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ADDRESS

of

ROBERT H. JACKSON
Attorney General of the United States

before the

FIFTH GENERAL ASSEMBLY
OF THE
COUNCIL OF STATE GOVERNMENTS

(Because of the illness of
the Attorney General, the
address was presented for
him by Solicitor General
Francis Biddle)

Tuesday, January 21, 1941
10:00-10:30 p.m.

Hotel Mayflower
Washington, D.C.

Many of you were in Washington last August at the Federal-State Conference, when we attempted to look into the future and appraise our common problem of law enforcement as affected by the national defense. We considered our separate responsibilities and it has been gratifying to see with what dispatch the State and local officials have turned to their legislative and administrative programs. I want also to acknowledge the cordial and complete cooperation which the Department of Justice is having from Governors, state governments, and municipal officers. We have had no jurisdictional controversies. Bickerings with a personal, partisan, or local motive have been happily absent.

Tonight I wish to pick up again, in the light of greater experience, our consideration of the problems of internal security.

For 150 years the United States has successfully maintained a representative democracy. It has weathered several foreign wars, kept a precarious neutrality through others, and survived a war between ourselves.

[Now some persons tell us that at last we are caught in a dilemma; that if we preserve our liberties we leave ourselves vulnerable to those who would take them from us; that we must choose between freedom and safety. Such persons misunderstand the meaning of freedom. Their dilemma is an imaginary one and comes of a superficial knowledge of the history of our liberties and the meaning with which generations of statesmen and jurists have endowed them. They regard liberty as a luxury which they would hang onto as long as possible; but if necessary they would give up some of it to obtain greater safety. Only those who regard liberty as a luxury could see it as a weakness, and fear for their safety. I prefer to regard liberty as a power and as the basic source

of strength without which men cannot survive. Liberty is not a luxury to be enjoyed, or a theory to be defended; it is a weapon to be used.

In the presence of foreign penetration our course is not limited to a choice between doing nothing and doing something unconstitutional. For I am convinced that within the letter and spirit of our Constitution, there is ample authority for every measure which an emergency requires. As someone has said, it is not the country that fights for democracy, but democracy that fights for the country. We will not defend freedom by giving up some of it, but by using it. We will not protect the Constitution by departing from it, but we will invoke its strength in our own defense.

It is your task as law enforcement officers of the States, as it is my job as chief law enforcement officer of the Nation, to proceed without rancor or panic or partiality to mobilize and utilize all Constitutional resources to protect our country from penetration by foreign forces for any unfriendly purpose.

Under modern conditions of international struggle for survival or supremacy, military combat is only the final phase. It is usually preceded and accompanied by fierce economic competition, and by bitter conflict between ideologies of government and of the organization of society. We recognize that we are in economic conflict and ideological disagreement with the Axis powers, and that they are employing towards us much the same pre-war strategy as was used towards other democracies and neutral nations which they later crushed.

I propose to consider the problem of the "Fifth Column" in its relation to internal security from its Military, Economic and Propaganda angles.

I

The Military "Fifth Column"

The "Fifth Column" had a dramatic baptism in Europe's overrun countries, when treacherous natives and agents planted by the aggressor in the disguise of immigrants or visitors, rendered aid to the invader back of the lines of defense. Such conduct apart from summary military remedies, is at our law treason punishable by death.

An important characteristic of this "Fifth Column" is that it can successfully show its head only when and where an invading force is available for quick support. It can safely resort to force only when the confusion and panic of invasion seizes the loyal population. Alone disloyal forces are hopelessly out-numbered.

Our present duty is to forestall the possibility of planting such a fifth column here. The Department of State and the Department of Justice have cooperated in measures to close our borders to unauthorized entry, to scrutinize with great care those who are admitted, and to get rid of visitors whose purposes in being here are at all questionable.

I do not want to weaken these assurances by overstatement. Our best precautions will not prevent entry of some individuals that we could do better without. But I do assure you that there is no possibility that any military fifth column, in the guise of immigrants or visitors, could penetrate our borders today. Such a threat would have to spring from within. About the treacherous few who might be the core of such a movement, we know much and are daily learning more. Potential leaders of treacherous movements are not classed as "forgotten men" by the Federal Bureau of Investigation, nor at the Army or Navy Intelligence.

