



Department of Justice

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LAW DAY ADDRESS

BY

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BEFORE

THE COLUMBUS BAR ASSOCIATION

WEDNESDAY, MAY 1, 1974
NEIL HOUSE HOTEL
COLUMBUS, OHIO

I very much appreciate this opportunity to be with you today.

It is always nice to come back to Columbus -- even for a brief visit -- and this observance of Law Day has a special significance for us all.

Law Day provides an all too brief interlude for Americans of every persuasion to reflect upon the blessings of liberty -- liberty which was not lightly won and which has been maintained through great sacrifice for nearly 200 years.

The framers of our Constitution had a vision which transcended their troubled times, one which shaped the bed-rock of our Nation. The course they charted for us through the centuries has never been an easy one, but it has always been the right one.

There have been periods when an awful twilight seemed to be descending on the Nation -- the terror of civil war, the agony of slavery, the tyranny of widespread poverty and deprivation of every sort.

But through it all, the Constitution and our framework of laws somehow always formed the beacon that eventually led us to do what had to be done.

An enormous range of problems confronts our society today -- make no mistake about that.

But our only hope to solve them -- not our best hope but our only hope -- is through the orderly workings of the rule of law.

Those who spread terror and thrive on anarchy neither free the best in man nor meet his daily needs. Their sole impulse is to forge shackles for all but themselves.

The law has as its goal the betterment of all of our people -- no matter what their station in life, no matter what the color of their skin, no matter what their faith.

Law Day should be more than a once-a-year observance. Especially for those of us who devote our lives to the law, it should be a constant spur 365 days a year to do a better job in fulfilling the great responsibilities given to us.

In order to be most effective, the orderly process of the law cannot be merely given some sort of passive approval by the bulk of our citizens. They not only have to take part in the process but they have to believe in it and have confidence in it.

Today, we must face the sober fact that the great upheaval of Watergate, and its resulting after-shocks, has to one degree or another eroded the confidence of a great many Americans in their government.

I can understand their feelings of dismay and frustration, for those same emotions have touched me, too.

But unlike some of my fellow citizens, I do not believe Watergate has rendered the Nation impotent or forced the government to a grinding halt.

Neither do I believe that Watergate has inflicted mortal wounds.

Public confidence in the rule of law ultimately hinges on whether the sanctions of justice are applied equally to all -- no matter how important or powerful the individuals might be.

Without in any way attempting to comment upon or pre-judge those cases stemming from the Watergate matter, let me simply make these observations:

-- There was once a widespread feeling on the part of many Americans that there would be no Watergate indictments beyond the original group charged with burglary.

-- As we have seen, there has been a large number of indictments, involving some of the most influential men to occupy government posts in recent years.

-- A number of defendants have entered pleas of guilty relating to Watergate.

-- And finally, as any newspaper reader knows, there is a great deal of speculation in the press that more indictments may be returned.

I am not involved in the supervision of the prosecution efforts in the Watergate cases. That is solely the responsibility of Mr. Jaworski and the Special Prosecutor's Office. But I raise these matters to make a point about what surely has to be the most signal criminal case to date in our Nation's history.

Our system of laws, our system of justice did work, did function -- and is functioning now.

It is true that it all took a long time, and the end is not yet in sight.

It is true that the entire process seemed creaky at times and might well have bogged down had it not been for the diligence of federal investigators -- as well as the Congress, the courts, the news media, and, certainly, the pressure from the public.

But no one ever promised us that the rule of law would be a picnic. Some matters take longer than others to unfold. We might take some assurance, however, in recalling that the big truth and the big lie have one common result: At some point, each becomes apparent. At some point, what is right and what is just are established for all to see.

We hear sometimes that we shouldn't worry so much about Watergate, because things just as bad have happened in the past. I find little solace in that, for we don't live in the good old days -- we live in the turbulent here and now.

At the same time, we hear that Watergate means that our system of government, our system of laws have somehow been corroded so badly that they can never function properly again. Well, I don't buy that argument either.

What I do maintain is the position that as a Nation we can prevail through Watergate with our integrity and our ability and our confidence in the future intact.

We have seen unfold what I believe is a failure of men -- not a failure of our institutions.

When men fail, it is a tragedy. When institutions fail,

it is a catastrophe.

There is no way that anyone can predict with any certainty where we will be as a Nation a year from now -- or a decade from now.

Where we will be really depends on us, on how diligently we roll up our sleeves and get to work on the tasks that confront us.

Many traits run deep into the American grain: An impulse to goodness, to decency; A sense of caring what happens to our fellow man; The conviction that a better future can be carved out of current adversity.

We must tap into those traits and nourish them.

Confidence is misplaced, however, if it is not based upon facts.

