

Out of



Kindergar



Out of

Law

BY

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Members of the class of 1995 of BYU Law School, thank you for inviting me. I am honored. · While I was thinking about the presentation for this afternoon, one of my favorite poems kept coming to mind:

*Two roads diverged in a yellow wood,
And sorry I could not travel both
And be one traveler, long I stood
And looked down one as far as I could
To where it bent in the undergrowth.*

[Robert Frost, "The Road Not Taken"]

School

For the last few years when speaking at an occasion like the one we celebrate today, I have quoted from the book *All I Ever Really Needed to Know I Learned in Kindergarten*, not just for law school graduation ceremonies but for orientations and honors days as well. With general student audiences, I have used it to reassure students that they

are equipped to handle the anxiety and stress that invariably occurs when they encounter new situations. For law students, I have used it to reassure them that they are equipped to handle the anxiety and stress that evidently affects law students and lawyers in exceptionally high proportions. I have used it hoping to enable them to answer critics of the profession who seek to judge them by their stereotypical depictions of lawyers as dishonest and greedy, by providing them with the confidence

and serenity that arises from knowing they are charting the proper course. I realize that in speaking to you, such use may be redundant. Although you have chosen to seek your legal education in such a special place and therefore have pledged to live your lives in a special way, I want to come back to

uating and also to reaffirm many things that you already know. The poem states the challenge: that you consider pursuing the road less traveled by. You are special people. Most of you have already taken that path in just how you've chosen to live your lives. In numbers, in level of education, in hours worked, in so many ways, you are very different from most of your non-law colleagues. In our professional code, you are—we are—unique as well.

began looking for themes especially meaningful to you. Last November I clipped from a recent issue of *USA Today* the cover story, entitled "Children Get Poorer; Nation Gets Richer." I was saving it for inclusion in the materials I was collecting for the race and gender class I teach spring semester. Accompanying the feature was a straight news story headlined "In 1993, Child Poverty Levels Hit 30-Year High." I was struck by the opening paragraphs:

They do not
wash their hands
before they eat. There is
no water. Or soap.
And some do not have
hands to wash —Robert Fulghum

that essay and another one in a few minutes; but first, back to the poem.

For some reason, of all the poems I learned in high school, that Robert Frost one sticks with me—at least that much of it. I sensed that it was appropriate for today's talk, but I couldn't remember anything beyond those first four lines. One of my daughters supplied the last lines of the poem:

*Two roads diverged in the wood, and I—
I took the one less traveled by,
And that has made all the difference.*

My objective today is to present a challenge to those of you who are grad-

We place particular demands on ourselves. We share a passion for justice and access to justice that transcends any memorized or learned credo. From what I know of you, you share with me a passion to make the world a better place for all of us.

Having said that, I want to devote the rest of my remarks to what I see as one of the most formidable obstacles to the future greatness of our society. It threatens us no matter how well off, how well educated, or how well protected we feel. It is the hopelessness felt by so large a segment of our population.

When your dean asked if I would deliver your commencement address, I

Seven-year-old Antoinette Thomas doesn't know that here in her homeland, 15.7 million children are poor. But she knows she's poor: She has to save her candy money to buy socks.

Nine-year-old Sandra Gomez doesn't know that a greater share of U.S. kids are poor now than at any time in three decades. But she knows she's poor. The family meal is donated by the local church.

Fourteen-year-old Ralph Montemayor doesn't know that 31 percent of poor kids, like him, now live in suburbia. But he knows he's poor: He hates to show people the crumbling house where he sleeps under a big hole in the ceiling.

The statistics record it: Nearly 23 percent of kids live in poverty, not in third world countries, but *here in the United States*.

Sandra Gomez' father works from 6:30 a.m. until 10:00 p.m. In fact, almost two-thirds of poor families with kids have an adult who works; one-fifth

employment requirements; and high divorce rates and out-of-wedlock child-bearing, rising sharply and giving rise to unprecedented numbers of children in single-parent and, if lucky, at least single-income households. Nonsupport or insufficient support from noncustodial parents compounds the problem.

need to know" and its simplistic solutions to all of the world's problems. Let me help you recall it now. It reads:

All I really need to know about how to live and what to do and how to be I learned in kindergarten. Wisdom was not at the top of the graduate-school moun-



have a full-time, year-round worker. Modesto Gomez earns \$9,600 a year wages from a dry cleaner and gets about \$200 a month in food stamps.

