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"LAW AND THE NEW DEAL

Address by Honorable Homer Cummings,
C. G.,
Attorney General of the United States,

before

The National Press Club,
Washington, D. C.

July 6, 1934.

Mr. President, distinguished guests, and members of the National Press Club.

President Murphy and his associates, I trust, have imposed not too severe a strain upon your good nature in arranging this midsummer soance with "Law and the New Deal." For my own part, I welcome this opportunity. I am gratified, too, at finding so many members of the National Press Club here, despite the oppressive heat.

I am particularly glad to address you at a time when the program of the Department of Justice, thanks to new legislation enacted by the Seventy-third Congress, is being rounded into shape. Limitations of time make it impossible to present a picture of more than a small part of the work of the Department which I would like to discuss both from the standpoint of what has been done in the last fifteen months and what is planned for the future. I have a feeling that the significance of some of it has

been lost in the rush of events.

It is my earnest hope, that the contacts of the press with the Department will increase as time goes on. When you learn more of what is planned and what is possible under our enlarged program, I am sure you will concur in that view. To me the press conferences at the Department of Justice have been both pleasant and stimulating. The cooperation of the press has been a cardinal aid to the Department in the past hectic months. And, let me add, it is relied on for the future; and I guarantee, despite the outcries of the timid, that no big bad wolf of censorship will get in your way.

In the past, I have been told, the news gathering fraternity, has been inclined to regard this arm of the government as a bailiwick of secrecy, where the tendency has been to withhold rather than to broadcast. It has been looked upon as a "gun-shoe" adjunct, where all speak in whispers and where furtive individuals slink out from time to time to trail the unwary citizen. If this has ever been true in the past, let me assure you that it obtains no longer. We have a practical job to do. In the spirit of the New Deal, we are doing it in the simplest and most effective way possible, without unnecessary concealment. We welcome your closest scrutiny, because, in all frankness, we very much desire the earnest attention of the public. Widespread popular understanding and support are imperatively needed if our branch of the government is to play its full part in the effort to make simple decency the rule of conduct in high and low walks of life.

That, in effect, is the spirit of the New Deal. So long were common precepts of right and wrong unheeded in our national thinking, and ignored in many phases of our national life, that it was a natural shock in many quarters when an administration made bold to proclaim that certain old virtues were to be revived and their vitality reasserted. It is from these quarters,

in large measure, that we hear such thin veils as "Back to the Constitution."

In passing, let me remind you that one of the most important tasks of the Attorney General is to pass upon the Constitutionality of various proposals, measures and enactments. Is it not obvious that, as a lawyer charged with such grave responsibility, the head of the Department of Justice soon would come to grief if he did violence to the fundamental law in his interpretations? Let me assure you and those who cry out that liberties have been lost, that there are no more zealous guardians of Constitutional rights than the officials who head and man the legal branch of our Government.

Nearly a year ago, speaking before the American Bar Association meeting at Grand Rapids, Michigan, I discussed this general subject at some considerable length. Nothing has happened since that time which has caused me to regret or withdraw anything I then said. It was my view then, and it is my view now, that the constitutional difficulties inherent in the recent legislation are grossly magnified.

During the World War, unusual legislation was enacted, dealing with selective service, espionage, the War Industries Board, food administration, the control of railroads, industrial mobilization, and the like.

The Constitution easily met the test and marched with the need of the time.

As President Wilson once said, "The Constitution is no mere lawyers' document, but the whole of the nation's life."

In dealing with given cases, I am confident that the courts, in the words of Mr. Justice Holmes, will consider them "in the light of our whole experience, and not merely by what was said a hundred years ago."

Thus far, in cases in which the courts have passed upon the essential aspects of recent legislation, the results have been almost uniformly satisfactory. Those who fear, or affect a fear, that the Constitution is in serious peril should pause to reflect that Mr. Chief Justice Hughes and the Associate Justices of the Supreme Court of the United States have the last word upon this subject; and if the prophets of evil and disaster show a lack of confidence in the wisdom of that Court, I have no hesitancy in asserting mine.