I believe our government is functioning -- not without some bumps and hard knocks -- but it is functioning.

I am also convinced that the Department of Justice is alive and well and functioning. Its integrity has not flown the coop.

Not only do I believe that the essential integrity of the rule of law remains intact, I am certain it will continue to be intact in the future -- come hell or high water.

That is no small achievement, considering that the water has been pretty high at times in recent years.

And probably will be again.

When I became Attorney General less than four months ago, I said my hope was that I could leave this office in a better condition than it was when I entered it.

The only way I know to do this is to put one foot doggedly ahead of the other for what I believe is right.

There is no way that I can tell you with any final assurance that everything that should be done by the Department of Justice will be done. Observers with varying turns of mind may say we have done too little in one area and too much in another.

But I can tell you this with absolute confidence: The Department of Justice is functioning and functioning well. It has nearly 50,000 employees, all but a handful career employees. They are dedicated men and women who feel their responsibilities keenly.

We are not concentrating on only one or two areas of our responsibilities, but rather are moving ahead on all fronts.

Our litigating divisions are deeply involved in matters ranging through enforcement of the criminal laws, the tax laws, civil rights, antitrust, and statutes relating to the environment and natural resources.

The offices of our 94 United States Attorneys are functioning well, but we believe their performance levels can be increased. New training programs for them and their staffs are beginning, and we will enhance career opportunities in each of those offices.

The Federal Bureau of Investigation is undergoing a measured, steady improvement under new leadership.

All of the enforcement efforts relating to narcotics and dangerous drugs have been better coordinated and intensified in the new Drug Enforcement Administration. Many aspects of the drug abuse problem are fairly recent developments, and we must attain a high degree of professionalism to solve them. We believe we are on the right track.

Aid to state and local governments for the control of crime and the improvement of criminal justice is reaching the level of close to \$1 billion a year, and we foresee a number of new efforts to make this cooperative program more effective. One area of emphasis will be ways to motivate citizens to participate more -- as witnesses, jurors, or responsible supporters of criminal justice.

New problems confront us and old ones remain. Terrorism poses problems of sometimes bewildering dimensions. The rate of serious reported crime rose again last year -- but crime would still be too high even if it had been reduced by five percent. Concern has grown over the security and privacy of material in computerized criminal justice information systems. We have proposed strong legislation that would erect unprecedented safeguards for the public. The FBI is the focal point of much of this concern. Under J. Edgar Hoover, the FBI operated in this area on policies established by him. Under Clarence Kelley, the FBI

is now giving new and more appropriate consideration to the citizen's right to privacy as it carries out crucial enforcement and investigative work.

In my few short months as Attorney General, I have had to learn a new job. Quite frankly, it is not the easiest job in the world to learn. I have had to get a new management team in place in the Department. I have charted the broad outlines of a number of new directions we must take. And, to be candid, I have tried hard to repair fissures that existed in some parts of the Department's morale.

Aside from carrying out our legal responsibilities, there is another factor that is of utmost importance in developing public confidence in the Department. That is whether we decide matters on the merits or are buffeted by political pressures.

There is no political coloration to our decisions on matters of law.

The White House is not on my back. And they have assured me they will not be.

At the same time, I firmly believe that the Department of Justice is properly part of the Executive Branch and should not be pried away and made an independent agency, as some have suggested.

The Attorney General, whoever he is, should remain responsible to the President, whoever he is. It is only in this way that the Attorney General and the Department can be made

ultimately responsible to the people.

The worst thing in the world for the cause of justice would be to have the Department of Justice entrenched behind some sort of bureaucratic barricade where it is obscured from public view and unresponsive to the democratic processes.

Instead of new institutions, we need to work to improve those we now have. Though faced with grim problems, it would be cynical in the ultimate degree to create new institutions to solve those problems.

Our government and our institutions were not designed to sail in only fair times. They were fashioned to have a water-tight integrity that permits them to survive the foulest weather.

It would be a great error to permit cynicism to become our national trademark. But that is exactly what would happen if we dismantled, brick by brick, the institutions that have worked, are working, and will work even better if we have the will to make it so.

In addition to proposals for taking the Department of Justice out of the Executive Branch, there also have been suggestions that the Office of Special Prosecutor be made a permanent part of our government.

I believe that also would be a mistake.

No doubt exists in my mind that the Department of Justice could have carried through to a successful conclusion the matters springing from Watergate.

At the same time, I favored creation of the Special Prosecutor's Office to handle the Watergate cases. Special circumstances sometimes require extraordinary measures, and in this case I felt that the public's perception, if nothing else, required a special office being set up on a reasonably short-term basis.

But to create such an office permanently would chip away at the foundation of our institutions and -- more importantly -- tend to remove a vital function from public scrutiny and the Democratic processes.

