

"THE TEST OF PATRIOTISM"

AN ADDRESS

by

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Five months ago, when the Western World was still clinging to an uncertain peace, I was privileged to meet with a group of municipal officials and to discuss with them the subject of civil liberties. I had occasion to say that in my settled conviction the finest contribution which America has made to civilization is our loyalty to the idea of civil liberty.

Tonight, when much of the Western World is torn by a fierce and bloody war, I want very heartily to re-affirm that conviction.

It is true that in certain parts of the world, might for the moment appears to be triumphant over right. It is true that in many countries the traditional civil and religious rights of the individual are no longer recognized.

These are realistic facts that we must realistically face. Common sense dictates that with virility and courage we must prepare ourselves to guard all the magnificent physical and spiritual resources that make up our national heritage. To let our defenses weaken -- to be soft or infirm in our attitude toward national security, would be a faithless and unworthy thing.

But while we must be strong to protect our democratic heritage, we can and must still recognize that the heart and soul of our heritage is the civil liberty of the individual, and that in protecting our physical wealth we must not destroy our spiritual wealth of freedom. For civil liberty is still the finest possession of the American people. It is still that priceless thing without which life loses its dignity and becomes only a hopeless form of spiritual slavery.

And by the same measure that civil liberty is precious to us, we must be willing and determined to defend it against the forces that threaten to destroy it.

In a world filled with many uncertainties, there are some things that are certain.

We know that in the hearts of the American people there is a great, steadfast desire to keep out of war. It is a desire for peace that no public servant or political leader in this land can afford to underestimate.

But we also know that in a world where force has been unleashed, the mere desire for peace is not a guaranty that a peace-loving nation can remain at peace.

It is not enough for us merely to say that we want peace and that we abhor war -- that we will have no part of war. When the world is aflame with war, or gravely threatened by war, it is the duty of a responsible government to do something more than talk peace. First, it must take active steps to prevent unnecessary involvement. Second, it should make itself ready to resist attack -- not only attack from without, but attack from within as well -- attack by sabotage and subversive activities.

I am concerned tonight to discuss our defense from internal aggression. For we cannot be unmindful of the fact that the present attack on peace and liberty in Europe originated in the internal aggression of powerful groups against the democratic authority of their own lawfully established governments.

But in our zeal to protect ourselves from internal aggression, we must be on guard that we ourselves are not guilty of aggression against the civil liberties of our own citizens. We must not fall victim to the infection of despotism that in recent years has been sweeping the world. For if we suppress civil liberty, we suppress democracy itself.

In our own land, this generation has seen a little of what happens when a crisis develops and the government is not prepared to protect its people against internal attack. I have in mind the period of the World War and some of the wrongs against liberty that were done in the name of patriotism.

Let me make it plain that I have not come before you in the role of the "second-guesser" who always knows afterwards what should have been done in a particular situation. I am speaking only as a citizen and public servant who earnestly hopes and confidently believes that we, the American people, will profit by our own war-time mistakes and, even more, by the mistakes of other democracies that no longer live to tell the story.

I believe we all should recognize that however tragic the wrongs that were done, they sprang from misdirected zeal rather than evil intent.

We should remember that in the feverish, war-like atmosphere -- an atmosphere which inevitably is dangerous to liberty -- average citizens -- normally calm and reasonable -- became so imbued with the rightness of their cause that opposition or criticism was intolerable to them. Not only could they brook no open disagreement with national policy, but the failure of others to share their own attitude became in their eyes evidence of lack of patriotism.

From suspicion and distrust, it was for some people an easy step to violence and vigilante activities. In some communities, irresponsible, extra-legal organizations assumed functions that belonged properly to the civil authorities. And in some cases the civil authorities themselves were carried away by a hysteria of fear. Defenseless men and women were mistreated by such groups on mere suspicion. On many occasions, the constitutional right of peaceful assembly was violated, and homes were invaded and searched in the dark of night for evidence of disaffection and disloyalty. In their zeal to help defend their country, well-meaning people resorted to methods which in the calm of peacetime would not be considered.

Even if we recognize -- as we must -- that this condition was not general, it is a picture that friends of democracy have every reason to regret. But I want to emphasize how much I believe that instead of viewing it with rancor toward anyone, we should keep two things carefully in mind.

First, we should remember that much of this was done sincerely in the name of patriotism and national defense.

Second, we should keep in our minds and hearts a firm resolution that while making the security of the country our first and greatest concern in this troubled hour, we will injure not one of the qualities that have made this nation the strongest haven of democracy and freedom on earth.

I know there are sincere individuals who earnestly believe that in a period like the present, when the country is seeking ways to avoid war but yet must prepare its defenses, it is not possible to maintain both civil liberty and a strong defense against internal attack at one and the same time. They are convinced that we must choose between the temporary suppression of civil rights and a weak and ineffective internal defense.

I do not believe that we face any such choice. I do not believe that a democracy must necessarily become something other than a democracy in order to protect its national interests. I am convinced that if the job is done right -- if the defense against internal aggression is carefully prepared -- our people need not suffer the tragic things that have happened elsewhere in the world and that we have seen, in less degree, even in this land of freedom. We can prevent and punish the abuse of liberty by sabotage, disorder, and violence without destroying liberty itself.

