

6-6-1956

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ADDRESS DELIVERED BY JUSTICE JESSE W. CARTER
OF THE SUPREME COURT OF CALIFORNIA
AT THE COMMENCEMENT EXERCISES OF GOLDEN GATE COLLEGE
ON JUNE 6TH, 1956,
AT THE WAR MEMORIAL VETERANS BUILDING IN SAN FRANCISCO

When I was a boy I remember reading the following
verse in one of the few literary books we had in our home:

"If you could go back to the forks of the road,
Back o'er the miles you have carried the load,
If you should have then a choice to make,
Oh, Pilgrim of sorrow, which road would you take?"

The thought there expressed had significance to me
then only in its literal application to the roads and trails I
trod in the wilds of Trinity County where I spent my boyhood
days.

When approaching young manhood I came to San Francisco
with the thought of following a career in the then somewhat
undeveloped field of electrical science. But matters of public
interest engaged my attention and I found myself absorbed in

the so-called graft prosecutions which were then in progress in our local courts. While pursuing a college preparatory course in a private school I saw an advertisement on a billboard which read something like this: "Young man, you may become a lawyer by studying law at the Y. M. C. A. Law College -- 4-year course -- 3 nights a week -- See E. E. Esdon, Educational Director, 1220 Geary Street."

At this point the verse above quoted had a different meaning. I had come to the forks of a different type of road. They led into entirely different paths of life. Four years then seemed a long time and the uncertainty of a successful career in the legal profession somewhat appalling. I have never regretted the decision I made then. This does not mean that my path was strewn with roses -- far from it. The journey which lay ahead was, of course, unknown. I went through the starvation period of the young lawyer of those times -- sought public office because I thought I would like it and I badly needed the salary. I was first defeated and then

elected District Attorney of Shasta County, taking office six months before the national prohibition act went into effect. This presented a problem, the solution of which threatened my future career both as a public official and as a reputable member of the legal profession. While public sentiment as to the wisdom of this law was generally divided, it was overwhelmingly against the enforcement of the law in Shasta County. Once again I came to the forks of the road. I could give support to the enforcement of the law by the federal officials and use the abatement provisions of the act to close places of business operated in violation of the law, or I could say that this was not a part of my duties, and do nothing about it. After the effective date of the law, the reputable people engaged in the liquor business in Shasta County closed their doors and obeyed the law, but a lawless element immediately took over. Where there were 40 legitimate saloons in Redding before prohibition, there were nearly a hundred bootleg joints operating illegally shortly after the law took effect. The

people operating these places were not what might be called good citizens. Many of them had violated, and were violating, other laws as well as the prohibition law. I felt impelled to exercise what power I had to enforce the law. I knew this would be unpopular with many people who were opposed to the prohibition law. I had little cooperation from the peace officers of the county and none from the police officers of the only two cities in the county. The board of supervisors were divided 3 to 2 in my favor, but two of the three were susceptible to the pressure of those opposing the enforcement of the law. So I found myself fighting single-handedly and alone against a tide of adverse public sentiment. It was not a happy situation. There were times when the future looked hopeless. I remembered then the utterances of some great men who had fought and won against great odds. I think it was Andrew Jackson who gave birth to the thought that, "One man with courage is a majority." Abraham Lincoln, when he was subjected to vicious attacks during his presidential administration, said: "I do

the best I know how, the very best I can, and I mean to keep on doing so until the end. If the end brings me out all right, what is said against me won't amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference." William Jennings Bryan, in his history-making Crown of Thorns and Cross of Gold speech, declared: "The humblest citizen in all the land when clothed in the armor of a righteous cause is mightier than all the hosts of error." When Woodrow Wilson realized that he was making a losing fight in seeking to secure the adoption of the League of Nations of which he was one of the primary founders, he declared: "I would rather fail in a cause which must ultimately win than to win in a cause which must ultimately fail." These and many other expressions of those who had fought against great odds were inspiring and helped to sustain me when the going was tough. I did enforce the law and I look back now with some degree of pride in what I accomplished in those somewhat hectic times.