Each crisis, each era produces its own peculiar legal problems, and our judicial tribunals have never failed to solve them with constructive intelligence. It is a source of inspiration to realize that the law is not a mere body of precedents but, on the other hand, a living, vital, growing thing, fashioned for service and constantly being refashioned for further service.

It is my solemn conviction that what is going forward is not a violation, but rather a vindication of our form of Constitutional Government.

But I am here to tell you what our conception of the general tasks of the Department were at the outset, what has been done about it and what it is proposed to do. Perhaps I shall be pardoned if I voice the conviction that these efforts have made the way of the transgressor considerably harder in this country. And I want to add that we are engaged in no indiscriminate crusade. Only those whose contempt of the law and the rights of fellow citizens lead them into devious ways need take alarm.

One of the most serious situations confronting us is that of the depredations of gangster bands which have developed to ominous proportions in this country. With repeal, the interest of these groups has been shifted from illicit liquor operations to kidnaping and other means of terrorism by which large sums of money are extorted from the families of the victims. The Division of Investigation of this Department, somewhat handicapped though it has been by lack of funds, equipment and personnel, has undertaken within the limitations of Federal authority, to cope with this problem. As you know, I have followed this matter with a very deep personal interest. The roster of our successes is truly impressive. But there are still at large notorious gangsters, and it is a matter of grave concern that they have thus far been successful in eluding capture - and that they so often escape after being captured. Such experiences, I assume, are implicit in the problem, but no matter how long the chase goes on it will never be abandoned until success is achieved.

But our approach to this problem has developed other factors equally sinister. For example, we found that the connivance of the unscrupulous lawyer was one of the chief reliances of predatory criminals who would defy the law and laugh at its agents. This low practitioner was encountered at every turn, ready to discard every vestige of ethics in order to cover up his client's acts, to get him off in the courts or actually to plot the carrying out of criminal purposes. To reach this evil, we have set under way not only vigorous efforts through the Federal machinery to apprehend and punish such unworthy members of the bar, but are in touch with bar associations everywhere in the common purpose of making it more difficult for such men to practice law. This condition is a matter of deep personal concern to every reputable lawyer in the United States.

Still another scourge was found in the fact that in some communities, politics and corruption were so interwoven, gangsters and officials so interlinked, that the trails followed for criminals led also to men supposed to be holding public trusts. In some instances, police officials were brought under grave suspicion, and public officials, who gave aid and comfort to fugitive desperadoes, were arrested and convicted. Along with these things was encountered the silly, coddling antics of some minor officers who, if nothing worse, lost their heads in the glare of the limelight. But for behavior of this kind some of the most notorious gangsters would never have been at large after their first capture. I regret, also, to report that a segment of the public has exhibited a maudlin sympathy towards the most despicable of gangsters. Those who, at this hour, romanticize crime are, in a very real sense, aiders and abettors of the criminal. This, at once, emphasizes the need of widespread and accurate information so that a campaign of education may go hand in hand with the campaign against crime. I speak to you, the ambassadors of the public in such matters, with all possible earnestness.

In examining the resources with which the Department, within the limitations of Federal authority, could play a part in the crime emergency, we found it simple enough to rule out the factor of political pressure. That we did by merely ruling it out. And we did not think we were doing anything extraordinary. Yet I could tell you many a tale of the devious means by which men, wishing to escape prosecution or gain other advantage, seek to "reach" responsible officials. I have been amazed constantly at the extent of the corruption even notorious racketeers have been successful in kicking up by using or seeking to use the influence of their political friends or the device of well conceived propaganda.

I have not spoken of other types of malefactors with whom the Department of Justice must deal just as firmly, as impartially and as diligently as it does with those who perpetrate crimes of violence. They, also, require the constant alertness of the Federal law enforcement agencies.

