

FOR RELEASE ON DELIVERY

ADDRESS

of

ROBERT H. JACKSON,
Attorney General of the United States

before the

FEDERAL-STATE CONFERENCE ON LAW ENFORCEMENT PROBLEMS
OF NATIONAL DEFENSE

Great Hall
Department of Justice
Washington, D. C.

Monday, August 5, 1940

It is with great satisfaction that I welcome you on behalf of the Department of Justice for a discussion of the problems of federal and state law enforcement. It is evidence of a splendid spirit of cooperation that prompts you to call this conference, and to attend it in the full heat of a Washington summer.

It is obvious from the broad character of the subjects under discussion, that we cannot in the space of two days reach solutions to the problems which face us. But I trust that this meeting will result in the establishment of some machinery for the interchange of ideas and the general coordination of efforts in the future.

The country is looking to all of us as responsible public officials to handle the problems of federal and state law enforcement in connection with the national defense in an efficient and orderly manner. It looks to the state and federal governments to work together in cooperation, and while it is impossible to eliminate reasonable disagreements of matters of detail, the grave responsibility which we share makes it certain that we will at least approach our problems in a spirit of mutual confidence.

On behalf of the Department of Justice in extending a welcome which is most hearty, I can perhaps advance the cause of the conference by roughly outlining the problem as I see it.

Long before the country became alive to the dangers of the so-called Fifth Column, the President, forewarned by his experience in the World War, saw emergence of national defense as the nation's first problem. As long ago as September 6, 1939, he directed that all federal agencies dealing with civil defense during peace time be coordinated under the Department of Justice. By Executive Order he directed the expansion of the Federal Bureau of Investigation and placed investigative activities wholly

under the direction of Mr. Hoover, whose pre-eminence in this field has given the country confidence that the task will be thoroughly done.

There are other federal agencies such as the Military Intelligence and Naval Intelligence, which, in addition to their particular duties, are actively cooperating with the Federal Bureau of Investigation in covering the field properly assigned to the Federal government. Under our scheme of government there remain, of course, certain divisions of authority between state governments and strictly local municipal governments. Our problem today is largely one to prevent, so far as possible, overlapping of efforts which always results in getting in each others way, in blaming each other for pardonable errors, and in general inefficiency. But even more important than preventing our functions from overlapping is the duty of preventing our functions from being separated lest in the gap between federal and state authority, important areas of defense be left untouched. Let me take up briefly the several fields which it seems to me we should canvass.

II

A foreign controversy inevitably directs attention to the position of the alien in our society.

We have already tightened the restrictions along our borders. On May 22, 1940, the President transferred the Immigration and Naturalization Service to the Department of Justice to the end that this highly important function should be closely coordinated with other phases of the civil defense. We have intensified our scrutiny of immigrants at every port of entry. We have doubled the size of our Border Patrol to prevent unlawful entry. As to our effectiveness in scrutinizing those who seek to enter our country, we have reason to feel secure. But what of the three and a half

million aliens within our borders? Since they are a part of our national household it is of first importance that they continue as loyal friends of the country. It is my firm conviction that most of them are loyal and grateful for American hospitality. To be sure, it is in times like these that they must conduct themselves so as to merit our trust and confidence. But we too must act so as to earn their confidence and to maintain their loyalty.

A large alien population affords a screen in which the disloyal alien and the foreign agent are not easy to identify. For the benefit of our resident aliens, and for the benefit of citizens as well, Congress has enacted an alien registration act, the administration of which is in the hands of this Department. We intend to carry it out expeditiously and effectively. It is not an anti-alien act. It is designed to protect the loyal alien.

It is my view that the jurisdiction of the Federal Government in matters of this kind is exclusive and that there is not need, and probably is not constitutional power, for state or local governments to enter this field. You are undoubtedly familiar with the Pennsylvania case in which the Pennsylvania Act was held unconstitutional.

Yet, irrespective of constitutional considerations, there are grave responsibilities in handling these three and a half million residents. Hateful treatment or oppression or harrassment would tend to make sullen enemies of those who wish to be good Americans and would make them a potential Fifth Column. They come mainly from countries whose government is one unit and they do not understand our division of authority between state and city and nation. They easily become confused by overlapping or duplicate or conflicting regulations from different agencies of government and having complied with one may omit compliance with others. If regulation comes from more than one source, it will be difficult to distinguish between the alien who is honestly

confused by a multiplicity of regulations and the alien who seeks to avoid registration.