Antoinette Thomas' mother was kicked out of her parents' house when she became pregnant at age 16. For most of the last 12 years she has supported her kids through welfare, food stamps, and part-time jobs. A few months ago, she was hired into a full-time job as a nurse's assistant, but her salary leaves her family well below the poverty line.

I shouldn't have to recite the litany of reasons for that poverty—we know them all too well: family wages that have fallen in relation to inflation; global economic shifts that have changed

In choosing a theme for today, I reflected on our responses—as lawyers, as legislators, and as citizens—to these problems. So much of what has been in the news has focused on a dislike or disapproval of the parents' behavior and not on the poor children. Rather than rushing to provide them with the education, health services, nutrition, and guidance that might enable them to break this chain of poverty, we seek to cut them off. Our discussions of welfare reform and stiffening immigration laws seem to focus more on insuring that this new generation of poor children—15.7 million of them—will be undereducated, undernourished, and unhealthy. I considered the essay I mentioned earlier, the "all that I really

tain, but there in the sandpile at Sunday School. These are the things I learned:

Share everything.

Play fair.

Don't hit people.

Put things back where you found them.

Clean up your own mess.

Don't take things that aren't yours.

Say you're sorry when you hurt somebody.

Wash your hands before you eat.

Flush.

Warm cookies and cold milk are good for you.

Live a balanced life—learn some and think some and draw and paint and sing and dance and play and work every day some.

Take a nap every afternoon.

When you go out into the world, watch for traffic, hold hands, and stick together.

Be aware of wonder. Remember the little seed in the Styrofoam cup: The roots go down and the plant goes up and nobody really knows how or why, but we are all like that.

Goldfish and hamsters and white mice and even the little seed in the Styrofoam cup—they all die. So do we.

essays that takes its title from the one I just read, he has published another, entitled *It Was on Fire When I Lay Down on It*. In one of the book's essays that I recently read for the first time, he revisits his kindergarten theme. He tells us:

Here's the tough part of what I know now: that the lessons of kindergarten are hard to practice if they don't apply to you. It's hard to share everything and play fair

But we know.

And it ain't kindergarten stuff.

[Robert Fulghum, *It Was on Fire When I Lay Down on It* (New York: Ivy Books, 1991) pp. 106–107]

A commencement celebration is not the time for discussion of such weighty matters. The celebration of your accomplishments should be just that, a celebration. We should celebrate all of the good that you do, all of

The search for meaning in life is an individual's most personal concern.

And remember the Dick-and-Jane books and the first word you learned—the biggest word of all—LOOK.

Everything you need to know is in there somewhere. The Golden Rule and love and basic sanitation. Ecology and politics and equality and sane living.

... Think what a better world it would be if we all—the whole world—had cookies and milk about three o'clock every afternoon and then lay down with our blankies for a nap. Or if all governments had as a basic policy to always put things back where they found them and to clean up their own mess.

*And it is still true, no matter how old you are—when you go out into the world, it is best to hold hands and stick together. [Robert Fulghum, *All I Really Need to Know I Learned in Kindergarten* (New York: Ivy Books, 1989), pp. 4–5]*

That essay is by Robert Fulghum, an amateur philosopher. Since the success of his first published collection of

if you don't have anything to share and life is itself unjust. I think of the children of this earth who see the world through barbed wire, who live in a filthy rubbed mess not of their own making and that they can never clean up. They do not wash their hands before they eat. There is no water. Or soap. And some do not have hands to wash. They do not know about warm cookies and cold milk, only stale scraps and hunger. They have no blankie to wrap themselves in, and do not take naps because it is too dangerous to close their eyes.

Theirs is not the kindergarten of finger paint and nursery rhymes, but an X-rated school of harsh dailiness. Their teachers are not sweet women who care, but the indifferent instructors called Pain, Fear, and Misery. Like all children everywhere, they tell stories of monsters. Theirs are for real—what they have seen with their own eyes. In broad daylight. We do not want to know what they have learned.

the difference you make, and through that celebration, we should experience a sense of renewal for even more dedication and devotion to making our society work. Despite the gloominess of that last essay, I think it can serve to do just that.

In earlier times, we would have read or heard the passage from Fulghum's newer book and thought about children in Third-World or eastern bloc countries. Think though about what we are now confronted with in this country—homelessness, inadequate education, children born addicted to cocaine or stricken with AIDS. Children killing children. Parents killing children and each other.