I have heretofore referred to new legislation enacted by the recent Congress. The Department of Justice submitted for Congressional approval two major items; namely: a set of crime bills and an act to enable the Supreme Court to make uniform rules in civil cases. Practically all of these measures were passed as submitted. I do not feel that I can too strongly compliment the members of the Congress upon their careful analysis of these measures, their evident desire to be of the utmost assistance, and, their prompt passage of all of them. I think that the people of the country are to be congratulated upon the excellent work of the Congress in this respect, and I take this opportunity to express publicly my appreciation and admiration for the manner in which these bills were handled and the uniform courtesy and consideration shown me and the other members of the Department of Justice.

Manifestly we could neither ignore nor fail to share in the concern felt by Members of Congress concerning both economy plans and any extension of the Federal police power that might encroach on the rights of the states. We felt that cooperation and understanding all around were as much needed to make our program effective as the specific reforms we sought. It was indeed in that spirit of understanding that the Congress, despite all their other great cares, saw to it that our program was granted almost 100 per cent.

Our recommendations were most carefully drawn. All manner of very radical proposals had been urged. Some people wanted Federal troops called

out to suppress gangster operations. Others wanted all police power turned over to the Federal Government. Still others advocated the establishment of a gigantic "Scotland Yard." I suspect that if some people had had their way the Attorney General would be wearing a badge and carrying a six-shooter or an automatic. It was necessary to discard many recommendations. Yet the tendency of the organized business of crime to take advantage of the protection afforded by State lines made new Federal legislation imperative. We could not ignore the challenge of an underworld which has its own modern resources and access to new and murderous weapons, and is able to take automobile plates and maintain an underground communication system for the benefit of outlaws.

You are all more or less familiar with the so-called crime bills, and I shall not pause to describe them more in detail. Moreover, the newspapers of the country have been generous in giving wide publicity to them. I appreciate their cooperation, and I pledge this Department to do its utmost to effect the full force of this new legislation.

"The Federal Procedure Bill", as it is called, may not be so well understood by the public at large. In its sphere, however, it is fully as important as the crime bills, and in some ways, far more fundamental. For years, the federal courts have been anchored to an outworn system. This Act should bring about a much needed reform. I do not think it is too much to hope that when the Supreme Court finally puts the new rules into effect the result will be recognized as one of outstanding importance in rendering the administration of justice less complicated, less expensive, and far more speedy.

I am going in a few days on an inspection visit to Alcatraz Prison, in

the harbor of San Francisco. The conversion of that frowning old fortress into a place of confinement for prisoners of the retrovert, or incorrigible criminal type, was one of the first steps in our program. Beckoning there to inveterate offenders, it seems to me a symbol of the implacable purpose of the Federal Government to perform its part in making this country a safer place in which to live.

When we started out on our campaign against crime, there were two things by which we were guided. One was that the situation required the vigorous, positive leadership of the one agency in the country that could treat the challenge of crime from a wide national viewpoint. The other was that unrelenting and persistent effort should be begun at once and increased as we sought to lay a stronger foundation, through the various measures I have described, for a more intelligent administration of justice.

I believe that we are justified in reporting great progress. The common gangster, the corrupt corporation, the crooked official and the conniving lawyer certainly can find comfort neither in the record nor the outlook.

And the law-loving citizen can be assured that there has been a substantial measure of recovery in an important sector of the administration's effort to bring peace and plenty in the nation - recovery from the ravages of lawlessness. That lawlessness has taken not only human life but its economic toll. toll

It is to be hoped that the new Department of Justice Building will be ready for occupancy this Fall. In that building is provided a conference hall which will seat several hundred people. It has seemed to me fitting that the first important use of this room should be devoted to a crime con-

ference of nation-wide significance. It is my purpose in due course to issue a formal call for such conference to be held during November or the early part of December. During the summer, the complete agenda will be worked out. The conference will consider practically every aspect of crime and approach the problem of law enforcement in a way never before attempted. To it will be invited representatives from each of the states of the Union. I am confident that such a conference, under the direction of the Attorney General, will serve a useful public service. The plan has the endorsement of President Roosevelt.

We are engaged in a grim and serious business. The solution of the problem is a matter of time and constant, unrelenting work. I am counting heavily upon your helpful co-operation in this vital matter.