At the time of the World War, the country's defense against internal attack was not fully prepared, and events took their natural course. The civil authorities were not trained for their new responsibilities. The door was wide open for irresponsible organizations to set themselves up as agencies of law enforcement. That is precisely what happened.

Today the picture is quite different. The delicate business of combating espionage has been coordinated under the Department of Justice. Under responsible direction, it will be carried on, as it is today, not by over-zealous, inexperienced laymen, but by men who have been equipped for the work by careful training -- training that includes instruction in the rights of the citizen as well as in methods of crime suppression. And we have every reason to expect them to be worthy of their training and instruction.

This work should be done and will be done by responsible employees of the federal government, acting in cooperation with the duly constituted law-enforcing agencies of state and local governments. There will be no alignment with agents of vigilante groups or private industrial organizations which are concerned primarily with industrial disputes and labor problems. Enforcement officials will themselves obey the law of the land.

I believe that in this way we can eliminate at least the occasion for many of the wrongs that were done under the stress and strain of the World War. But at the same time, I recognize that preparedness on the part of the federal government is not by itself a guaranty that these things will not happen again. To meet the double responsibility of self defense and preservation of civil liberty, we need from every state and local government and, pre-eminently, from every citizen, an equal determination that this responsibility shall be met.

We need, and we earnestly ask, from every citizen and every government an unswerving resolve that for as long as this crisis endures, we will keep our heads -- that we will not abandon our Bill of Rights -- that whatever measures we may adopt for our defense against subversive activities, we will use them just as calmly and judiciously as we do firmly and resolutely.

But given a thoroughly prepared internal defense, given the proper mental attitude of calmness and cool reasoning, we need something more. We need a sound sense of direction -- a clear understanding of our own policy and our own position.

First, we need to remember that in an emergency it is right and just for our democracy to be on guard not only against internal attack by foreign agents but obstructive activities by people in our own ranks as well.

We have a right to expect that once a policy has been formulated and adopted by constitutional, democratic procedure, it will be accepted and observed by all as an expression of the sovereign will of the people, until such time as the policy is changed by constitutional methods. Even those who disagree with it should do their part to make it effective. This is the democratic way in peace-time; it is the democratic way in time of war.

Finally, we have a right to expect that attempts to prevent the fulfillment of a policy by sabotage, violence, or subversive activities can and will be dealt with vigorously and according to law.

And here we can take our lesson from those democracies abroad that failed to deal vigorously with illegal activities against the democratic process and that now are only memories in the minds of men.

The second thing we need to remember is that an emergency does not abrogate the Constitution or dissolve the Federal Bill of Rights. That is not only good sense; it is good constitutional law.

Seventy-three years ago, one year after the Civil War, the Supreme Court declared in the famous Milligan case that "The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances."

To the many friends of civil liberty gathered at this Conference, I want to give the emphatic assurance that in this emergency, as well as in time of peace, the Department of Justice embraces that policy without reservation. And because we are convinced that it represents the wishes of the overwhelming majority of the American people, we are determined to apply it and to practice it as thoroughly and intelligently as men are capable of doing.

We are aware, and the people should also be aware, that this will be no simple task. It is a problem of steering an even course that will invade neither of the two boundaries that I have mentioned. In brief, it is a problem of finding a sound basis for maintaining public safety without encroaching on the Bill of Rights.

In enforcing some laws, we must not violate other laws. In upholding the Constitution, we must not infringe on the priceless heritage of civil liberty which the Constitution guarantees. To do that -- to suppress or suspend the Bill of Rights -- would be to destroy the very democratic principles that we are seeking to preserve. It would be to yield to the same autocratic psychology that we want to keep out of this country. We must not let that come to pass. We must have it understood that while we will oppose firmly and vigorously any illegal activities, we will do so in a responsible manner and within the orbit of the Constitution. That is the American way.

The immortal Justice Holmes laid down a formula which I believe will help us to keep a true course. In a celebrated war-time case involving the very things we have discussed here tonight, he wrote these lines:

"When men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas ---. While that experiment is part of our system, I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe -- unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country."

The willingness, the determination, the ability, to follow that democratic principle, so ably stated by a great friend and interpreter of democracy, will be, in my estimation, a real test of patriotism in this or any future crisis.

The true citizen of America will remember that loyalty to our tradition of civil liberty is as much a part of patriotism, as defense of our shores and a hatred for treason. He will never forget that civil liberty under the American system is a legal right in time of war as well as time of peace -- that, whatever the time, it is liberty for all, irrespective of the accident of birth.

The true American will remember that whether it be peace-time or war-time, there could be nothing more unpatriotic in this land of many peoples and many creeds than the persecution of minorities and the fomenting of hatred and strife on the basis of race or religion.

He will realize that if, in the atmosphere of war, we allow civil liberty to slip away from us, it may not be long before our recent great gains in social and economic justice will also have vanished. For a nation that is calloused in its attitude toward civil rights is not likely to be sensitive toward the many grave problems that affect the dignity and security of its citizens. We must not let this crisis destroy what we have so dearly won.

Many years ago, in the midst of another great emergency, Abraham Lincoln put this question to the Congress of the United States:

"Must a government of necessity be too strong for the liberties of its own people, or too weak to maintain its own existence?"

Let us, in this troubled hour, answer that question as befits a great and enlightened democracy. Let us prove for all time that ours is a two-fold strength -- the physical strength of self-defense and the moral strength of unflinching devotion to our own ideals.

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