

## KEYNOTE SPEECH

### DEDICATION OF THE WILLIAM R. ELEAZER COURTROOM\*

Dick Thornburgh\*\*

I am truly honored to join you today in dedicating the William R. Eleazer Courtroom. Let me first congratulate the Stetson Centers for Excellence in Advocacy and Elder Law for making this cutting-edge, optimally accessible courtroom a reality.<sup>1</sup> I also want to congratulate Dean Darby Dickerson for guiding Stetson University College of Law's proud tradition of advocacy to new heights. This year's victory at the Willem C. Vis International Commercial Arbitration Moot Court competition in Vienna is only one of the recent testaments to this school's tradition of advocacy training.<sup>2</sup>

I am particularly pleased with the Eleazer Courtroom for the contribution it will make to advancing the cause of disability rights. This year we mark the fifteenth anniversary of the Americans with Disabilities Act (ADA).<sup>3</sup> The ADA aims to eradicate the myriad forms of discrimination that fifty-four million Americans with disabilities face every day in the workplace, in access to pub-

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1. See *Barrier-Free Courtroom*, Tampa Trib. (Fla.) 5 (July 31, 2005) (describing the Eleazer Courtroom as "a high-tech, barrier-free courtroom").

2. See *Stetson Scores Victory in Vienna*, 32 Fla. B. News 10 (May 15, 2005) (explaining how Stetson University College of Law won the 2005 Willem C. Vis International Commercial Arbitration Moot Court competition).

3. 42 U.S.C. §§ 12101–12213 (2000).

lic services, in transportation and communication, and in places of public accommodation.

It was my great privilege to serve as Attorney General in the administration of President George H. W. Bush during the effort to pass the ADA and to act as that administration's "point person" in this significant effort.<sup>4</sup> For me, the ADA represented a unique opportunity to merge my political and personal agenda. In 1960, when I was a young lawyer in my home town of Pittsburgh, Pennsylvania, my wife was killed in an automobile accident that injured my three sons as well. My youngest son Peter, four months of age, suffered multiple skull fractures and serious brain injuries. His life hung in the balance during the next five months he spent in the hospital, and his homecoming, just before Christmas, was a day of jubilation for his family. After three years as a single parent I met and married my current wife, Ginny, whose devotion to Peter has produced a remarkable life for him and his family despite his disability of mental retardation. But more on that in a moment. You can see that my deep interest in the passage of the ADA was grounded in my concern about Peter and his rights and opportunities as he continued the long climb back from his injuries.

One of the driving forces behind the ADA's passage was an awareness that people with disabilities face stigma and unwarranted stereotypes about their ability to contribute to our society. People too often equate *disability* with *inability*, rather than recognizing that each of us, disabled or not, has a full spectrum of abilities. We have tended to construct our built environment upon an unstated assumption that every individual can, or should be able to, climb stairs, read small print, and process distant speaking. Whether from benign neglect or subtle animus, our actions have closed the doors to countless numbers of Americans.

We know from the history of other civil rights movements that stigma is a destructive force that does more than destroy individual lives. It also robs our nation of valuable talent. Faced with an onslaught of messages that one is inferior through no fault of one's own, whether because of skin color, one's gender,

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4. See Jonathan M. Young, *Equality of Opportunity: The Making of the Americans with Disabilities Act*, ch. 4, 37 (1997) (stating that "Attorney General Thornburgh became the point person to represent the administration").

age, or physical or mental disability, too many people find themselves internalizing these messages of inability. Our nation's civil rights laws, including the ADA, are designed to combat harmful messages of stigma.

We can all be proud of the progress we have made in protecting the rights and maximizing the opportunities of all our citizens, including elderly Americans and those with disabilities. We see the impact of the ADA all around us: in commercials that include wheelchair-users, in sign-language interpreters at political conventions, in a store clerk who has mental retardation, and in Braille signage on an ATM machine. People with disabilities are beginning to assume their rightful roles as independent, self-supporting, involved citizens.

Yet the road to eradicating discrimination is not one for the weary; it takes time and unceasing effort. We must continually strive to communicate the message that discrimination and exclusion are morally and legally wrong and to make sure that people with disabilities know it is wrong and know there is something they can do about it. We deliver that message best not by words, but by actions. That is what makes the Eleazer Courtroom so special. It is a perfect example of the power of action.