Many persons have fears that the United States is especially vulnerable to fifth column betrayal because we have a foreign born population that in 1930 numbered over 14,000,000, or about one out of ten of our total. Of these almost 3,400,000 come from Axis countries, and many more from countries now Axis controlled.

It would be a tragic blunder, as well as an unforgivable injustice, to assume that foreign birth means lack of loyalty to America. On the contrary, to have torn oneself up by the roots to come here is a pretty strong outward sign of devotion to the ideals of this country. I am convinced that the overwhelming number of resident aliens and naturalized citizens are loyal Americans. Were they driven by discrimination or harsh treatment to hate that American government which they had expected to revere, they would then be dangerous to our security in war and to our order in peace.

Immediately upon taking over the Immigration and Naturalization Service, I urged adoption of a system of alien registration. We did not know the total number of aliens here, and had no information as to the whereabouts or activities of the individual immigrant or visiting alien. At our conference last August we were only approaching the task of alien registration, and did not know the temper of our alien population, or how they would respond to our drive for registration.

Today alien registration is accomplished. Instead of the 3,600,000 aliens which immigration authorities estimated to be here, we have registered over 4,500,000. And I am proud to report that this has been done without embarrassing incident, and that as a

nation we had the common sense to carry that task through in a thoroughly decent American way. We learned from the response of aliens that they are overwhelmingly law-abiding and eager to be identified with this country. And I think they have learned a new respect for a government which could take inventory of its aliens and obtain their personal identification and fingerprints without subjecting them to persecution or harassment.

As rapidly as the nature of the task and the limitation of personnel permit, we are studying the information thus for the first time made available. The aliens who have not registered will, of course, be subject to prosecution.

We face a new and difficult problem in dealing with the objectionable alien due to the fact that world conditions make deportation practically impossible. It seems clear that we must ask Congress to devise other remedies to take the place of deportation. A law which compels us to keep issuing deportation warrants that can not be enforced should be modified. Of course, not all deportees should be treated alike -- some desirable aliens are deportable only because of rather technical matters -- others because of the most serious offenses. Some are secretly or openly in sympathy with forms of government that would destroy or overturn ours. The alternative of deportation, of course, will be some kind of custody or restricted freedom, parole, or surety for good conduct, depending on the character of the person involved.

We are also scrutinizing naturalization records in the light of our present knowledge, and where citizenship was sought as a cloak for foreign activity, and the oath of loyalty to America was not taken in good faith, proceedings will be instituted to revoke such naturalization.

II.

The Economic and Industrial "Fifth Column"

As a matter both of strategy for war and of competition in peace, opposing nations take measures against our economic organization which may be called economic sabotage.

The American philosophy of "live and let live" has led to a very open kind of life here. It is no exaggeration to say that the civil government need have no fear of spies for it has no secrets. There is no noticeable tradition of official reticence about disclosure of "inside information". We do not have anything like an "official secrets act" to protect general confidential governmental information, as the British and nearly all other countries do. There are only a few kinds of records, such as income tax returns, that it is unlawful to disclose, and those cases are for protection of individuals, not the government. Even our military information is disclosed in the Congressional hearings on appropriation. Also our industrial companies and trade papers put out trade statistics, technical data, and construction information that in most other countries would be closely guarded secrets.

This, however, is not true of industrial espionage. The most effective foreign effort today is to discover the latest secrets of business -- its formulae, devices, and technology. Chemistry, metallurgy, precision instruments are under constant surveillance by foreign government informers. Industrial espionage is rarely a crime, and it can be circumvented only by guarding the secrets of industry.

This strategic information is often given away without awareness of its effect on national defense. In obtaining insurance some concerns deliver complete drawings of their plants to foreign insurance companies. Many American firms account to foreign concerns under patent-license or pooling arrangements for their sales -- even to the Army and Navy. There is an instance where by contract an American firm is obliged to furnish to foreign concerns even correspondence with the American military authorities. Some plants employ in their own delicate affairs engineers or consultants with foreign connections and obligations.

