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Department of Justice

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"PUBLIC OPINION AND CIVIL RIGHTS"

ADDRESS

BY

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Prepared for Delivery

Before the

ANNUAL AWARDS LUNCHEON

of the

ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

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It is a real privilege to participate in these ceremonies honoring the recipients of the America's Democratic Legacy Award of the Anti-Defamation League. You have selected three outstanding organizations in the field of mass communications - the Columbia Broadcasting System, Look Magazine, and the New York Times, for these awards. Each has used its prestige and influence wisely and fully for human betterment. The individuals who make up these great organizations are entitled to the sincere thanks of all thoughtful Americans for the part they have played in the cause of human rights.

Over the past several years it has been my good fortune to know and to work closely with the Anti-Defamation League. You have been vigorous in the fight to overcome the evils of prejudice; you have been wise in the methods you have used to advance the concept of equality for all; and you have never failed to give full credit to others for their efforts. You, too, deserve the sincere thanks of thoughtful Americans for your devotion to democratic ideals.

A matter which is today uppermost in the minds of all persons who are concerned with human rights is the serious resistance in some areas of our Nation to the decisions of the federal courts. We are witnessing in a few states a challenge to the principle that we are a Nation in which the rule of law reigns supreme and in which every individual, regardless of his race, religion or national origin, is entitled to the equal protection of the laws.

Yet in our concern over the deep-seated and difficult problems involved, we should not lose sight of the fact that the tensions have become

increasingly acute because we are in a period of great progress in the field of human rights. There are, to be sure, starts, stops-- occasionally some backward steps--but I believe that we are moving forward irresistibly and with purpose toward fulfillment of a noble concept--equality under law for all people everywhere in the United States.

Equality under law is a national concept rooted in this Nation's Constitution. Its fulfillment could never be a violation of the rights of any state. Nonetheless, one of the most deceptive notions which has been advanced by those who oppose the decision of the Supreme Court in the School Cases is that the federal government is improperly interfering with the operation of the local public school systems.

Of course, public education, as the Supreme Court explicitly recognized, is a primary concern of the states. But, as the Court went on to point out, all state action "must be exercised consistently with federal constitutional requirements as they apply to state action." The applicable constitutional requirement is the provision of the Fourteenth Amendment which declares that "No State shall **** deny to any person within its jurisdiction the equal protection of the laws."

In a long line of cases prior to the School decisions, the Supreme Court, in a variety of situations, gave concrete meaning to this command of the Constitution. For example, it set aside convictions of Negroes by state juries from which Negroes had been systematically excluded. The states involved did not seriously contend

that the Supreme Court was thereby trying to run their jury systems. The Court also struck down licensing laws which were administered so as to exclude persons of Oriental ancestry from certain occupations. The states involved did not argue that the federal government was attempting to take over their legitimate licensing functions. On the contrary, they recognized the unconstitutionality of the discriminatory practices.

There is no more reason to argue that the federal government is interfering with rights of the states in the field of public education. A state is completely free to work out, as it chooses, a public school system--teacher selection, curriculum, all of the elements which go into a school system and its management are, as they have always been, the affair of the state and local authorities. The Supreme Court has never suggested otherwise. It held merely that a state violates the Constitution of the United States when it denies to a Negro child who is otherwise qualified for admission to a particular public school, and who seeks admission, the right to enter that school.

The legal issue has been settled. No serious-minded person can doubt the permanence of the School decision. The issue now is the manner and method of accommodation to it. If the community's attitude is governed by a respect for the constitutional rights of others the problems can be solved with due consideration for all of the interests involved. The guidelines laid down by the Supreme Court provide latitude;

they leave room for the use of varied techniques in making the necessary adjustments. In every community where good faith efforts have been made there has been progress. On the other hand, if the accommodation takes place only after a period of obdurate and bitter resistance, the community and the state involved will be scarred by the experience. The damage to the Nation itself cannot be calculated.

We have seen the doors of thirteen public schools closed in four communities. This unprecedented action was taken in order to avoid compliance with court decrees requiring the admission of qualified Negroes who sought only to exercise their lawfully declared rights. In consequence, about 16,400 young people, white and colored, have had their public schooling disrupted.

A grave consequence of attitudes of defiance is that they create an atmosphere in which extremists and fanatics are encouraged to take the law into their own hands. Many schools and places of worship have been the target of actual bombings or threatened violence. For the most part, these shameful acts have taken place in communities where necessary adjustments have been made without incident. They appear to be retaliation against people of good will who are demonstrating by their acts that the adjustments required do not lead to the dire consequences predicted by the fanatics. The responsibility for this wanton destruction of property rests, in my opinion, on the doorsteps of those who stir up race prejudice and advocate defiance

of law. The Department of Justice, through the FBI, is lending every possible assistance in an all-out effort to apprehend the guilty parties.

