



Department of Justice

LAW DAY

ADDRESS BY

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AT

EMORY UNIVERSITY, ATLANTA, GEORGIA

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Law Day 1968, the 11th annual commemoration of the rule of law, is special. Events compound the need for a rededication by all of our people to the rule of law.

Life and history tell us that there will be order under law in any society, in any country, only when there resides in the hearts of the citizens a respect for the rights of others. Law is the only technique that civilization has devised that guarantees to the individual living among others his personal safety, the protection of his property, and his liberty itself. It depends ultimately on self-discipline. And law, and the rule of law in this country, is in crisis today.

Perhaps the greatest concern now among many of our people is the specter of holocaust: the fear that there may be some breakdown in the rule of law that can lead to a fatal division of a great and free country.

Law, like life itself, is expressed in action. Law does not operate in a vacuum. It is action, not abstraction, that is the true purpose of law as it is of life. We have to look to the context, to the environment in which the rule of law must apply to see how it can be preserved, extended and perfected. We must face the facts.

It is difficult to know the facts. Truth will out and when you know the truth you will be free, but the truth is hard to come by. It always has been but it is harder now because there is so much of it. You have to work constantly to know the truth and, knowing it, you have to act in the direction it illuminates.

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We live in a house divided. Mark, in his gospel said, "And if a house be divided against itself, that house cannot stand." The poor, the young, the minorities are aliens in this house of ours and none more than the poor, young Negro. This did not come about overnight but rather through generations. It has reached a crisis.

The truth seems to be that for the Negro in our major metropolitan areas infant mortality is six or seven times higher than for the population as a whole; the probability of contracting common communicable diseases ranges three to four times higher. The Negro's life expectancy itself is seven years shorter. His opportunity for an education has many limitations in both quality and duration. The Negro represents twelve to fourteen per cent of our total population. He represents four to five per cent of our college population. For six out of ten of those fortunate enough to make it, the college is a predominantly Negro college in the south where, for all its heart, effort and hope, it simply doesn't have the quality of your great University and will not provide the opportunity.

Part of the environment we should examine on Law Day is the lawyers themselves. Lawyers are instrumentalities of justice. They are more than the litigious contenders or fee collectors. There were more Negroes in law schools in the United States in 1948 than there are in 1968. That must mean something. The Negro constitutes about one and one-half per cent of the students in the law schools of the United States -- about one-tenth his proportion of the population. This country will pay a price in terms of justice and the rule of law for this deficiency.

Part of the truth is that out of the millions of Negroes in this country there are thousands who may doubt that we as a people are committed to equal justice and have the capability of making it a fact. And out of the millions of Negroes in the country and the thousands who are skeptics, there are scores who would resort to violence perhaps as an end in itself perhaps because they believe, however erroneously, that change for the better could be effected that way.

As we face the future we have three great challenges. Two are immediate. The first is to recognize that we have an anxious, a tense and a sometimes dangerous situation and to move to relieve tension

wherever possible. The second is to maintain order these next few years, while we meet the third challenge of rebuilding our cities and ourselves, and remanifesting our commitment to equal justice. The maintenance of order, as recent history tells us, is not now easy.

Before we get too despondent, we should look at history for comparison with the violence that we now see. America has witnessed rioting throughout its history. You lawyers know that Clause 17 of Section 8 of Article I of the Constitution is there because of rioting, because the founding fathers at Philadelphia wanted a place where the Federal Government could protect itself from rebellion.

At the height of the Civil War, Abraham Lincoln was confronted with a riot that transcended in scope and loss of life many times over all of the riots in all of the states of this Union these last five years. In July 1863, more than 1,200 people were killed in New York City in draft and race riots. And we have had violent riots in the 1935's and 40's and 50's and now the 60's. Japan with its personal and family discipline, has witnessed serious riots for several years: riots striking directly at authority. Spain and Poland, authoritarian and totalitarian countries, both have witnessed vicious rioting.

In this context, it seems clear that the only question for the American people is one of will. Our capability is perfectly clear if we have the courage, if we have the heart, and if we have the purpose.

Ironically, the man who will determine in these next few years whether we avoid violence and riots which divide as nothing else is one of the most neglected of all of our people, the policeman. Underpaid, undertrained, understaffed, he is the man in the middle. He is the man who will prevent and, if they occur, will control riots. He needs our support as he has never needed it; we depend upon him as we have never depended upon him.

He must act with balance. Our experience today shows that if he overacts he will cause violence and that if he underacts he will cause violence. Either excessiveness or permissiveness in enforcement of the law will lead to civil disorder. There are as examples of each extreme, charred buildings throught the United States.

I have to say in passing that the people of Atlanta are blessed as are few in the quality of leadership in their police department. Chief of Police Herbert Jenkins is one of the great law enforcement officers of the nation, devoted to the public safety and to individual liberty.

The task of the police is to move with all the resources necessary to contain any particular situation; to move only when there is adequate manpower and capability to control persons engaged in unlawful conduct; to move firmly, swiftly and fairly; to use deadly force only in self-defense or when necessary to protect the lives of the people. This has been the standard of law enforcement throughout our history. It is the standard prescribed by the Federal Bureau of Investigation in its manual on the control of civil disorders. It is the most effective technique of control, both immediate and long-range.

But long before control we must work at prevention. Riots can be prevented. Riots must be prevented. You may think it is strange if I say that April of 1968 showed that riots can be prevented. For each riot that occurred many were prevented. We may not be successful in preventing every riot but we must make every effort to prevent any riot. Then we will suffer few. Again the police will be the key because they are there. Their conduct will be the most significant determining factor.

Most of the dynamics of our time press for federal troops in civil disorder, but the police have the only real opportunity to snuff out a riot before it occurs, because they are there. Unless we are prepared to move to garrison cities, we will have to rely on the police. The American police are capable of riot prevention. They are working daily to make themselves better prepared. They can provide us these few years that we need--that we must have--to rebuild, to reopen the channels of communication that have been closed for too long, to stimulate the exchange of views that are still possible, to show to all of our people that our laws and our purposes as a people are generous, to provide equality for all, to right the wrongs that have existed and to provide the opportunity for education, for health, for employment with advancement, for the fulfillment of the individual. As we work to this end we must remember that when we come through this very difficult period, however long and turbulent it may be, we shall have to go on living together on this soil forever. Nothing else is possible.