Windows on the government should be opened wide, not shuttered, and this should include exposing to the public the thinking processes of the people who direct the separate departments.

It is for that reason that I have met so frequently with the press since becoming Attorney General.

The Department was closed for far too long -- by misguided fiat though, fortunately, not law. It is open and will remain open. You can judge us both by what we do and what we say, and compare them. And if you don't like the way things are going, let us know loud and clear.

I might note here that the public and the press have shown little such reluctance over the past three months.

Each of us -- especially those of us who work in the law -- must do a better job on all of our responsibilities. Each time the job is done more proficiently, it enhances the quality of justice. In turn, that is an additional bit of proof that the integrity of our cherished institutions is intact.

Nothing should be so trivial it eludes our attention, and nothing so awesome that it is incapable of solution.

Two years ago, when you also were generous in inviting me to address your Law Day observance, I said then that: "We as lawyers find ourselves losing respect of the American people."

The context for that remark was a discussion of the rising level of interest in consumer affairs and the growing distrust of what I termed concentrated economic power.

I said at that time, too, that: ". . . we as a group have been the most effective whittlers-away of the forces whose pull and haul made free enterprise tick. We as lawyers . . . must shoulder our fair share of the blame."

Finally, I commented in 1972 that: "We are on the threshold of a crisis in our destiny."

A great many of the economic problems I discussed that day are still with us. And some new ones -- energy shortages, intervals of shortages in some foodstuffs -- have since gripped the country's attention.

And as lawyers, we still must do better in helping to devise solutions to dilemmas which confront the economy and the free enterprise system.

In the intervening two years, however, another sort of crisis has arisen to confront the legal profession and, in a larger sense, our legal system.

We are no longer on the threshold of a crisis in our destiny. We have plunged over the threshold.

One of the peripheral concerns arising from Watergate is how so many members of the legal profession could have been involved, judging from their guilty pleas, or allegedly involved, judging from the indictments.

The innocence or guilt of all defendants will, of course, be established by our legal processes, and I naturally will make no comments on these cases.

But it can be fairly said that events have certainly jarred -- if not impaired -- some measure of trust in the legal profession. And many of the questions are being raised by members of the profession itself.

The trust reposed in us as attorneys is staggering -- whether we be in government, in private practice, in business, or in legal aid programs for the public. It is not enough to say we have not defaulted on that trust. A true evaluation also must involve the gut question of whether we are doing enough to carry out our responsibilities.

Honor and trust and decency -- doing the right thing at the right time -- may be old-fashioned in one sense. But we also hear these matters raised most often these days by the young. They are impatient for change, which is good, and yearn for better times, which is essential.

The theme of this year's Law Day -- Young America, Lead the Way -- has a special relevance.

How the young will eventually lead this country is partly up to us but mostly up to them. We can, at most, teach by good example, and create an environment where all views can be heard in the marketplace of free and democratic discussion.

Above all, we must show the young that our system of the rule of law not only works but is exceedingly fair.

Fairness must begin at home. In that spirit, and in the spirit of Law Day, let me conclude by briefly discussing a comment I made recently in Washington, D.C. At a press briefing, I said it appeared to me that Patricia Hearst "was not a reluctant participant" in a San Francisco bank robbery.

This statement was based upon what I considered to be substantial and supportive evidence from competent witnesses and clear photos.

Every law enforcement officer must make similar decisions, often on a daily basis, or arrests could never be made. The potential danger to society of the so-called Symbionese group is not to be underestimated.

Little concern has been shown for the two shooting victims of that bank robbery. I am concerned about them and I am concerned about the victims next week or next month if this group is not apprehended. And this is exactly what we and the police of California and San Francisco are determined to do.

If my mail and personal conversations with citizens make one thing plain to me it is the demand for direct and firm treatment of criminals by our police and our courts.

There seems to be a growing feeling on the part of citizens that our criminal justice system is a game fuzzed up and confused by the lawyers. One misstep by any participant on the part of the government and you return to go. The criminal goes free and the victims are on their own.

I do not buy this attitude but I can understand it because I feel it and am dismayed by its insinuations. We can best correct this attitude by our diligence in the training of police, in preparation and timely and competent prosecution of cases, and not least by raising the odds against the criminal.

Raising the odds by convincing him that he will be called to account for his misdeeds. That crime does not pay. That our courts act swiftly, fairly, and firmly. And that our criminal procedure is not a game but a means to make our streets safe and our homes and institutions secure.

That is what the rule of law is all about.

Finally, let me again express my appreciation for being invited to be with you today.

Our institutions can survive the worst of times and the worst of men. But they also need the best support that each of us can muster, and there is no better time to begin than today.

Thank you.