

Pragmatism

STL Commencement

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President Hai. Dean Yandle. Dear Faculty Colleagues. Distinguished guests.

Members of the Peking University School of Transnational Law Class of 2013, I cannot put into words the powerful emotions that I feel as I speak to you today. Four years of courageous work are over, and at last you are ready to move from the world of study into the world of action.

I first spoke to you as your dean almost four years ago, on August 24, 2009. You were all very nervous, wondering whether you had done the right thing by committing your lives to this experimental new school. I told you that morning that you, the members of the Class of 2009 (for that is what we called you then), were brave. Brave to study law under the Socratic method. Brave to commit yourselves to developing the reflex of sympathetic engagement of counterargument. Brave to give up the belief that law is just a simple set of rules.

That day was the beginning of a very intense year for you. The next thing you knew you were discussing *Antigone* with Jason Eyster, watching the Paper Chase with Dean Yandle, and reading *Erie vs. Tompkins* with me. And before you knew it you were immersed in a traditional American-style curriculum, taught by Peter Malanczuk, Yifat Biton, DBT, Whit Gray, Charles Ogletree, Linda Elliott, Matthew Stephenson, and Ray Campbell.

Four years later, you have passed all your classes, you have defended your theses, and you are ready to face the world. You are truly different

people today from the people I met in 2009. You really do think like lawyers.

You have learned to cherish complexity, subtlety, and difficulty. You have become comfortable with uncertainty, and with the idea of living in a world where questions do not always have one right answer. Like generations of law school graduates before you, you have come to know that wisdom lies in the ability to simultaneously hold two inconsistent perspectives on an issue in your mind. To understand how each of those inconsistent perspectives might be held by good and decent people.

These lawyerly ways of thinking help to define the community that you are entering, and they will help to define your future careers. But this afternoon I want to take a few minutes to emphasize that they do not define the whole of who you are. They will not be the only keys to your future successes in life.

Today I would like to talk about a different quality of mind that I associate with the Class of 2013. It is another quality that I admire very much. And I want to say that I hope that you will cherish it and make good use of it as you go forward with your careers.

I am referring now to your *pragmatism*.

Your pragmatism is important because it balances the spirit of *idealism* that sets you apart as exceptionally talented lawyers. Before I talk about your pragmatism, we should take a few moments to reflect on how important that spirit of idealism is. One of the most important lessons you have learned here at STL is that great lawyers interpret legal rules by referring to *noble ideals*.

Lawmakers – whether they are legislators or judges – do not create legal rules for no reason at all. They create legal rules for the purpose of promoting noble ideals. So when we need to apply those rules, we ask ourselves what interpretation will best serve the noble purposes that motivated the lawmakers.

And so, during your time as STL students, the language of those noble ideals became part of your everyday vocabulary. You became comfortable using terms like “justice,” “equality,” “liberty,” “fundamental

fairness,” “human dignity,” “legitimacy,” “sovereignty,” and even “economic efficiency.” You became comfortable balancing those ideals against one another. You even came to enjoy arguing with your classmates about how the balance should be struck in any particular case.

A great lawyer must understand those ideals. And a great lawyer must work to bend the law in the direction of such lofty purposes. For any society dedicated to the rule of law must ultimately be dedicated to more than the enforcement of whatever arbitrary rules its lawmakers might have written down. It must ultimately be dedicated to being a society where those rules promote the greater social good.

My central point today, however, is that a great lawyer’s work cannot exist only in the world of abstract ideals. Clients do not bring their lawyers hypothetical questions about the meaning of a legal rule. They bring their lawyers problems that need solving.

To serve well, lawyers must dig in and understand who their clients are, and what their clients want to accomplish. They must gain their clients’ trust, they must translate the language of the law into language their clients can understand, and they must help their clients to discover effective ways to achieve their own goals while respecting the legitimate interests of others.

Part of what makes legal practice so interesting is that when a lawyer does this, she sometimes discovers that assumptions she held in the abstract do not really hold up in the real world. Systems that seemed clean and beautiful when they were designed turned out to be badly flawed when they were forced to contend with the infinite complexity of daily life.

In a well-functioning legal system, this kind of information feeds back into the world of the lawmakers. We cannot force the real world to match our assumptions; we need to revise our assumptions to take account of our actual experience.

More than a century ago, the world of philosophy was transformed through the emergence of a set of ideas that were grouped together under the name, “pragmatism.” Three of the founders of that school of thought

were C.S. Pierce, William James, and John Dewey. Its ideas were brought to China by John Dewey's student Hu Shi.

One of the ideas at the core of pragmatism is a belief that we should not get lost in our own abstract notions about the way the world is; we need to see whether those notions are actually useful when we try to carry out our daily lives.

In operating our school, we at STL have tried our best to live out that pragmatic virtue. But this afternoon I want to emphasize that, when the history of STL is written, you – the Class of 2013 – will be remembered for having helped us in important ways to achieve a more pragmatic balance in our educational program.

When we founded STL, we were focused on the fact that our graduates would have a critical advantage over graduates from other Chinese law schools. We wanted to maximize the superior strengths that STL graduates would have in domains such as sympathetic engagement with counterargument.

But you helped us to recognize a key pragmatic fact: domestic Chinese law firms would not be able to value those superior qualities of STL until after they were persuaded that STL students are just as strong as their competitors in their mastery of Chinese legal doctrine.

We could not force the real world to match our assumptions; we had to revise our assumptions to take account of actual experience. Therefore we modified our curriculum, and we had people like Professor Guo and Professor Jin teach you Chinese law earlier in your academic careers. I believe your contribution can be seen as an eloquent example of the need for great lawyers to find the proper balance between idealism and pragmatism in their work. All future generations of STL students will be the beneficiaries of your legacy.

Members of the Class of 2013, you are about to embark on lives of service to a society that desperately needs you. As you go, let me conclude by stating a few hopes that we, your teachers, hold for you:

May you enjoy the special pleasures of craft — the private satisfaction of doing a task as well as it can be done.

May you enjoy the special pleasures of profession — the added satisfaction of knowing that your efforts promote a larger public good.

May you be blessed with good luck, and also with the wisdom to appreciate when you have been lucky rather than skillful.

May you find ways to help others under circumstances where they cannot possibly know that you have done so.

May you be patient, and gentle, and tolerant, without becoming smug, self-satisfied, and arrogant.

May you know enough bad weather that you never take the sunshine of Shenzhen for granted, and enough good weather that your faith in the coming of spring is never shaken.

May you always be able to admit ignorance, doubt, vulnerability, and uncertainty.

May you frequently travel beyond the places that are comfortable and familiar, the better to appreciate the miraculous diversity of life.

And may your steps lead you often back to Shenzhen. Back to the Peking University of School of Transnational Law. Class of 2013, the STL story is very much your story. And we will always be happy to welcome you home.

Congratulations.