While I was not defeated when I ran for re-election, I won by only six votes.

As district attorney of Shasta County I had, of course, the usual run of problems which arise in the smaller counties of the state and which are not difficult of solution, but I desire to mention one occurrence in my experience in that position which has become of statewide importance. The owner of the leading daily newspaper in the county was appointed a member of the board of supervisors by the governor to fill a vacancy. Before qualifying he asked my opinion as to whether or not he could do the county printing after he became supervisor. I told him that in my opinion he could not, but that I would ask the attorney general for his opinion on the subject and would be guided by his advice. I immediately submitted the matter to the attorney general and within a few days was advised by him that my position was correct. I so advised the supervisor and informed him that he would have to comply with the law. Nothing further was said about the matter

for nearly two years when the man in charge of the job printing for this newspaper came to me and informed me that the newspaper had been doing the county printing and that the claims therefor were filed under his name in order to circumvent the law. I immediately had an audit made and found that the supervisor had received from the county during this period approximately \$8,000 for county printing and that some of the prices charged were more than three times the rate which had been fixed by the board of supervisors. I immediately made a demand upon the supervisor to repay this money to the county. He came to me and pleaded with me to overlook the matter and not force him to repay this money. He offered to devote the pages of his newspaper to any purpose I desired and, in his own language, to champion any political ambition I might have. Of course, I knew that if I performed my duty and forced him to repay this money to the county, I would bring upon myself all of the wrath which this newspaper could heap upon one of its enemies and it seemed for the moment that my political future

depended upon my decision. I was again at the forks of the road. The record shows that I took road which led to the performance of my official duty, and that after a long and hard battle through the courts this supervisor was forced to repay to Shasta County over \$10,000 which included a 25% penalty in addition to the amounts which he had received in payment of illegal printing contracts. What I anticipated with respect to vicious attacks by the newspaper came true and I was forced to endure the most venomous attacks which were ever printed for public consumption. While this was an unpleasant experience, I now look back with a sense of genuine satisfaction over what I accomplished. I not only saved the county from being defrauded by one of its officials, but I succeeded in laying down salutary rules of law which are still recognized as sound by all of the courts of this country that it is against public policy as well as the statutory law in most states for a public official to use the influence of his office to gain a profit in his own private business.

While there are few matters a Supreme Court justice of California may act upon individually, I have been presented with numerous applications for a stay of execution in death penalty cases, where the convicted person was seeking to have his conviction reviewed by the Supreme Court of the United States. Under federal law an individual justice of the court which rendered the judgment sought to be reviewed, has the power to grant a stay in such a case. About two years ago an application for such a stay was presented to me by an attorney on behalf of Caryl Chessman under sentence of death in San Quentin prison. I was then on vacation at my summer home in Siskiyou County. The Supreme Court of California had recently denied such a stay. The application was presented to me only 24 hours before the execution date. After spending a sleepless night studying the application, I came to the conclusion that it was meritorious as it appeared from the undisputed facts stated therein that Chessman had been denied due process of law as the result of the fraudulent preparation of the record of

his trial after the death of the court reporter who had taken shorthand notes of the proceedings. I knew that if I granted a stay in this case, I would be severely criticized because of the notoriety the case had received in the public press. I also knew that if I did not grant a stay, Chessman would be executed and the Supreme Court of the United States would not have an opportunity to review his case. I granted the stay, and as I anticipated, the criticism was vicious and widespread. But in due course the Supreme Court of the United States agreed with my position and directed that Chessman be given a hearing on his claim that the record of his trial was fraudulently prepared. I was greatly pleased over the decision of the Supreme Court, not only because it sustained my position, but because it laid down a salutary rule for the administration of justice in such cases. While I suffered greatly from the unjust criticism, I would have suffered more if I had failed to do my duty because of the fear of such criticism.