I want to appeal to you all to see that the legitimate identification, registration, and control of aliens does not become a hateful, anti-alien crusade. Some employers are wondering if they should discharge all aliens. Our answer is "Certainly not loyal and faithful ones". We must not create a relief or a refugee problem in America by denial of a chance to earn a living or by unreasoning boycotts or discriminations.

On the contrary, I feel that the registration of aliens should be the basis for a broad program of Americanization, a program designed to win and keep their loyalty. Such a program would offer limitless opportunities for state and local participation to the end that the **act of registration** shall be the outward manifestation of a renewed faith in America.

I think that our Federal program will insure that the country need have no special anxiety about the alien merely as an alien and that the alien need have no fear of repression. In this effort we bespeak your cooperation and aggressive aid.

The enforcement of federal statutes is, of course, an exclusive function of the federal government, just as the enforcement of laws creating state offenses is an exclusive function of the state government. Federal laws dealing with espionage, sabotage and any other illegal activities will, of course, be vigorously enforced. Likewise an important branch of our activities is the steady surveillance over individuals and groups within the United States who are so sympathetic with the systems or designs of foreign dictators as to make them a likely source of federal law violation. This includes Nazi, Fascist and

Communist groups and societies. It does not include and will not include surveillance over legitimate business or labor activities or religious movements.

However, there are only a limited number of objectionable acts which are federal offenses. The great body of law protecting personal rights and property rights must come from the state and must be enforced by the state in its own enforcement tribunals. There is no purpose or desire of the federal government to usurp or interfere with this function.

There is a limited field in which both state and federal law may apply to certain offenses. For example, sabotage is an offense that is not peculiarly federal in nature, and there is no reason why state laws should not make their own definition of sabotage, as well as for other laws for property protection, and provide their own machinery for detection and enforcement. In this over-lapping field there is, however, room for a great deal both of forbearance and cooperation between the state and federal administrative authorities.

I feel that one of the most vital services that can be rendered is action tending to prevent crimes such as sabotage. The field of preventing crime is one in which it is not likely that too many persons will be engaged. The Federal Bureau of Investigation has a plant protection plan designed to bring to plant managements the latest suggestions and experience in dealing with the physical arrangements to make damage difficult and sabotage unlikely. This program of plant protection has nothing whatever to do with labor policies or activities or personnel. We cannot, of course, prevent sabotage, but it will be possible to reduce it to a minimum. After the federal plant protection service has been available to as many institutions as possible, there will still remain great areas in which crime prevention can be pursued by state authorities to good advantage.

IV

Another matter in which the law enforcement officers of the federal government, the states and the municipalities have a common interest, is in keeping law enforcement out of the hands of ruffians and self-constituted groups who seek to take the law into their own hands.

The detection of spies is no job for merely well-meaning citizens, however patriotic. The foreign agent and the skilled spy are trained to their jobs and can be dealt with only by one who is trained to his job. Amateur efforts or mob efforts almost invariably seize upon people who are merely queer or who hold opinions of an unpopular tinge, or who talk too much or otherwise give offense.

The law enforcement of the United States and that of the several states, and that of each of the municipalities, should be kept under the control of officials who are responsible for their conduct and subject to the discipline and training of legally recognized law enforcement bodies. Expand them if we must to whatever extent necessary, but under no circumstances let us tolerate the taking of law enforcement into private hands.

So far I have touched only on those fields of civil defense which are specifically covered by statutory law. There remains another group of activities which, so far, have not been directly dealt with by statute, perhaps because in their modern form they are relatively new instruments of warfare. I refer to those activities which, for want of a better term, have been loosely categorized as "fifth column" activities.

The term "fifth column" undoubtedly has its journalistic virtues. It is colorful and brief, but it is also vague. A technical discussion of law enforcement problems demands more precise terminology, and inasmuch as the term "fifth column" will unquestionably be generously used in the course of this conference it might be well if we asked ourselves what we mean by it.

The term was first used, I believe, by General ^{1704A} Franco in the Spanish Civil War when he was quoted as saying that he had four columns marching on Madrid and a fifth column already within the city which would rise when he attacked. Since that time the phrase "fifth column" has been used to cover a multitude of activities, but I think the military men still regard it to mean that portion of the civil population which is already within a city or country and which is prepared to be of military assistance to the invader. Yet, the "fifth column" has been different things at different times. We are not at war. We cannot reckon in terms of invasion. But we might describe the "fifth column" as that portion of our population which is ready to give assistance or encouragement in any form to invading and opposing political and economic ideologies.