However innocently contracted in the beginning, this sort of thing must stop. Such practices will probably face Congressional examination. It may require legislation to aid American business to get free of these obligations. In this effort I know we shall have the enthusiastic support of American business as a whole.

Sabotage--blasts, fires, and other destruction of property--is a problem with which you are all familiar. We have found that the best way to fight it is to prevent it. In sabotage perhaps more so than in other forms of crime, an ounce of prevention is worth pounds of prosecution, for sabotage usually destroys the evidence along with the property. As you know, the Federal Bureau of Investigation has provided a protective program for defense industries, for utilities serving them, for airports, docks, and shipyards. The Governors' conference last August has increased the cooperation of the State governments in handling national defense problems. At the request of the Army and Navy, the F.B.I. has made protection surveys of over 1200 plants. By and large I think the protective program has had good results. It is true that there were a certain number of fires and explosions during the past six months; there will be others during the next six months. That they result from sabotage is easy to allege, difficult to prove, and almost impossible to disprove. But in the cases which we have investigated the overwhelming evidence indicates that they have resulted either from experiments to speed up production, or carelessness, or sheer accident.

What we are trying to protect is our defense production. I think you will agree that among the obstacles to adequate production of defense materials, explosions and fires have not been a significant factor--certainly not when compared with the overwhelming problem of industrial bottlenecks.

It is our duty to protect the country against violent, criminal sabotage. But it is also our duty to recognize that modern sabotage is largely non-violent and non-criminal in nature. The bomb-throwing saboteur has been outmoded. He has been replaced by the economic saboteur. Modern warfare is

a battle of production. Any foreign power which seeks to sabotage production in a nation as vast as ours will not stop at dynamiting a few factories or damaging a few machines. Its agents play for larger stakes. They seek to affect the business and labor policies which control our national production. They spread doubt as to the wisdom of our national policy on defense, doubt as to the business wisdom of cooperating for national defense. They urge "business as usual", and appeasement of aggressors as the road to business profits. The economic saboteur spreads distrust and doubt in the ranks of labor. He seeks to incite capital against labor, labor against capital, labor against labor, and all of them against government.

American production is also just now suffering the effects of many voluntarily assumed limitations on its capacity. These were not made with any purpose of prejudicing national defense, so far as Americans are concerned. They were a part of a tendency to organize industry into international cartels and to keep down production so as to keep up prices. These were violations of the antitrust laws; but it is only now when we need production that we feel the pinch of these restrictive arrangements.

I can only make plain what I mean by example. Magnesium is a metal lighter than aluminum. The success of the Stuka dive bomber of the Germans has been credited to the extensive use of this metal. In spite of the fact that the source of supply in the United States is unlimited, we produced in 1940 between 5,000 and 6,000 tons, while Germany produced between 50,000 to 75,000 tons. In 1941, if we succeed in increasing production capacity, we will perhaps produce a maximum of 12,000 tons, while the best estimates are that Germany in 1941 will produce over 100,000 tons. According

to the Bureau of Mines, in 1938, while Germany produced 12,000 tons, we produced only 2400 tons, and exported a substantial proportion of that to Germany, Japan and other countries.

Why? There is only one American producer and that company operates under a license from a patent-holding company, which is owned jointly by an American and a German company. They have refused to license any other firms but this one.

More than three years ago, as an Assistant Attorney General, I instituted suit to break up the monopoly of light metal, and its control by the foreign cartel to whose advantage it was to limit American production--the consequences of which we now feel in national defense.

I could name for you a formidable list of German controlled patents and processes and companies where parallel situations exist. The Department of Justice has been assailing these contracts and restraints on American capacity to produce and I understand that Congressional agencies are soon to examine them.

In bringing these facts to your attention, it is important that we do not raise unnecessary or exaggerated fears. There are a few, and only a few, American industries which have ties with Nazi control, but these are very basic ones in our defense program. Likewise, there are a few, and only a few, labor unions which are in the hands of unpatriotic leaders. Yet, these dangers must be coolly appraised against the recognition that the great majority of American industries and American labor are thoroughly and wholly in tune with the needs of the country.

