



Department of Justice

ADDRESS OF

BENJAMIN R. CIVILETTI
ATTORNEY GENERAL OF THE UNITED STATES

AT

COMMENCEMENT
NOTRE DAME UNIVERSITY

South Bend, Indiana
Sunday, May 18, 1980
2:30 p.m.

It is a great pleasure for me to participate in the commencement exercises of this renowned University, and I extend my warmest congratulations to all graduates and their families. In order to prepare for this event I conducted a private survey of commencement addresses. Here is what I found:

86.2 percent of them were too long. Of those, 19.8 percent were far too long. In addition, over 70 percent of the audiences remembered the subject of the address for as much as an hour following commencement. But less than 10 percent recalled the subject one week after the address was delivered. By the time one month had elapsed, that figure had dropped below one percent. I concluded from these findings that the wise thing to do would be to deliver a short speech which I would not expect any of you to remember.

You all came to this University to achieve some purpose, to accomplish some personal mission. Most of you came to continue your education and now you have completed it successfully.

I wonder whether in the course of accomplishing your purpose you have added to your capacity to understand issues and to appreciate proposals beyond your specialty. I wonder whether you have retained your faith in the human spirit. In four years or more at this great institution, I trust you have.

As Attorney General, I deal with a wide range of problems from many disciplines: from immigration and refugees, to crime and law enforcement, to environmental protection and the economics of antitrust. I am faced not only with the complexity of the particular underlying problem, but with the narrow views of

experts who address issues from their one-dimensional perspectives. Since now you will be embarking on your chosen fields, I thought I would pass on to you my thoughts about this disharmony between complex problems and single-minded solutions. For the duration of your stay here, you have been encouraged to believe in the value of learning; today I would like to discuss some of its limits.

First, it is a common truth that no one discipline, however well it addresses its own problems, can be expected to provide all the answers. Second, it's equally well recognized that today's problems span many fields and require interdisciplinary resolution. Then why is it we expect science, medicine, law, psychology, and sociology individually to provide satisfactory answers, and collectively to provide complete answers? We refuse to accept inherent limits; we over-trust transitory special knowledge; and we doubt the goodness of man and our faith in the human spirit.

Lawyers typically deal with cases which cover a wide range of human endeavor, but they certainly cannot claim substantive expertise in many of them. And I cannot speak with any authority in many of the fields in which you have already chosen to concentrate. But what lawyers and some others do claim, and are expected to have, is an ability to provide objective analysis.

Most of you have either already selected career paths or will be making those decisions soon. I hope you will be choosing your particular discipline not only because you're good at it and enjoy it, but also because you believe that your field has

the potential to improve the human condition and to expand your vision of life. But whatever your choice, I hope that during these college years you have learned the value of objectivity and have acquired a healthy appreciation of the limits of knowledge. We are a very complex species, and we face complex problems. Even the greatest proficiency and ingenuity in any one field will not solve them all. To place our trust and our values in our specialty or to expect flawless solutions will lead to frustration, disillusion, and failure.

I say "failure" because this is no theoretical problem. Inflated assessments of the worth of a profession, a science, or an economic system can have tragic results. History holds many examples. Yet the modern world has been guilty of this dangerous perception many times. As human knowledge grew, and as science and industry both made great strides, it was easy to be seduced into believing that it was only a matter of more time and effort before all answers would be available. If Euclid could reduce all of geometry to a few general principles, why not do the same for physics, and then psychology, and perhaps even economics and law? But these beliefs, and others, have been dashed again and again.

Consider the industrial revolution. The amazing successes of mechanization and the unprecedented growth of production beginning in the 18th Century led many to believe that this development would in time improve everyone's standard of living, and eliminate both scarcity and injustice, without adverse

consequences. It was dangerously simplistic. I think that our approach to capitalism today rightly recognizes that those were unbalanced expectations. Production by itself was and is a wonderful and necessary tool, but more and more production without other commitments, and without progress on other fronts, will not produce utopia. Devotion to industrialization and its infinite potential clouded our objectivity and seriously distorted our vision.

Nevertheless, similar mistakes are still being made. The growth of a strong federal government in recent decades unquestionably produced social gains of lasting value. The sheer magnitude of the problems this country has faced in the last 50 years made it impossible to deal with them effectively on any lesser scale. I don't believe that we shall ever again be able to avoid involving the federal government in many areas. Yet it is also true that seeking the solutions to all social ills from a government office diminishes the talents and energies of local communities, private organizations, and individuals. Such unrealistic expectations not only invite disappointments but also inhibit actions which are necessary for human progress.

Science is probably the area in which we still err most often in overestimating our ability to produce solutions. So many mysteries have been solved so remarkably by very powerful scientific techniques, so many seemingly incurable diseases have been conquered, so much social good has been done, that we are all guilty of the unconscious assumption that just more research, better computers,

and more money will unlock all mysteries. Those techniques will certainly accomplish much, and they mustn't be abandoned. They will not, however, do it all. Scientists and mathematicians themselves say that there may be built-in limits on the capabilities of any scientific system. Yet science is still widely idolized in our society. The results of that overly generous faith have produced major ills, such as environmental hazards and the possibility of nuclear war.