I have related these matters to you tonight not for the purpose of self-praise or to emulate myself as a great public servant, but to impress upon you young men and women who are at the threshold of a professional career that when you come to the forks of a road in your journey through life, there is a right and a wrong road which you may follow. At this point you have a choice and I have no hesitancy in stating that regardless of the personal consequences which might befall you, the road which will insure your future happiness and success is the one which lies in the path of duty.

As Daniel Webster said in his masterful argument in the White murder case, "There is no evil that we cannot either face or fly from, but the consciousness of duty disregarded. A sense of duty pursues us ever. It is omnipresent, like the Deity. If we take to ourselves the wings of the morning, and dwell in the uttermost parts of the sea, duty performed or duty violated is still with us, for our happiness or our misery. If we say the darkness shall cover us, in the darkness as in the

light our obligations are yet with us."

We are here tonight in commemoration of an anniversary of an institution which was founded more than a half a century ago in response to the long-standing demand that an opportunity be afforded to men and women employed in this area who desired to secure an education which would qualify them for membership in some of the learned professions. The presence of the graduating class here tonight as well as the success and accomplishments of the graduates of this institution attest the soundness of the concept of its founders as well as the wisdom which directed their efforts. While it is doubtful that they envisioned an institution of the proportions and standing in the educational field of Golden Gate College today, they are entitled to a much deserved tribute for having pioneered a venture which has enabled so many men and women to achieve their goal in life. It has been said that: "If we work upon marble, it will perish; if on brass, time will efface it; if we rear temples, they will crumble into dust; but if we work upon

immortal minds, and imbue them with principles of truth, justice and love of our fellow men, we engrave on those tablets something that will endure through all eternity." Both the founders of this institution and those who have perpetuated its existence deserve the encomium of all who believe that education should be within the reach of those who have the will to achieve it regardless of their station in life. This has been the objective of Golden Gate College. That it is a worthy and commendable objective is demonstrated by the host of men and women who have used its facilities to qualify for professional careers and achieve a high degree of success.

To the men and women who have pursued their courses of study at night while working full time during the day, I extend both my sympathy and congratulations -- my sympathy, because I appreciate the sacrifice you have made, and my congratulations, because of what you have accomplished in the face of adversity.

It has been said that: "Genius is only the power of

making continuous effort." While this definition may be too abstract, it contains a basic concept which should be impressed on every student. It is no doubt true that continuous effort will not always suffice to produce the works of a genius, but I think it is equally true that continuous effort, properly directed, will generally accomplish the desired result

The night school student has some advantages over a day student. The former must work harder, sacrifice pleasure and learn to conserve his time. The result of this training enables him to meet and solve difficult problems more readily after he embarks upon his professional career.

I think it is safe to say that the world is more in need of people with ideas and initiative today than ever before. This, for the obvious reason that competition has become keener and civilization is moving forward at a more rapid pace. There will always be a place in our rapidly changing economy for the person qualified by educational training to do the job at hand. The Golden Age is ahead -- not behind you.

Have no fear that you have set your goal too high. There is no limit to what you may accomplish by the application of the time-honored precepts of honesty, industry and perseverance.

As the late Oliver Wendell Holmes observed near the close of his most eventful career: "No man has earned the right to intellectual ambition until he has learned to lay his course by a star which he has never seen, to dig by the divining rod for springs he may never reach. To think great thoughts you must be heroes as well as idealists. Only when you have worked alone -- when you have felt around you a black gulf of solitude more isolating than that which surrounds the dying man, and in hope and despair have trusted to your own unshaken will -- then only will you have achieved. Thus only can you gain the secret isolated joy of the thinker, who knows that, a hundred years after he is dead and forgotten, men who never heard of him will be moving to the measure of his thought -- the subtle rapture of a postponed power, which the world knows not because it has

no external trappings, but which to his prophetic vision is more real than that which commands an army."