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Why Law Matters

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The Association of American Law Schools Annual Meeting
 Second Meeting of the House of Representatives
 Presidential Address
 New York City
 Saturday, January 9, 2016

Good afternoon. Thank you, Blake—you have been a wonderful president and it is an honor to take the handoff from you, my brother of the heart. Please join me in recognizing and thanking Blake Morant.

Thank you all for being here this afternoon. Before I share a few remarks with you about the upcoming year, I also want to quickly thank several others [thanks family, colleagues from UW; former colleagues from SU; alma mater, Indiana (and especially Provost Lauren Robel)].

I also want to thank the AALS, including the other members of the Executive Committee; our inspirational director, Judy Areen; and all of the hardworking AALS staff. Together, we are striving to enhance AALS's leadership to better serve our member schools and to more forcefully and effectively advocate for legal education. We respect and value our member schools' diverse missions and goals. When you thrive, we thrive. Our present aim is to redouble our efforts to be of service to you. Not to tell you what to do or how to do it but to support what you do so well. To be a leading voice on your behalf, both on our own and by working to enhance synergies among the many other national organizations involved in legal education.

As we look forward to the year ahead, I have selected a theme that I hope will be inspiring to our member schools and one that will help the AALS continue advancing our advocacy for law and for legal education. That theme is "why law matters." It is a theme designed to bring out the best of the academy and to encourage us to explore—at a fundamental level—why what we do matters in meeting the challenges of our current social environment.

Please permit me a few minutes to share a bit about my motivation for this theme and to make three quick points about my hopes for it over the course of the coming year.

As to motivation: In my view, the role of law in society is insufficiently understood or appreciated and that gap is a harmful one. After over 12 years as a dean and over 20 as a professor, I am still surprised by how hard it is for even very smart people to understand the importance of the rule of law to how the world works—or doesn't work. From students to the general public to university presidents/provosts to leaders of major foundations, law is often seen too narrowly as only being about a system of dispute resolution rather than in its broader role of creating what I call the ecosystem for human flourishing. I suppose that in this broader sense law is like the air we breathe—we only notice it when it's not there. But we can no more live healthy lives without the rule of law in this world than we can without air. And waiting to appreciate its vital role until we are choking and gasping is not a good strategy.

Rather, we need to make our case now for why law matters and the academy's vital role in advancing respect for and understanding of the rule of law. In a 1974 article, *Legal Education and the Rule of Law*, John Cribbet, an AALS Executive Committee member and dean of Illinois called this the "silent *raison d'être* of legal education and the lasting claim for public and private support of the law schools."¹ Making our case is both urgent and important. In this age of information overload and soundbite reliance, we cannot assume that a concept as complex as law will be understood and appreciated without our sustained efforts. That is especially true in the current environment where many aspects of law are troubled and vivid: race-based violence and racial inequity in our criminal justice system; growing access to justice gaps as economic inequality widens; honest businesses struggling to compete against countries that do not value law and justice; deepening ethnic and religious conflicts and resulting migration surges; devastating gun violence expanding in number and scope.

Let's be honest, the public views law either as a shield that protects the rich, especially if you're rich, white and male, or as a sword that cuts down the poor, especially if you're poor and black or undocumented. We must acknowledge this public view while also knowing—and helping others to know—that adherence to, not rejection of, the rule of law will help us with these conflicts and more. We have a good case to make that law matters and it is time we make it.

I'd also like to share three quick points about my hopes for this theme:

My first hope is that we can engage this theme together throughout the year, not just at the next annual meeting in San Francisco. Certainly for that meeting I will be seeking your ideas for plenaries and other programs that engage this theme. But I also hope that many schools will make this theme an explicit part of the day-to-day life of the law school; many of you do already, and we want to help promote your work. And if there are ways that I and the other Executive Committee members can be a part of program you plan or

1. John E. Cribbet, *Legal Education and the Rule of Law*, 60 AM. BAR ASS'N J. 1363, 1365 (1974).

events you host, please let us know. Again, we seek to be effective partners with and advocates for our members. We are going to be looking to tell our collective story in ever more effective ways.

My second hope is that this theme will bring us together, both across the academy and across the profession. For better or worse, we are all certainly “in this together” in every way. I am a true believer in diversity and inclusion. What that means for me is that I do not support replacing one form of orthodoxy with another; rather, I think we are at our best when we seek to value the dignity of every person and to create a climate where difference is valued and inclusion is prioritized. We should all care about law and justice and engage in robust dialogue about why law matters. And, as important as legal education is to “why law matters,” so is the bench and bar, the policy makers and the public. Let us seek to practice inclusion in that regard as well and to build more bridges across our profession. Let us model the kind of civic community and respectful debate that our world both needs and craves.

My third hope is that this theme can make a difference—to us, to our profession, to our communities and to our world. Perhaps it can help us jettison some of the old tropes of law, as, for instance, those of “obstruction” and “cost” that may be limiting. Perhaps it can help us understand law in new ways and help us appreciate again some of its historic strengths applied to new contexts—as for instance, an important stabilizing force in a “disruptive” age. Perhaps a more intentional focus on why law matters will help us to re-energize our teaching, research, and service and inspire a new generation of students to dedicate their lives to the law. Perhaps we can be stirred (not shaken!) to press on—across challenging terrain—to be what we are made for: the part of our profession with the privilege and the duty to take the long view, holding in trust for past, present and future generations the promise of equal justice under law.

In closing, please do not misunderstand me in making “why law matters” my theme. I do not ignore, for instance, Grant Gilmore’s provocative point that if law is viewed narrowly as only process, then in hell there will be nothing but law and due process meticulously observed.² Neither do I ignore his prior point that we would have little need for law in a world where everyone was just. We all know that we do not live in such a world. In our beautiful and broken world, law may not be the only pathway to justice but I believe it remains the most promising one in our grasp. You will all have different views about what justice means and how to reach it; I celebrate those diverse viewpoints and thank you for joining me in this vital task.

Enjoy the rest of the conference and I look forward to our year together.

2. GRANT GILMORE & PHILIP BOBBITT, *THE AGES OF AMERICAN LAW* 99 (2d ed. 2014).