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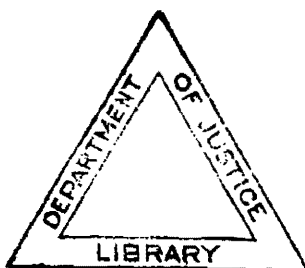
IMPROVING OUR SYSTEM OF JUSTICE

Address

By

Honorable Herbert Brownell, Jr.

Attorney General of the United States



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at

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Our United States Department of Justice is charged with the heavy responsibility of administering our Federal Criminal laws resolutely, with equal treatment for all, and with due regard for the rights and privileges accorded to our people by the Constitution.

The chief complaint which we receive about our Federal system of criminal law is that it operates too slowly; that its procedures are too technical -- that cases are dragged out excessively -- that punishment for the guilty is too long delayed.

Many have been highly critical of the delays in the Rosenberg trial, and in the trials of Communist leaders because these trials were permitted to last so long. Many of our citizens have been upset because they believe convictions, such as Judy Coplon's, were rejected on mere technicalities; they complain about the time spent reviewing such preliminary matters as jurisdiction, or the validity of the indictment, or the size of bail, or excessive appeals.

The totalitarian countries have devised swifter methods of justice. Let us see just what is the alternative to the system of criminal jurisprudence upon which our country relies for the protection of innocent individuals and, at the same time, for safety of our country from subversion and criminal practices.

On November 19, 1951, an unarmed American C-47, with a normal crew of four, set off from Erding, Germany, on a routine flight to Belgrade, Yugoslavia. The crew was carrying usual supplies to the American Air Attache there. The plane was expected to make the trip and return the following day.

Due to unexpected wind conditions, the plane was blown North and became lost. Emergency signals were sent out, and just as the crew was

prepared to abandon ship, the plane was intercepted by another aircraft and led to a landing field. The crew members subsequently discovered that the intercepting plane was Soviet-operated, and that they had been led to an airfield near the town of Papa in Hungary.

Under these circumstances one would have expected the immediate release of the plane and its crew. Instead, from November 19 until December 3, 1951, the four American airmen were held under arrest, without bail, and incommunicado by the Soviet authorities. They were continuously interrogated with respect to the flight, despite the fact that it was obvious from the ship's cargo and flight orders that the trip was routine. During this time the Soviet Government denied any knowledge of the whereabouts of the plane or its crew. Finally on December 3, the Soviet Government announced through the press that the crew had been detained and turned over to the Hungarian authorities.

Following the delivery of the men to the Hungarian Government they were kept under arrest in a secret prison near Budapest. They were denied access or right to contact the American diplomatic or consular representatives in Hungary or elsewhere. For three weeks, they were subjected to continuous, pitiless questioning under the personal direction of General Gabor Peter of the Hungarian Secret Police, or AVH. By coercion, three of the airmen finally signed statements in Hungarian, statements which they were told were necessary for their release, but which in fact were confessions of willfully crossing the border for illegal purposes.

Then on Sunday morning at 8 o'clock, December 23, 1951, without any prior warning, the men were placed on trial before a secret military court

in Budapest at which the public was excluded. Three of them again signed statements in Hungarian which they were told were preliminary to their release, but which in fact were statements that they understood that they were under arrest and that they knew that they were being tried for criminal activities.

They were handed a list of eight names and told to select a lawyer to defend them. Five minutes after being introduced to defense counsel they were marched into the courtroom, and a trial was conducted in Hungarian which none of them understood. An interpreter, a paid employee of the secret police, purported to translate the proceedings into English, but if his translation was correct, no criminal activities were charged.

The sole evidence received was the testimony of the flyers, all of which took approximately 20 minutes. The defense consisted of short statements by the attorneys, and the men were found guilty, upon confession, to a premeditated crossing of the border for subversive purposes. The defendants were not advised of any right of appeal, which, under the circumstances, would probably have been a futile gesture anyway. The plane was confiscated and the United States paid fines totaling over \$123,000 in order to procure the release of the men.