As law enforcement officers, our concern is how we may cope with the forces that bring such a "fifth column" into being. Those forces appear to take three forms. First, there is the proselyting activity -- the attempt to convert Americans from their traditional, political and economic system to other beliefs. The second is known as the process of "softening" a nation in preparation for invasion -- to

divide the people in order to conquer them, to create confusion in order to sabotage their morale, to discredit the nation's leaders and to make it ineffective as a competitor or weak as an enemy. The third force is the attempt to gain sympathy through fear and through favor -- fear of reprisals on the one hand, and the promise of reward on the other.

We know that efforts like these, resulting from a desire to create a "fifth column" in this country, are not aimed exclusively at the rank and file of our people but are frequently directed toward persons who are in high places and who wield great influence.

Efforts such as these, we know, are not carried on solely by means of propaganda but by direct personal contact, by diplomatic strategy, and by economic maneuvering.

A few days ago there was published in the press a story revealing in detail the activities and associations of a foreign representative. It was good reporting, and its publication was inspired by a desire to serve the public interest. Yet there are certain contrasts to be made and certain lessons to be learned from it. Since, for several reasons, it can hardly now become a law enforcement matter, I feel free to discuss it.

We can observe the difference between the way a newspaper handles an investigation of this type and the way it would be handled by the government. The newspaper's aim, and properly so, is the publication of news and the disclosure of facts, and the newspaper breaks its story as soon as it has it. The government's purpose, on the other hand, would

be continuing counter-espionage. The newspaper or papers in question had a perfect "fly trap" as long as they did not disturb it. There came into the range of their observation those persons who were sympathetic with the foreign agent. They were in a position to detect the scope and extent of his operations and his influence. When they exposed the agent to the public, they exposed themselves, and they ended the usefulness of that particular agent as a decoy to bring into their observation perhaps the entire ramifications of systematic foreign activity in this country.

In a case of this type the government would have been interested not in disclosure but, on the contrary, in the greatest of secrecy so that it might get the whole story. I point this out because there are people who believe that the effectiveness of government in dealing with foreign agents can be measured by the number of arrests. As a matter of fact, effective dealing with them lies not in arrests but rather in the efficiency of the counter-espionage. As soon as we detect a foreign agent and get him under surveillance, he has ceased to be a menace and becomes a source of information to us, and we do not want an arrest in those fields unless the agent is either departing or has ceased to be useful for this purpose. I tell you this also in explanation of our anxiety that there shall not be competition in this field of investigation. It is highly important that there be centralized control of activities of this kind so that your agents and ours do not become involved in a competitive race for premature disclosures.

We may observe also that what was perfectly permissible newspaper enterprise, namely, to shadow and watch a suspected person and make public the result of its findings although there was no charge of crime, is an activity in which the government could not properly engage. Although the government, for example, in the course of its activities, knows sources of propaganda and methods of propaganda, we do not feel at liberty to publish accusations except as we file charges against individuals in courts of law where they may defend. The exposure of propagandist efforts which do not amount to crime must depend upon private courage and enterprise.

The newspaper story to which I referred should bring to us some inkling of the kind of activity which is being resorted to in the United States to create a "fifth column" here. Altogether too many people think of the "fifth column" as groups of disloyal citizens or of disloyal workmen who are prepared to sabotage industrial plants. To be sure, we face that danger. But a greater menace for us is the effort being made here now to try to "soften" this country as France was "softened". This effort takes the form of the promise of business orders and of profits if the war can be called off and business relations resumed as usual with the victor. In holding out the allure of business this effort seeks to create a "fifth column" among men of influence and respectability.

It is not illegal to dangle this bait before American business men even in our own press and in our markets. But it is well that our people recognize it when they see it, and that we cease the belief that efforts in this country are confined to the crudities of the Black Tom days.

How to meet this new type of "softening" activity as well as how to meet the cruder forms of subversive effort will be among the problems which you will consider at this conference. But I am sure that you agree with me that fundamentally our ultimate reliance must be upon the good faith and the good sense of the American people who will meet false arguments with true ones and misinformation with facts. This is a safer reliance than any plan of suppression. Great as are the dangers of uncontrolled propaganda through the foreign language press, through sponsored radio programs, often in foreign languages, through speeches, pamphlets, motion pictures, meetings, and assemblies, and through missionary work privately conducted among American business men by foreign agents and their sympathizers, it is probably not as evil as the suppression of opinion. We have never devised any plan for partial or selective suppression of opposition to the government, and any steps in that direction will be likely to end in total suppression. There are no standards by which to know where opposition should be allowed and where it must be prohibited.

The field of useful and necessary activity is unlimited. There is enough for us all to do. That you have offered to meet with us to systematize our efforts, avoid useless duplication and conflict, and see that the field is completely covered is one of the hopeful and encouraging signs of the times.