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ADDRESS

BY

THE HONORABLE EDWARD H. LEVI
ATTORNEY GENERAL OF THE UNITED STATES

AT THE

O. V. W. HAWKINS LECTURE

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DAVIS GYMNASIUM
BUCKNELL UNIVERSITY
LEWISBURG, PENNSYLVANIA



I am honored to give this Hawkins Lecture in the field of public policy in the setting of events for the inauguration, in Bucknell University's 130th year, of its new president. I hasten to claim George Dennis O'Brien as a fellow graduate from the institution for which I was once privileged to speak. My admiration for him is exceedingly high, and I congratulate you and him on your choice and on his willingness to accede. In this university setting I thought it might be appropriate to reflect upon some of the conditions of public life in our times and in our country. There is, I believe, a continuing obligation for those in government and in academic institutions to exchange what may be errors but which we hope are insights on problems of leadership, representation and participation which so clearly have an effect upon the quality of life. I shall attempt, therefore, to discuss some of the aspects of public service in the United States. Public service is not limited to governmental service. In our kind of community of communities the responsibility is great upon institutions of higher learning, and on many other groups, and in some genuine sense upon each of us.

Briefly the points I would make are these:
First, reiterating what I have just said, it is a mistake, particularly with our form of representative government in

its present setting, as it has developed, to think of governmental office as the primary road for public service. Both forms of service, governmental and non-governmental, in many different aspects, can be public. In addition the flow of ideas and influences are reciprocal and more intense than they have ever been. This does not mean that obligations and ways of doing things do not differ - of course they do; the measures of control should not be the same. It does mean that the conditions for representation are markedly different from what they were in the past.

Second, the most basic change influencing our society has occurred because of the enormously increased availability of higher education to so large a proportion of our population. Resulting from this are the emphasis, under new conditions, on the continuing importance of that recognition in practice which many and differing institutions of higher learning now give to basic values and the creation of a new pressure of ideas, and openness to them, within the society where there is a constant necessity to explore ideas and their effects.

Third, this openness in the society does not by itself make ideas easier to comprehend; it may have the opposite effect. New forms of communication, which in the long run may be most helpful to an enlarged discussion, now may diminish understanding through an emphasis on popular beliefs as the primary standard, and upon immediacy and repetition.

Fourth, even in an open society there still is the continuing necessity for the recognition of authority, its limitations and legitimacy. Popular views about power and coercion tend to distort both the process of discussion and the primary institutions of government.

Fifth, even -- or perhaps particularly -- an open society requires the recognition of common values which are accepted in the midst of diversity, and this recognition requires the help of many institutions. That help is for the common good; it is in the public service.

Sixth, there is a built-in tension in our society which becomes visible in cycles of reaction. Governmental arrangements cannot alone deal with this, although they were purposely designed to diminish the danger of factionalism. The underpinning of a society which believes in free and robust discussion also requires a certain tolerance and grace. These qualities cannot be assumed; they must be sought.

Our view of public service through governmental position has alternated between what might be loosely termed a kind of Periclean vision and a counterview of extreme cynicism. The Periclean vision, while it is not all that precise, has many facets, including the claims it makes for the achievement of excellence and virtue and the relationships which it sees between public and private life. "There is no exclusiveness in our public life, and in our private intercourse we are not suspicious of one another, nor angry with our neighbor if he does what he likes. . .," Pericles is written to have said. "A spirit of reverence prevades our public acts. . .We rely not upon management or trickery, but upon our hearts and hands...the individual Athenian in his own person seems to have the power of adapting himself to the most varied forms of action with the utmost versatility and grace." Pericles evokes the image of an entire citizenry educated to take part in public affairs. The eulogy for those who died in the first stages of the Peloponnesian war is a glorification of the kind of society as a whole, memorializing the final sacrifice which the city requires in wartime by stressing the shared responsibility in Athens in times of peace. The model blurs the lines between governmental

office and the public acts of individuals. An Athenian citizen did not neglect the state because he took care of his household, and even those of us who are engaged in business have a very fair idea of politics. Governmental policy arose out of a process of discussion among the citizenry preparatory to action. A man who took no part in public affairs was regarded as a useless character. In this setting, the holding of government office did not arise out of special privilege. Pericles even dared to say it was conferred because of merit.