The Eleazer Courtroom embodies much of what the ADA aspired to accomplish. In 1990, as he signed the ADA into law, President Bush proclaimed, "Let the shameful wall of exclusion finally come tumbling down."<sup>5</sup> This courtroom tears down yet another one of those walls of exclusion. The courtroom doesn't simply accommodate wheelchair access, though that is monumental in its own right. It goes so much further. Its technology will enable people with various sensory impairments to participate fully in our judicial process. It also will help educate people about our judicial system by explaining the cast of characters and activities that fill a courtroom.

The Eleazer Courtroom also does more than send a message about accessibility and high technology. It signals the bringing together of two important constituency groups: older adults and people with disabilities.

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5. George H.W. Bush, Remarks, *Remarks on Signing the Americans with Disabilities Act of 1990* (D.C., July 26, 1990) (transcript available at <http://bushlibrary.tamu.edu/research/papers/1990/90072600.html>).

The Eleazer Courtroom has emerged in large part out of Stetson's expertise in elder law.<sup>6</sup> Nevertheless, the Courtroom illustrates how effectively addressing the needs of our elderly citizens breaks down barriers faced by people with disabilities. This is only one example. Many of the top priority issues facing the elderly are also of paramount concern to the disability community. Think of access to health care and prescription drugs and access to effective transportation. This year's high-profile coverage of the tragedy of Terri Schiavo underscored the importance of end-of-life issues for both people with disabilities and elderly persons.<sup>7</sup>

This week we were given another powerful and painful reminder of the intersection between elder and disability issues. As the waters receded from the devastating flood wrought by Hurricane Katrina, we learned of more than forty individuals who died in nursing homes.<sup>8</sup> In one of the cases, the owners ignored repeated warnings of a mandatory evacuation and did not implement their own plans to evacuate. The owners even refused offers to transport the residents out of the nursing home. Instead, the owners erected a feeble defense of tables and couches to block windows and doors. This is unacceptable, and the owners are properly being charged with responsibility for these individuals' deaths.<sup>9</sup>

But the problems of our custodial institutions live with us every day, not just in moments of national catastrophe. Millions

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6. See generally Stetson U. College of L., *Center for Excellence in Elder Law*, <http://www.law.stetson.edu/excellence/elderlaw/StetsonElderLaw2006.pdf> (accessed Sept. 8, 2006) (discussing Stetson's concentration in Elder Law).

7. See generally C. Christopher Hook & Paul S. Mueller, *The Terri Schiavo Saga: The Making of a Tragedy and Lessons Learned*, 80 *Mayo Clinic Proc.* 1449 (2005) (analyzing the ethical and legal issues surrounding Terri Schiavo's case). For an in-depth discussion of the issues surrounding the *Schiavo* case and the Florida Legislature's adoption of Terri's Law, see Volume 35, Number 1 of *Stetson Law Review*, titled *Reflections on and Implications of Schiavo* (available at [www.law.stetson.edu/lawrev/](http://www.law.stetson.edu/lawrev/)).

8. See Kevin Freking, *Nursing Homes Need Better Storm Evacuation Plans*, *Columbian* (Vancouver, Wash.) D8 (Aug. 21, 2006) (noting that fifty-six deaths were reported at two nursing homes that failed to evacuate during Hurricane Katrina).

9. See Greg Miller & Ellen Barry, *Couple Charged in Deaths of 34 Not Evacuated from Nursing Home*, *Orlando Sentinel* (Fla.) A1 (Sept. 14, 2005) (noting the charges against and arrest of the owners of St. Rita's Nursing Home after failing to evacuate the nursing home before Hurricane Katrina); Paul Rioux, *Doomed Nursing Home Had Offer of Bus Transport: Coroner Says Owner Snubbed Help until It Was Too Late*, *New Orleans Times Picayune* (La.) A02 (Sept. 9, 2005) (describing conditions at St. Rita's Nursing Home before and after Hurricane Katrina hit New Orleans).

of people with disabilities and elderly persons depend on attendant services, whether in larger institutions or small community-based settings. In the last few decades we have seen a large shift toward smaller group homes, a trend supported by the Supreme Court's *Olmstead*<sup>10</sup> decision, in which I filed a friend of the court brief in support of the regulations adopted during my tenure as Attorney General.<sup>11</sup> But group homes can be problematic too. Just this week, *The Wall Street Journal* ran a front-page story about neglect and abuse in group homes.<sup>12</sup> One man, who was restricted to a pureed foods diet, died due to asphyxiation; an autopsy revealed he had part of a sandwich lodged in his throat. Others have endured sexual abuse by service providers. Meanwhile, many persons receiving support services in their homes have been the victims of fraud, including theft of financial assets.