The reason the Communists are able to put on these performances is because they deny to an accused every procedural safeguard known to our system of law designed to insure a fair and just trial. They coerce confessions of guilt during long periods of incommunicado imprisonment. They use them in so-called "trials" where no independent evidence of crime is introduced, where no defense is permitted, and where all have been pre-judged guilty. It is little wonder that the Western World has concluded

that these trials are trumped-up to provide scapegoats for unpopular measures and that the Communist judicial process has been subverted to the political interests of the State in order to make public the State's propaganda, policies, and edicts.

In contrast to the Soviet system of criminal justice, our system sets up elaborate safeguards to protect the innocent who have been charged with crime. The Sixth Amendment to the United States Constitution says that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed. * * * and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory processes for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

On the whole each one of these protective provisions of the Sixth Amendment has been enforced by our Courts and has worked well. It is important for leaders of thought and public opinion to realize their significance and importance to the proper administration of justice. Thoughtless and uninformed criticism of our system of criminal justice and ill-considered attempts to shortcut the protection of these Constitutional provisions would be most unfortunate.

At the same time we must be ever on the alert to see whether the Constitutional safeguards are in fact being given their full force and effect. The Sixth Amendment, as just quoted to you, states that in all criminal prosecutions the accused shall have assistance of counsel for his defense. I would like to call your attention tonight to a weakness in our Federal system of justice in the matter of providing counsel for the defendant. Wealthy defendants of course, including the overlords of crime and

vice, have no problem in paying for the services of counsel to protect their Constitutional rights in criminal trials, but indigent defendants in criminal proceedings are not, in my opinion, provided a satisfactory system for obtaining defense counsel. At the present time the system of assigning defense counsel to indigent defendants is on a haphazard basis -- the Court appoints unpaid counsel for these indigent defendants. No provision is made in the laws for payment of even a nominal sum to those who are selected as the defense attorneys for the indigent prisoners.

The American Bar Association, the Judicial Conference of the United States, the Legal Aid Societies and public spirited citizens have from time to time called attention to this weakness in the operation of our system of criminal justice. It seems to me that the time has come to remedy this defect by legislation so that the contrast between our system of criminal justice and that of the Communist Nations will be even clearer and more dramatic.

Judge Augustus N. Hand has described the present situation accurately when he said "To call on lawyers constantly for unpaid services is unfair to them and any attempt to do so is almost bound to break down after a time. To distribute such assignments among a large number of attorneys in order to reduce the burden upon any one, is to entrust the representation of the defendant to attorneys who in many cases are not proficient in criminal trials, whatever their general ability, and who for one reason or another cannot be depended upon for an adequate defense. Too often, under such circumstances, the representation becomes little more than a form".

Accordingly, the Department of Justice will support in the next session of Congress a bill which provides for the appointment by the several District Courts of the United States of public defenders, either as full-time or part-time officers, as the volume of work may require. We believe that in all of the larger cities there should be an organized public defender service for criminal cases conducted as a publicly supported agency to provide competent counsel at every stage of the proceedings, in all felony cases and other serious offenses. In communities outside the larger cities, where the court considers that representation of the indigent can be more economical by the appointment of counsel in individual cases, the Court should assign counsel and compensate them on a per diem basis plus expenses for time necessarily and properly spent in preparation and trial.

We urge everyone of you leaders of public opinion gathered here in this distinguished audience tonight to examine this phase of the administration of criminal justice in your own community. If you agree with our position in this matter we urge that you help to arouse public opinion in the curing of this defect in our Federal system of justice. On our part we intend to continue a two prong attack, first to vigorously and impartially enforce Federal laws against subversion and crime, and second, to use every opportunity to strengthen and improve our Federal system of justice and the safeguards against injustices to individuals by government, established by our Constitution. By this two-fold method we shall endeavor to demonstrate to the peoples of the world the contrast between the cruelties of the Soviet system of justice and the humaneness and fairness of our own.