The vision does not deny that there might not be burdens or special risks to office holding. Good men, Socrates argued, took public office only because of necessity. Money and honor would not attract them. They had to be made to serve by the fear of punishment. The punishment was that he who refuses to rule is liable to be ruled by one who is worse than himself. A mild cynic might note that the fear of this punishment was not sufficient in Socrates' own career. He was deterred by his inner spirit from becoming a politician, and rightly so, he said, for he would have perished long ago "and done no good to either you or myself." A mild cynic might take

note also of Tocqueville's comment as to why salaries for public office did not attract talent to government in the United States in the first part of the 19th century. It was because "those who fix the amount of the salaries, being numerous, have but little chance of obtaining office so as to be in receipt of those salaries." The passion play of Socrates is its own puzzling commentary on Athenian life and sometimes our own. But surely Socrates was engaged in a public task, and, as has been said, Athens spoke through him.

The founders of our republic, who saw their work in the continuum of history, were, of course, familiar with the Periclean vision. There are echoes of it in many of the documents which form the American testament. Pericles, while he understood full well the nature of leadership and the important effect of government itself, chose to emphasize the overwhelming force of the quality of the particular society. In the gloom between the revolution and the Constitution, John Jay wrote to Washington, "Representative bodies will ever be faithful copies of their originals..." And Washington responded, "We have probably had too good an opinion of human nature in forming our confederation... We are apt to run from one extreme to another...Retired as

I am from the world, I frankly acknowledge I cannot feel myself an unconcerned spectator." Like the story of Cincinnatus, which is part of the same classical tradition -- the access to public life, the withdrawal and the return -- Washington considered himself as having no claim to public attention; it was not his business to embark again on a sea of troubles, but, "Would to God that wise measures may be taken in time to avert the consequences we have but too much reason to apprehend."

I have given perhaps too much emphasis to this classical tradition of concern for excellence, virtue, representation and responsibility which could be shared among the citizenry, but I do so because it was influential in the formation of our republic, is imbedded in our Constitution, and remains with us as a powerful factor today. The American experiment was a self-conscious one. Of course it began with the determination to make available to American citizens the rights which Englishmen enjoyed. But it also built upon a view of the triumphs and troubles of the republics of the classical period. It involved basic conceptions about the nature of individuals and a belief in the power of reason and in a benevolent Providence. I think we are inclined to

take too much for granted this inherent optimism, tempered as it was by the doubts of the days between the first confederation and the Constitution. We could have a society, given slightly different circumstances, because this tradition also existed, based much more on a belief in the necessary catastrophe, and in the ferocity of tempers and manners which would not have been hard to find.

The experiment was to begin, as the great seal of the United States said, "a new cycle of centuries." It was to be a government by discussion "which would break the bonds of ages and set free man's originality." "Whenever," John Adams wrote, "a general knowledge and sensibility have prevailed among the people, arbitrary government and every kind of oppression have lessened and disappeared in proportion." The settlement of America was to be seen "as the opening of a grand scene and design in Providence for the illumination of the ignorant, and the emancipation of the slavish parts of mankind all over the earth." It was to be a time of new knowledge, science and invention. The Constitution itself reflected the new invention of federalism as applied to a republic, as the Federalist Papers claimed. But there would be other discoveries and other truths which would be found out.

