books, and in Almanacs; let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the political religion of the nation; and let the old and young, rich and poor, the grave and gay, for all sexes, tongues and colors and conditions, sacrifice unceasingly upon its altars.

No society whether free or tyrannical can give its citizens the "right" to break the law. There can be no law to which obedience is optional, no command to which the states or individuals attach an "if you please."

What has happened to us? Why is it necessary at this moment, to repeat what should be axiomatic and accepted? Many, many words more eloquent than mine have examined from every angle the genesis, the roots, the grievances, the despair, the bitterness, the emotion, the frustration that have resulted in the tragedies of these days.

Let there be no question of where we stand on human rights and our rejection of discrimination. Surely, the continuing social task for the morally sensitive citizen is to impart reality to the yet unachieved ideal of full and equal participation by all and in all our values and opportunities.

Specific disobedience breeds disrespect and promotes general disobedience. . . . Our grievances must be settled in the courts and not in the streets. Muscle is no substitute for morality. Civil disobedience is negative where we require affirmative processes. We must insist that men use their minds and not their biceps. But while the emphasis must be on the three "Rs" of reason, responsibility, and respect, we cannot accept self-righteousness, complacency and non-involvement. We have an affirmative and daily duty to eliminate discrimination and provide opportunity, full opportunity and meaningful, equal justice for all our people.

Obedience and not disobedience is the requirement of law and the law must be obeyed by laborers and governors and especially lawyers.

In an era of social, political and scientific revolution—and at a time of accelerating and complex change—we of the law must particularly renew our understanding and improve our articulation of the basic issues of freedom under law and the continuing need to strive for equality and meaningful liberty and justice for all. Our will and determination are being tested as never before.

It is most appropriate here and now to re-emphasize our professional calling as lawyers or future lawyers. We must support and protect the laws whether we agree with the particular statute or not. We must help deter the ranting of Rasputin incendiaries who would have our people believe our judges to be conspirators determined to free criminals, disrupt law and order and destroy our country. These judges may be wrong . . . they undoubtedly make mistakes . . . and when they do, they are entitled to objective criticism. But we, as lawyers, are constantly reminded that under our traditions of judicial propriety, our courts must remain silent under the most unjust and unprovoked attacks. The preferred forum to reverse court decisions is still in the courtroom.

Dissent in our government is both honorable and historic, it must never, however, be the engine of destruction . . . it must always be the instrument of improvement. The right of dissent is a vital factor in maintaining the health of our democratic order. But there exists an equal obligation for those with responsibility to decide . . . to act . . . to choose among conflicting opinions and available options. Furthermore we must also be able to differentiate between constructive and destructive protest in other forms.

May I say that no end justifies law violation as its means. While the immediate fruits may seem rewarding, the scar that remains upon our fabric of human behavior is a constant incentive to accept disobedience of law as a means of conduct. Former Governor Wallace of Alabama, Stokely Carmichael of SNCC and Mayor Wense Grabarek of Durham, must also realize this.

In the practice of law, facts reveal that the Negro lawyer has had to fight every step of the way to gain access to the market place. In so doing, we have been confronted with inequities too numerous to mention—too burdensome to bear—yet we struggle in the face of seemingly insurmountable odds.

From *Sweatt v. Painter*, through *McKissick v. The Board*, this is vividly portrayed. The maintenance of the North Carolina College Law

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School is but another example. Now the latest test our our challenge comes from previously all white professional societies.

Through all of these challenges, it has been our glorious privilege to take part. All teachers and practitioners of the law recognize this. Aspirants will be confronted with this. Therefore, these privileges are “Our Challenge, Not Our Fate.”