These are issues close to my heart. I promised you the rest of my son Peter's story earlier on. Peter Thornburgh today is forty-five years old and lives in a supervised apartment in Pennsylvania with other residents with disabilities. He works as a volunteer in the local food bank where he bags bagels and other bulk foods and describes his job as "helping poor people." Thanks in large part to the efforts of my advocate wife Ginny, Peter has step-by-step advanced through life, meeting one challenge after another so that he is able today to be a contributing member of his community. He still has limited intellectual capacity, to be sure, and has lately been obliged to use a walker to get around. But he has come so many more miles in his journey toward full participation in his community than we ever would have imagined possible. To us, Peter demonstrates how all people, when given a proper chance, can fulfill their God-given potential, however limited, and contribute to our nation's greatness. Regrettably, not all of our citizens who are older and have disabilities have been as fortunate as Peter.

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10. *Olmstead v. L.C.*, 527 U.S. 581 (1999) (holding that the ADA requires the most integrated community-based settings whenever possible).

11. Br. of Hon. Dick Thornburgh, Natl. Org. on Disability as Amici Curiae in Support of Respts., *Olmstead v. L.C.*, 527 U.S. 581 (1999) (available at 1999 U.S. S. Ct. Briefs LEXIS 569).

12. Clare Ansberry, *Safe Place: Disabled People Find Group Homes Can Be Broken, Too—Patients Gain Independence, but Oversight Is Spotty*, Wall St. J. A1 (Sept. 13, 2005).

By the way, inspired by her work with Peter and others with disabilities, my wife has for the past sixteen years directed the Religion and Disability Program at the National Organization on Disability.<sup>13</sup> She is committed to ensuring access to congregations of all faiths for children and adults with disabilities who might otherwise face barriers to their full participation in a life of faith. She has co-authored a prize-winning, user-friendly publication, *That All May Worship*, as a guide for congregations that want to convert barriers to bridges within their places of worship.<sup>14</sup>

The tragedy of abuse, neglect, and exclusion that people with disabilities and the elderly face is magnified when we view such treatment as a report on the health of our civilization. We best measure the success of our civilization not by the prosperity of the well-to-do, but by the way we treat those who are most disadvantaged and most in need. We've made a lot of progress since the passage of the ADA, but we have clearly not achieved the goal of a barrier-free society that values each and every human life.

Where do Stetson and the Eleazer Courtroom fit into this picture? Ideally we'd like for our country to undertake the types of reforms it needs to do on its own. The ADA champions voluntary compliance. I view the ADA as an opportunity, not a burden. Many public and private entities around the country are doing their part. But we know that sometimes litigation is necessary. As the Supreme Court recently stated, "Central both to the idea of the rule of law and to our own Constitution's guarantee of equal protection is the principle that government and each of its parts remain open on impartial terms to all who seek its assistance."<sup>15</sup> Litigation may be necessary to enforce the goals of the ADA, but we hobble our enforcement efforts if the courts themselves are not accessible. The Supreme Court recently recognized this in the *Tennessee v. Lane*<sup>16</sup> decision, by upholding individuals' rights to hold states and municipalities accountable for achieving the ADA's mandate of an accessible judicial system.

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13. Joseph Shapiro, *Weekend Edition: Making Churches Accessible* (NPR radio broadcast Feb. 29, 2004) (available at <http://www.npr.org/templates/story/story.php?storyId=1720912>) (discussing Ms. Thornburgh's role in the National Organization on Disability).

14. Ann Rose Davie & Ginny Thornburgh, *That All May Worship: An Interfaith Welcome to Persons with Disabilities* (Nat'l. Org. of Disabilities 2000).

15. *Romer v. Evans*, 517 U.S. 620, 633 (1996).

16. 541 U.S. 509 (2004).