Professor Wendell in his concluding chapter of the volume on the United States in the Cambridge Modern History was undoubtedly correct in 1903 in stating that the educational leaders in America "may be taken . . . as among the most characteristic figures whom the country has as yet produced. For, however they differ concerning all manner of detail, they are agreed in faith that education should be a fearless search for truth; that the truth, honestly proclaimed, will make life on earth better and better; and that the best way to discover and proclaim truth is to open to all who can use them the fullest resources of learning. In which buoyant faith," he went on to write, "though often obscured by the superstitious errors of the moment, there glows a deep belief in the ultimate excellence of human nature" I think one can say today that our educational institutions, recognizing there are differences among them over a wide range, reflect what is still this characteristic American spirit. The result is that there is a sharing in the work of this ideal to the extent never before known in the history of the world. It is not just that we take for granted what is rejected in large portions of the world, that education is intended to liberate the mind, and not just to capture and control it, and that our society

is committed to the change which this introduces, but also that the proportionate number of those attending colleges and universities is more than twice that of France -- more than four times that of England.

There is no reason to deny that this expansion carries with it certain difficulties. Such a customary absorption of the time of so many people raises more sharply the question of the different purposes of education. It is, for example, one thing to say that education is a good in itself, for it provides an enlargement of the understanding of the humanities and the sciences and that it will help us attain some unity of conception of the world and ourselves which should elevate the quality of life. It is another thing to think of education in a more vocational way and thus to have to wonder whether the craft trained is the craft needed. Indeed, as you know, it is sometimes urged that the education is disabling. One thinks of Benjamin Franklin's report on the answer given by the Indians at Williamsburg in 1774 to proposals to provide education for their children. "We have had some experience of it," they said, "but when they came back to us, they were bad runners, ignorant of every means of living in the world, unable to bear cold or hunger, knew neither how to build a cabin, take a deer, nor kill an

enemy, spoke our language imperfectly, were therefore neither fit for hunters, warriors, nor counsellors" Somehow I don't particularly like this story; I am not sure the Indians ever said this. But they may have, and the story has a more generalized point.

But there are other consequences. The places for investigation and research have been vastly multiplied. There are more participants in the discussion of the meaning and effect of particular ideas and solutions to problems. The conversation is much more extensive, more immediate, the volume is greater. The learning society always has been an ideal, but with that much learning afoot it becomes more of a necessity. The reason is that the self-correction of education is an integral part of the process. It may be true that correct or better ideas win out eventually in the marketplace of ideas, wherever that is, over incorrect or inferior ones, but only if there is an active response. Today education can no longer be regarded as only preparatory. It never should have been regarded that way. It has to be viewed now as continuing and life-long, both for the sake of the individual and the well-being of the society. Moreover, because of new forms of communication, centralized and regional, the society daily receives a veritable bombardment of capsulizing concepts and conclusions in a powerful and

dramatic way. In this setting, the practice if not the theory of representative government changes. There is a new accessibility and vulnerability to ideas and movements. It was one thing for Sir Robert Walpole in the 18th century to insist that the people, influential as they were, had no right to instruct the members of Parliament on how they should vote. It is different when the voices of instruction can be heard all over the land, and access to the media is so important. Again this may be highly desirable, but not always. There can be a play-acting, or manipulative, air about it. Richard Crossman in his recently published book, Diaries of a Cabinet Minister, wrote that from the point of view of the bureaucracy one of the functions of a minister is to sell himself to the public with announcements and pronouncements which, though they are not making any new policy, give the public a sense that he is doing something. In contrast I assume that the convention which formulated the original Articles of Confederation and that which drafted the American Constitution could not have been held, as they were, in secret conclave. They would have been regarded as conspiratorial, as they were then, but now one has to suppose the criticism would be sufficiently powerful or persuasive to prevent this privacy, or that the privacy in any event would have been shattered by piecemeal accounts instantly reported to the outside world. I think it is fair to assume

that at least the latter document could not have been drawn up under the circumstances we would now require.