What are the prospects for bettering the lot of children and others affiliated with these troubles? About four years ago, my family came to visit for my daughter's high school graduation. My sister and her daughter live in Detroit, the city with the highest child

poverty rates in this country, according to *USA Today*; 46.4 percent of the children in that city live in poverty. Although, my niece had another week and a half of the school year remaining when they came to visit, my mother took her back to Washington with her for the summer. Why? Not because she herself was suffering in Detroit (my sister is a pharmacist), but because despite their relatively stable middle-class neighborhood, everyone expected Detroit to erupt, if not the next week, sometime that summer. As of June 1 of that year, there would be no more state aid for the indigent, no aid for nutrition for pregnant mothers, and no aid for dependent children. Imagine your despair if you were not able to feed and care for your children. Imagine your community if, despite your own ability to do so, a large portion of the population could not provide for themselves and their families.

Think of the frustration, anger, and despair, the divisiveness and hate, that has led our present-day anarchists to take up arms against the very governmental structure that holds the most promise in the world for peaceful settlement of issues, equitable distribution of plentiful resources, meaningful voice in the system—either for change or for the status quo—and a level of freedom of speech and religion that is not enjoyed anywhere else on this planet. Think of what it must mean if indeed the people who bombed the federal building last week intended to kill the children and elderly who were going about their business peaceably on a Wednesday morning in Oklahoma City.

The Fulghum essay speaks of

children of this earth who see the world through barbed wire, who live in a filthy rubbed mess not of their own making and that they can never clean up . . . [who] do not wash their hands before they eat [because] there is no water or soap . . . [or because they] do not have hands to wash . . . [who] do not know about warm cookies and cold milk, only stale scraps and hunger . . . [who] have no blanket to wrap themselves in, and do not take naps because it is too dangerous to close their eyes. . . .

. . . They tell stories of monsters. Theirs are for real—what they have seen with their own eyes. In broad daylight.

When we take the road less traveled by, we can make a difference in their worlds. We have all of the tools. Despite appearances to the contrary, our educations and personal journeys represent individualized processes of learning, of aspiring, of forming ideas that can be claimed as our own, even as we study with and learn from others and from a largely static canon. Our journeys are private and individualized as well by the nature of the particular set of circumstances that brings each of us to whatever are our tasks.

But we have a responsibility not only to ourselves and our loved ones but also to society. We can fulfill that responsibility by recognizing and assuming that which we have to ourselves: a responsibility to take ourselves seriously, to live, as philosophers describe it, “the examined life.” A commitment to examine life guarantees that life *will* be taken seriously, not just by us but by those around us as well.

The search for meaning in life is an individual’s most personal concern. Some might seek meaning in retreat, retreat to a formula, wrapping up complex questions in a limited set of answers, simplifying the task, circumscribing behavior. Leaders cannot afford this luxury. There are no easy answers. Indeed, often there are no answers at all, just as there is no “find” to the search for meaning in life. It is not something to be found. It is something that *each of us creates by our own actions, by our own behavior.*

We try, by our example, to teach others that we define ourselves by the lives we choose to live, in the goals we choose to make our own. One of my mentors, now president of the City University of New York’s Graduate Center, once remarked:

We can choose to tack up a large canvas on which to paint, or we can choose to live a life whose meaning is defined as nothing more than bits and pieces of scraps of paper.

We in essence define ourselves by the permanence of our contributions, by the effects we have on the lives of others and on the world, by the nature of the changes that our lives produce.

When I was growing up, one of my stated goals was to have some significant positive effect on the lives of at least three people. I felt that was an ambitious goal. I was naive. And I was lucky. As an attorney and as a university professor and administrator, I realize that I am empowered as few others are. Whatever the utilization of the degree, the education I received prepared me to both understand and shape public policy. It prepared me to discern and affect issues related to labor, corporations, property, government, education, foreign affairs, health, and the general affairs of people—the list is long. But the key is to recognize the responsibility that attends such power.

Formal education is a device of modern society to help people create meanings in their lives by giving them tools that enlarge their choices, that offer them the perspectives that can enable them to fashion their own creations. But it is not the only way to accomplish that. You in this place this day are uniquely suited to do the job that needs to be done to ensure that basic freedoms and aspirations are in reach of everyone. That first, idealistic essay of Fulghum’s speaks of “the Golden Rule and love and basic sanitation. Ecology and politics and equality and sane living.” It refers to “a basic policy to always put things back where [we] found them and to clean up [our] own mess” and the desirability of, “when [we] go out into the world, . . . hold[ing] hands and stick[ing] together.” *Beyond* that we can add our voices and our talents in our daily personal lives to making this a better place for everyone, a world that cares, a world different from that in Fulghum’s second essay. That’s my challenge to you. Together we can make it happen.

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