Many of you no doubt remember the facts of *Lane*, I am sure.<sup>17</sup> George Lane, one of the plaintiffs, was compelled to appear in the county courthouse to answer criminal charges. Due to a previous accident, Lane used a wheelchair for mobility; he could neither walk nor climb stairs. Because all the proceedings were on the second floor of the courthouse and the building had no elevator, Lane was obliged to abandon his wheelchair and literally crawl up the steps in order to appear in court. Following his arraignment, he was summoned again to the courthouse but refused to put himself through the humiliation of crawling up the steps again, and he was arrested and jailed for failure to appear. He eventually filed suit under Title II of the ADA, claiming that the state and the county had violated the Act by maintaining inaccessible courthouses. The case, in due course, reached the U.S. Supreme Court, where I again filed a friend of the court brief,<sup>18</sup> and on May 17 of last year, the Court upheld Lane's claim in a 5-4 decision.<sup>19</sup> What a monumental victory for the cause of disability rights!

One of the real problems with the implementation of the ADA is shortsightedness about what's possible. During the ADA congressional deliberations, many businesses and politicians complained that it would cost a fortune to comply and that it would put people out of business.<sup>20</sup> These fears have been proven unfounded. We know that accessibility is not costly if incorporated at the design stage. Even so, many individuals and organizations continue to drag their feet, sometimes simply because they do not understand what the law requires. Your efforts today will be a shining example of the spirit of the ADA and illustrate how we can build a judicial system that can be truly responsive to the needs of older adults and people with disabilities and protect their core rights and the obligations of citizenship.

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17. *Id.* at 513.

18. Br. of Hon. Dick Thornburgh, Natl. Org. on Disability, Am. Assn. of People with Disabilities & ADA Watch as Amici Curiae in Support of Respts., *Tennessee v. Lane*, 541 U.S. 509 (2004) (available at 2003 WL 22733908).

19. *Lane*, 541 U.S. at 533.

20. H.R. Rpt. 101-485(I) at 47 (May 14, 1990) (explaining the Congressional Budget Office's estimated costs of compliance with federal regulations preventing discrimination against people with disabilities).

Equally important, you will be educating your students and the broader Stetson community in a most effective manner. By hosting meetings and trainings as well as trial-related functions in the courtroom, you will raise expectations. Your graduates can then carry those expectations into their own public and private careers. They can demand that the institutions in which they practice model the accessibility they witnessed as students.

So I commend Stetson for your leadership in building the Eleazer Courtroom. But I also want to challenge you as well. Stetson has a highly respected elder law program. I'd like to see Stetson take a higher profile in helping to integrate the needs of people with disabilities and the elderly. You're already moving along the right track with the initiation of the Disability Law Project.<sup>21</sup> I hope you can build on that foundation.

People with disabilities and the elderly have not always necessarily been kindred spirits. As I mentioned, both groups face stigma. Ironically, both also sometimes fear the stigma of being associated with the other. Many elderly persons don't want to be viewed as disabled; many people with disabilities don't want to be viewed as old. And so they miss the opportunity to pool resources and become a more powerful advocacy force. Stetson could help bring the two groups together and train a generation of lawyers not to see elder law and disability law as two distinct subjects but rather to view them as a common set of issues that focus on making society accessible to, usable by, and just for all.

The disability community has an expression: that all of us are either disabled or temporarily able-bodied. Should we have the opportunity to live long enough, most of us will acquire a disability of one kind or another. With the retirement of the baby boom generation and the continuing advances of the medical profession, we are going to need a first-class team of attorneys equipped to deal with the far-reaching issues of the elderly and people with disabilities. Stetson is ideally situated to answer that call.

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21. Stetson U. College of L., *Center for Excellence in Elder Law*, <http://www.law.stetson.edu/excellence/elderlaw/StetsonElderLaw2006.pdf> (accessed Sept. 8, 2006). The Stetson Elder Law Center created the Disability Law Project to address emerging disability law concerns. *Id.* Specifically, this project affords law students the opportunity to work with local legal service offices in representing clients with disabilities. *Id.* In addition, the Disability Law Project brings in nationally acclaimed experts as speakers for its annual disability law seminars. *Id.*



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*William R. Eleazer Courtroom Dedication*

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Finally, I want to commend Stetson's commitment to pro bono work. Members of the legal profession are among the most privileged individuals in our society. We need to follow your example and use that privilege not merely to redound to our own benefit but to come to the aid of the least privileged.

And let us be mindful of Margaret Mead's charge: "Never doubt that a small group of thoughtful committed citizens can change the world; indeed, it's the only thing that ever has."

The Eleazer Courtroom is another proud example of how one group's effort can help change the world. Thank you for including me in its dedication.