Another consequence is an upsurge in hate literature, which had been on the decline for many years. On the basis of complaints from persons who have received unsolicited trash of this sort, it appears that there has been a recent increase of approximately 400 percent in this type of mail, much of it printed in the basements of professional bigots.

Community tensions resulting from racial prejudices are not without their economic implications. Private enterprise, in making new investments, will necessarily take into account the climate of local opinion and the public facilities that will be available to personnel. By the same token, the Government, in determining the location of new or expanded federal facilities will have to give consideration to the availability of public schools and other public conveniences as a matter of fairness and justice to its personnel who will be on duty there.

The international consequences of incidents which reflect prejudice are far reaching. In September 1957 an editorial in an Asian newspaper said:

"***When an Indian Ambassador is pointedly asked to sit in the 'coloured' section of an American airport, when a Burmese invitee (of the United States) is turned out of a

restaurant, the whole of Asia is stirred to its emotional depth."

A newspaper in Africa recently stated:

"The problem of the status of American Negroes is one that America must settle at once, if she sincerely wants to win the good will of Africans."

The Soviet press, of course, exploits racial incidents occurring in the United States for its own purposes. Thus a recent article commenting on incidents involving schools declared that all the talk in the United States "about individual freedom and dignity, all the slogans voiced about the equality of rights and democracy lose all their meaning while such facts exist."

We know, of course, that the hostile attitudes which prevail in a few areas do not accurately reflect the views of the overwhelming majority of Americans. We have all been encouraged by the fact that even in areas where there is the sharpest conflict with tradition, responsible voices are pointing to the disastrous consequences which are bound to flow from purely negative attitudes. For example, over three hundred clergymen of Atlanta, Georgia, representing seventeen denominations, recently warned that "all hatred between races and groups within society carries with it the constant threat of violence and bloodshed." They also declared, "It is clearer now than ever before that we must obey the law***and that the public school system must be preserved."

Many other voices throughout the land are speaking out in support of orderly processes. Statements by religious denominations have emphasized the underlying moral issue. Communications media -- radio, television, motion pictures, newspapers and magazines -- are playing a most important role. And almost daily the voices of responsible state officials and respected private citizens are being heard, pointing out the futility of defiance and urging the need for common sense and constructive measures.

This educational process has already had its impact. For a time, as you know, the notion was being circulated that a decision of the Supreme Court interpreting the Constitution of the United States was something less than an authoritative expression of the law. I think that this misconception has now been effectively dispelled. There is also, I think, a fuller understanding of the meaning of the School decision. Thus, it is now widely realized that the decision does not impose inflexible requirements and that there is considerable discretion so long as state and local authorities proceed in good faith on a basis which does not make race a criterion. At the same time, there is an increased awareness that neither outright defiance nor schemes which are merely evasive will be countenanced by the courts.

We in the Department of Justice have made every effort faithfully and conscientiously to carry out our duties under the

Constitution and laws of the United States. We shall continue to take all necessary and appropriate measures to support and enforce the decrees of the federal courts. And we are giving careful thought and study to a number of legislative proposals.

What I wish to emphasize today, however, is not the role of law enforcement but, rather, the vital importance of creating an enlightened public opinion, a climate in which obstructionism will be seen for what it is -- an exercise in futility. Those of us in law enforcement, and you who fight discrimination in all its insidious forms, know that neither the law alone, nor education alone, can bring lasting solutions to these difficult problems. Each is indispensable to the effectiveness of the other.

Thus the agencies of communication, in addition to presenting news and information can provide, as many are successfully doing, a forum for enlightened opinion. They can lay bare false and deceptive claims, help to allay groundless fears and prejudices and strengthen the devotion of all citizens to our national ideals.

How vital is this task? Chief Justice Hughes once stated it this strongly:

"We have in this country but one security. You may think that the Constitution is your security - it is nothing but a piece of paper. You may think that the statutes are your security - they are nothing but words

in a book. You may think that elaborate mechanism of government is your security - it is nothing at all, unless you have sound and uncorrupted public opinion to give life to your Constitution, to give vitality to your statutes, to make efficient your government machinery."

To give continuing vitality to our liberties is a task for all of us; it is an enduring task; it is the highest calling of the Nation. There is no greater bounty that mankind can enjoy than the liberties which result from freedom under law. There is no greater heritage that we can bequeath to our children than a full appreciation of the concept of equality under law and what it means to our lives, our freedom, and our self respect.