The Department of Justice will be unrelenting in its efforts to protect the American people against both, not by attempting to injure American business, but by attempting to help it remove any existing restraints of foreign control, and not by injuring the American labor movement, but by assisting it to weed out the subversive elements.

Propaganda of course is one of the weapons of modern warfare. Propaganda has many varieties. Some of it is addressed to particular groups, some to business men to appeal to their profit motive to urge peace and resumption of business, some to peace loving folk to get them to resist all measures designed to help England lest war follow. It may be designed to stir up race hatreds, class controversies, or internal strife. Hitler's speech recently was intended to create labor discontent in this country. All enemy propaganda tries to drive a wedge between any government that is carrying out a policy and the people without whose support it must fail.

People say "Why do we stand for it? Why not stop it?" They seem to think that because democracy maintains freedom, it is particularly vulnerable to propaganda.

The fact is, however, that democracy is much more secure against propaganda than is dictatorship. Free people have a rugged sales resistance to propaganda that is not to be found among the oppressed and the enslaved.

Indeed, the dictatorships are particularly vulnerable to propaganda. An ideal example of the failure of attempts to suppress free speech is

Czarist Russia.. No government ever suppressed all forms of radical speech, press and agitation as diligently, as steadily, or as brutally as did Czarist Russia. Yet it was Russia that was first of all nations to fall to Marxism. The secret police could not exile an idea to Siberia.

Another example is Germany itself. Germany began a rigorous censorship in February 1915 and extended it by August 1915 to include internal propaganda. It was set up under the General Staff and had full military as well as civilian support, but in the end public opinion broke all bounds and revolution came with defeat.

Nor is modern Nazi Germany any better insulated against the infiltration of news and ideas. Despite their drastic prohibitions enforced against publishing, reading or listening to news of the outside world, the Nazi leaders hurry to reply to the statements of President Roosevelt, Winston Churchill, and others, lest they corrode the public mind.

The propaganda prowess of the Nazi government has been thoroughly celebrated. Yet I am unable to see that it has had a significant effect either in England or in this country. And how effective would Dr. Goebbels be in his own country if the terror of the concentration camp and the Gestapo were removed? The reign of terror exists because the Nazi leaders have an abiding fear of truth. They know the irresistible power of free speech.

In the world of ideas there is no strength like the strength of freedom. No people in the world is so accustomed to identifying, **discounting** and disregarding propaganda as are we Americans. We are not like a people who have been sheltered from a free press. We have been brought up on a steady diet of propaganda -- Republican propaganda, Democratic propaganda, Manufacturers' Association propaganda, labor propaganda, Communist propaganda, and Fascist-Nazi propaganda, to say nothing of high-powered advertising propaganda of every kind. The American every day tests these claims against his own experience and reason and decides for himself. He may make mistakes -- but he and his fellow Americans are the most propaganda conscious and literate people in the world.

We can make the agents who speak with authority register and identify themselves, they can be exposed to publicity as to their motives, purposes and affiliations. We have wide control of what is mailable and I may say that we have already taken action to make unmailable vast amounts of foreign printed propaganda.

In all of these fields we have remedies at hand within the traditional framework of our liberties.

"Fifth Column" propaganda will succeed or fail only according to the experience of those to whom it is addressed. It is from circumstances that people develop resistance to or immunity from propaganda appeals. Allied efforts against the Kaiser were as ineffective as those now against Hitler while food was plenty and victory was in the air. The "Fifth Column" hath no ally like defeat, hunger and despair.

Freedom of speech, freedom of press, freedom of assembly -- these are the democratic weapons. Danger for democracy lies not so much in totalitarian propaganda as in our failure to answer it. Already that answer is being made. It fills the columns of our free press, it thunders from our free radio. It is not the synthetic product of a central propaganda bureau, but the strong spontaneous expression of free Americans in all walks of life. It is an answer that will pervade all America because it springs from America.