For many reasons, not the least of which is the sense of injustice itself, it became popular in recent years to see all relationships within and between societies in terms of power, manipulation or coercion. While it is certainly possible to view all activities in this way, it is only a partial truth. It elides important distinctions. It puts a gloss of politicization on all events, when in fact it is a question of more or less, and the designation sometimes hardly fits at all. In doing so it becomes false both normatively and descriptively, for many institutions, arising out of human needs, have as their very purpose, and actually can fulfill the function, of supplying some correction to such tendencies. For example, Reinhold Niebuhr, whose book Moral Man and Immoral Society was strongly influential in projecting such a view of omnipresent coercion, found that the corrective of an impartial tribunal to check society's power would have to be viewed as similarly disfigured. It is not enough to say that such a view, which places all institutions in a simple category of power structures, is motivated by a desire for a greater egalitarianism. If so, the central question is, as it always has been, what is

justice and how can it be implemented, and this involves the coalescence of many values.

There is an undoubted attractiveness, when people want to get things done, to the thought that all the institutions of government and society can be treated much the same as power mechanisms. But the history of the implementation of justice -- the central concept of due process itself -- belies this kind of carelessness. Due process cannot protect anyone if there is no recognition of both legitimacy to and restrictions on the uses of authority. Equality before the law, and therefore the rights of individuals, including particularly the most disfavored, are greatly weakened if the moral prestige of impartiality is to be denied to judges. The responsiveness and accountability of the legislative function are diminished if the most controversial issues are too often seen as beyond the reach of legislative action, because constitutionally determined, or as too easily dealt with by legislative action by placing the changing solutions in the hands of some other department. The relationship among the branches of government becomes unfortunate if there is insufficient recognition of their differences and separate functions. The same point can be made about federal-state relationships. The safeguarding

of the integrity of non-governmental institutions otherwise vulnerable to governmental direction is necessary if rights of association and the very concept of a learning society are to be maintained. But no one of these issues can be properly handled if the rubric is to be simply a version of "strategic politics." There are problems of crises management, and our society has not been in want of these. Such events test the maturity of a society not only to handle the matter at hand but to return to its central values.

In a much-quoted statement Matthew Arnold once wrote: "The difficulty for democracy is how to find and keep high ideals. The individuals who compose it are, the bulk of them, persons who need to follow an idea, not to set one; and one ideal of goodness, high feeling and fine culture, which an aristocracy once supplied to them, they lose by the very fact of ceasing to be a lower order and becoming a democracy. Nations are not truly great solely because the individuals composing them are numerous, free and active, but they are great when these numbers, this freedom and this activity are employed in the service of an ideal higher than that of an ordinary man, taken by himself." I think we can reject the explicit language and overtones

of this passage which questions the attainment of excellence among us, but we cannot reject the importance of a value structure and high ideals to hold a community together and to elevate it. Universities contribute greatly to our life through the inventiveness and discoveries of their members. They contribute more, however, through the values they exemplify. This is true within an institution where the mood and attitudes reflecting the qualities which are honored are the most decisive determinants of its future. One has to believe this is true of our academic institutions as a whole with respect to their influence on our national life. Other institutions -- the family, churches, the professions, the companies and private associations -- have their influence as well. But if it is true that we have become, or are required to become, a truly learning society then the responsibility upon the universities is truly enormous. "The very techniques and conventions of scholarship," Sir Eric Ashby once wrote, "carry their own repertoire of moral principles: reverence for truth, which requires humility and courage, equality for any scholar, however junior . . . internationalism, for whether a theory is upset by a black man or white, Christian or Muslim, communist or capitalist, the theory is upset all the same . . ." This respect both

for individuals and ideas is much needed in a democratic society which charts its own way. I would add also a remembrance for the past so that we may perfect and continue the better part of the traditions we have inherited. This, also, is in the special keeping of the universities.

Andre Malraux has written, "A civilization can be defined at once by the basic questions it asks and by those it does not ask." I would add one more item to Malraux's comment: namely, the tone in which a society asks its questions. The tone itself may be even more important than the question or the answer.