I'd like to illustrate this thought from my own experience. My adult life has been spent in the study and practice of law. I chose my field in part because I was impressed with the tremendous potential which law has to contribute to a just society. I remain firmly committed to that belief. Law is like science and mathematics to the extent that it is susceptible to formalization in codes and logical rules of procedure. Formalized law is extremely impressive. Just look at some of the codes -- that of Hammurabi, or of Justinian. Better yet, look at our own Constitution, our well-organized legislatures (despite gerrymandering), our symmetrical legal structures. There is an intellectual satisfaction and excitement in seeing the consistency and apparent completeness of these systems. But there is also a **danger**. That same satisfaction can delude one into thinking that the system is self-sufficient, and that problems need only be fed in one end, and solutions will mechanically be cranked out at the other end.

William Blackstone in the 18th Century, for example, organized the common law into a neat, ordered, and symmetrical package in his Commentaries on the Laws of England. The appearance of the Commentaries was undoubtedly one of the greatest events in the history of law. For example, it codified formally the common law of property on which much of our own legal system is based. The urge for legal precision was so great that there were those who were not even completely satisfied with the structure built by Blackstone. They wanted to produce a kind of "computerized law." One of Blackstone's most interested pupils was Jeremy Bentham, who became a bitter critic of his teacher. Bentham's immortal quip about Blackstone was "he speaks the word, and all is darkness." Bentham thought that legal reasoning could be perfected to the point of being a calculus, which would be adequate to deal with any and all questions which might arise under the law. He even hinted that he might do for law what Newton had done for science.

I suppose many of us who choose law as a profession unconsciously wish that that were so, and are arrogant enough to act as if it were. But it is no more true of the law than it is of science, business, or any other field, despite what I said earlier about the lawyer's special training and capacity for objectivity. There are limits within which the law makes its indispensable contribution, but a lawyer who is dedicated to the public good must recognize that there are serious issues which lie beyond those limits.

Law and justice are not synonymous. Law is one of the servants of justice, but justice is far broader and more complex. Let me illustrate some of the limits of the law:

- For one thing, all laws are based on certain premises and assumptions. That means that a system of law is only as strong as the current formulations of those premises and assumptions. When society ceases to respect the capacity of law to govern justly, the most magnificent and consistent legal edifice will crumble. So there are social, moral, and philosophical commitments which support the law. Those are the concerns of the humanists as much as of lawyers. These commitments are not all susceptible to clear-cut objective analysis. Rather, they are related to the human spirit. This is the most basic constraint on law.
- Second, and more obvious, is the fact that even laws which have earned the commitment of society are not self-executing. They are only as strong and as effective as the degree of commitment and the available arms of enforcement.
- Third, and most important, is the fact that there clearly are problems which lie beyond the capacity of law -- any law -- to solve. Two examples readily come to mind. The first is the achievement of an effective system of public education which is racially integrated. The law

has certainly been written and developed diligently; we have an entire division in the Department of Justice devoted to civil rights; and yet, the achievement of the goal continues to elude us. Has the law failed? No. But we have not yet developed the capacity -- the breadth of spirit, if you will -- necessary to produce shared values essential to justice in this area. Justice here is broader than present law; brilliant briefs, court decrees, and strict enforcement are not enough to achieve justice. A second example concerns immigration. The formidable issues of illegal immigration and the integration of refugees we choose to admit into our society have been addressed and are being addressed through law. A special Commission is considering these issues under the able chairmanship of Father Hesburgh. I have become convinced, however, as have many members of that Commission, that resolution can only come through a broad national effort: an effort that builds on a sound consensus of shared human values.

What I have been saying about the law implies that we also expect too much from our public officials and especially from our law enforcement officers. Neither the FBI nor the local police can solve the crime problem satisfactorily. That problem transcends law. While the causes of crime are complex there is

little doubt that there is a connection between crime and the decline of the influence of the family in American life. Law and its enforcement, no matter how professional and efficient, cannot make up for the diminished role of the family and community institutions in holding our society together.

The erosion of family life and respect for the dignity of the human spirit nurtured within it leaves a vacuum. We attempt to compensate for that void in one of several ways. Some choose the path of single-minded devotion to the intricacies of one intellectual discipline, implicitly rejecting the values inherent in the human spirit. Some attempt to find fulfillment only in the extravagant pursuit of human pleasures. Still others choose a very different path which leads them to spiritual communities which implicitly reject the power and value of any intellectual discipline.

Any of these conditions thwarts objectivity and seriously blocks our ability to see and communicate beyond our special interest. Concentration exclusively on the intricacies of a discipline or the pursuit of hedonism damages faith in human good, in religion and in the human spirit. Without such faiths we are driven to a narrow and isolated life. We become antagonistic to the ideas and concerns of others not because they lack validity, but because we are blinded by our own job; our very identity is inextricably bound to the values and premises of our own role.

Finally, we should never forget that some mysteries will never be solved, just as some truths are not provable.

My message to you is this: pursue your career vigorously; preserve your objectivity in the recognition of inherent limits tenaciously; and, above all, maintain your faith in the human spirit.