Department of Justice

REMARKS OF RAMSEY CLARK
BILL OF RIGHTS 175th ANNIVERSARY CEREMONY
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Our Constitution and its Bill of Rights are products of the same time and mind. The elements that forged the new Constitution at Philadelphia in 1787 fashioned a promised Bill of Rights in the first session of the First Congress at New York in 1789.

The House of Representatives, led by James Madison, approved twelve proposed amendments September 24, 1789, the Senate acted favorably the following day.

Eight states, only three short of the required eleven, ratified the first ten amendments before the thirteenth, Rhode Island, adopted the Constitution on May 29, 1790.

When Virginia acted favorably on ten of the proposed amendments, the Bill of Rights joined the Supreme Law of the Land. The date was December 15, 1791: 175 years ago today: a date from whence we the people have lived midst the blessings of liberty to a degree few others have achieved: and this in some substantial part because we have believed in the principles embodied in the Bill of Rights.

We forget how difficult and uncertain was adoption of the new Constitution. On the final day of the convention, September 17, 1787, Franklin sought approval of the Delegates, saying:

> "I agree to this Constitution with all its Faults, if they are such... and believe further that this is likely to be well administered for a course of years and can only end in despotism...thus I consent, Sir, to this constitution because I expect no better and because I am not sure it is not the best. The opinions I have had of its errors, I sacrifice to the public good."

By a narrow margin, Virginia adopted the Constitution on June 25, 1788 with such stalwarts as George Mason and Patrick Henry in opposition. In at least one state, the change of a single vote would have meant defeat.

The union became a certainty when New York approved on July 26, 1788 by a vote of 30 to 27. Like most of the states, its convention urged prompt adoption of a Bill of Rights.

Hamilton had argued in the Federalist papers, that no Bill of Rights was necessary because "... the Constitution is itself, in every rational sense, and to every useful purpose, a Bill of Rights."

Indeed, the Constitution was designed to protect the rights of the individual through diffusion of power: the separation of Legislative, Executive and Judicial functions: the distribution of Government between the states and the states united: the clear commitment to Government of laws and not of men: a technique of checks and balances.

But the Constitution was essentially a system of Government. It created mechanisms, defined functions of the parts, delimited powers of Governments, all derived from we, the people.

And it was inevitable that the Government created would not long function before there would be protected from its reach "Certain unalienable rights," inviolate in the individual.

There was to be a limit to the powers of Governments and the limit was defined in ten amendments refined from nearly 200 proposals before the first session of the First Congress. The proposals can be traced through centuries preceding the English Declaration of Right of 1689 and they were evident in America before the Virginia Declaration of Rights in 1776. Their essence was distilled in the Bill of Rights.

Fewer than 30 separate thoughts are expressed in the Bill of Rights and these involve three principle concepts.

First, that thought, expression and worship shall not be controlled by Government.

Second, that fair trials shall be assured.

Third, that the person and property of the individual shall be free from undue interference by Government.

Thus came to be a constitution designed to preserve freedom through a system of government based on the rule of law with a Bill of Rights preserving the blessings of liberty under law; freedom of expression; fair trial; integrity of person and property.

Of this, Gladstone, one hundred years later, said:

> "I have always regarded that Constitution as the most remarkable work known to me in modern times to have been produced by the human intellect, at a single stroke (so to speak) in its application to political affairs."

His evaluation should be measured as that of a man who chose the Coliseum at Rome to propose marriage to his intended. He weighs his words carefully, if he pronounces them dramatically.

As we celebrate this asymmetrical anniversary, we should wonder at the vitality and continuity of our democratic faith and experience.

From a people numbering fewer than four million, with its chief metropolis 33,000 and only one in twenty living in towns of 2500 or greater, we have crossed a continent and filled the land.

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As our century, the Twentieth, began we were seventy-six million strong and predominantly rural. Two-thirds through this century we approach two-hundred million Americans, three-fourths urban. We are promised, or threatened, three-hundred forty million by the year 2000, 33 years hence when a person reaching his majority today will be at the height of his attainments.

The technological revolution, undreamt of in the Philosophy of the First Congress hurdles onward at an accelerating speed presently doubling our knowledge of the physical world each decade: a sixteen fold increase in forty years.

We have experienced more fundamental change in the way people live in the first two-thirds of this century than in history theretofore. We appear destined to duplicate this feat in the final one-third.

The tests our system of government has weathered are only prologue. We remain a great experiment in the Government of a free people: and only the beginning.

Midst such sweeping change, such vast turbulence, can we hope for mere words--antique phrases--a Constitution, A Bill of Rights--to preserve liberty? Few words are self executing.

Against pressures unrivaled in history can we sustain the spirit of freedom; a spirit seeking to enlarge liberty, foster curiosity and tolerate doubt?

Under stress will we hold with Thoreau that:

> "If a man does not keep pace with his companions perhaps it is because he hears a different drummer...let him step to the music which he hears however measured or far away."

Will the immensity of our problems: population, world peace, Nuclear Armaments, foreign conspiracies, rising crime, racial strife, the decaying hearts of our great central cities, the sheer numbers in our environment so strain our understanding that we may confuse the essential liberties protected by The Bill of Rights with the causes of our grief? Will we come to fear the strength of diversity, the virtue of difference? Will we see some non-existent contest between liberty and security: between the rights of the individual and the protection of society? Can complexity and anxiety cause us to doubt that fulfillment is the flower of freedom, borne by no other tree; that freedom is the child of courage? Could we forget that nothing can so debilitate security as deprivation of liberty?

Reason and experience both show that even the immensity of our problems is exceeded by the dimension of our opportunity. The wealth of our numbers, our technology: our affluence enables us both to enlarge the rights of

the individual and better protect our society simultaneously. It is for us to proceed to do both. We have the capability. We need only the will.

Thus will we add new chapters in the History of Freedom and new names to the rolls of the legions of little people whose stories, tragic and happy, tell the tale of liberty in our peculiar American way: J. M. Near, Publisher; Newton Cantwell, Jehovah's Witness; the Society of Sisters; Edward and George Boyd, Importers; Thomas E. Kepner, Lawyer; Thomas Lee Causby, Chicken Farmer; Spottswood Thomas Bolling, Schoolboy; George M. Bain, Jr., Bank Cashier; John T. Watkins, Labor Organizer; John A. Johnson, U.S. Marine; Clarence Earl Gideon, Drifter; Danny Escobedo, Laborer; Loretta Stack, Bakery Worker.

It is not the words in The Bill of Rights that guarantee our liberty. It is their place in our hearts and minds. So long as we are committed to the principles of The Bill of Rights, we will know the blessings of liberty. While we are concerned by any violation of the rights of the least deserving among us, while we will not tolerate injustice, our rights remain secure. When we are steeped in the tradition of those principles and raise our children in their understanding, liberty will prevail.

The truth of The Bill of Rights will abide. The question is, will we?