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"THE MEANING OF CIVIL LIBERTY"

An Address

by

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at the

Commencement Exercises
of

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2:30 P. M.

For the past few years you have been devoting yourselves to the study of the law. You have been concerned with the rules of legal procedure and with the many and important details of the law of contracts, torts, and property.

Today I am not going to talk with you about the minute details of pleading or of substantive law, but about the fundamental liberties of the individual as they are embodied in the most precious heritage of the American lawyer, the Bill of Rights. For all the rules of law which you have learned have little value if they do not govern a society where the individual is free to exercise those rights indispensable to the maintenance of human dignity.

One hundred and fifty-one years ago today, a group of American citizens, meeting in the colonial community of Concord, New Hampshire, voted by 57 to 47 to ratify the Federal Constitution which had been written at Philadelphia one year before.

We do not formally celebrate the day, but it was an event of tremendous significance. It meant that the required majority of nine states had ratified, and that the Constitution was in full legal effect. It meant that the American people had cast their lot together under the guidance of a document that Gladstone once described as the most remarkable political work produced by the human intellect in modern times.

That document - our Federal Constitution - is remarkable in many ways. But there is one thing, above all, that makes it remarkable - one quality on which all the others depend - and that is the singular emphasis it places on personal liberty.

In the very first sentence we read that the American people established the Constitution to secure, among other things, "the blessings of liberty" to themselves and their posterity. And the history books tell us that they were so very concerned about their liberties that many of the states refused flatly to ratify the Constitution unless they were assured that a Bill of Rights would be added. When that assurance was given, they ratified, but not before.

Obviously, the Bill of Rights was not an accident. It was not the product of a whim or a passing fancy. The people were in deadly earnest about it. They had shed blood and suffered hardship to gain liberty, and they were determined to give it the best protection they could devise.

And so, when it came to the job of framing the Bill of Rights, they did not mince words. They did not hedge it around with restrictions or weaken it with qualifications and conditions. They said in plain English:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for redress of grievances."

In virtually every one of the 48 state constitutions we find the same bold guarantees of civil and religious liberty, expressed in the same blunt language. The Constitution of New Jersey, for example, declares with beautiful simplicity, "No law shall be passed to restrain or abridge the liberty of speech or of the press."

Just a few days ago the Supreme Court declared that the Federal courts would protect the fundamental rights of the individual from encroachment not only on the part of the federal government but on the part of the state and local governments as well. In his opinion, Mr. Justice Stone reminded us again how much the Bill of Rights means to our democracy. "No more grave and important issue," he said, "can be brought to this Court than that of freedom of speech and assembly."

Why is this so? Why this remarkable emphasis on freedom of speech and assembly and religion?

Because the wise men who wrote the Federal Bill of Rights and the New Jersey Bill of Rights were doing more than stating legal prohibitions on the legislature. They were expressing a philosophy of human living. They were defining the spirit of a free and sovereign people. They were putting into words the meaning of democracy itself.

They were determined to put an end in this country to the kind of government that tells the individual he may not speak as he pleases; that tells the newspapers what they may or may not print; that denies the citizen the right to practice whatever religion his conscience chooses; and that, in general, treats the individual as the servant of an all-powerful state.

They were so bent on ending that kind of government that they started a revolution and never gave it up until their objective was won.

We could destroy all their work if we wanted to do it. We could uproot this whole democratic structure overnight simply by going back to the ancient notion that government knows what is best for the

people and that the people must not question the wisdom of what the government does for them or to them or with them.

But if we did that, we would be striking a heavier blow at civilization than it has ever suffered in the history of mankind.

What, after all, is civilization? ~~Is~~ it our great skyscrapers and our long bridges? Is it our huge factories and marvelous automobiles? Is it the radio and the airplane and all the rest of the wonderful inventions that make life easier and smoother and faster?

Those things are part of it, of course - an important part of it. But they aren't all of it.

The heart of civilization, the thing that gives it a soul, is exactly that spirit of freedom that runs all through our Bill of Rights. It is the idea that the individual has a natural right to be free up to that point where he injures the interests of the people as a whole.

Take that idea away from our government, or build a government without it, and you have a government that is something less than civilized.

It may seem that I have constructed a straw man so that I might have the satisfaction of pushing it down. It may seem pointless to talk about the Bill of Rights when obviously the overwhelming majority of our people believe the Bill of Rights is a good thing and want it kept in our Constitution.

I wish that the problem were as simple as that, but it isn't.

It is one thing to believe in civil liberty and another thing to practice it in all the daily relationships of man to man. And I am afraid the facts are that some of us have been for civil liberty in theory but not very careful about practicing it in our daily lives.

Some of us, under the tension of political and economic conflicts, have let ourselves forget that civil liberty is not just for those whom we agree with but also for those whose ideas are hateful to us. We have forgotten that civil liberty is not just a problem for the federal and state governments, but something that must be protected first of all by every individual citizen. The federal government, for example, cannot effectively protect the civil liberty of the individual, unless public-spirited citizens in every community have the courage to come forward and cooperate with the federal government in seeing that the rights of the humblest and most unpopular minority are scrupulously protected.

Because some of us have at times forgotten these things, we have condoned infractions of the Bill of Rights that Thomas Jefferson and Patrick Henry and Benjamin Franklin would never have condoned.

What is the evidence? It comes to us in the Department of Justice every day in a steady stream. Every day the newly created Civil Liberties Unit reads the tragic story in letters and telegrams from all parts of the country.

We hear of municipal officials aiding in the provocation of race conflict, even though government in a democracy is intended to be for all and not just some of the people.

We hear of arbitrary ordinances and arbitrary police action that deny workmen the right of peaceful picketing, even though our courts have recognized that peaceful picketing is a just and proper right of working people.

We hear of local authorities and private citizens manhandling union organizers, even though the Supreme Court long ago recognized that it is proper and desirable for labor to unite in organizations.

We hear of groups arbitrarily denied the right to distribute literature, even though the Bill of Rights leaves no doubt that freedom of speech and of the press are fundamental to our political system.

But there is no need to go to the Department of Justice for proof. The citizen who looks carefully can see it all around him, near at hand. He can see it in the type of mind that believes labor or industry, as the case may be, ought to be punished for its sins by terrorism and coercion; in that distorted mentality that blames the Jew for all our troubles; and in the discrimination practiced against those who happened to be born with a darker skin than most people possess.

What are these tendencies and practices, after all, but forms of intolerance? And what is there more completely opposed to the Bill of Rights and to all our American traditions than intolerance? It is the most un-American, unconstitutional, un-Christian, and undemocratic thing in our life today.

There is no room for intolerance in the America that our fathers planned. It belongs in those other countries where freedom has been all but forgotten and where human slavery is the common lot. It belongs in those other lands where men hardly dare to whisper their thoughts and where they hold their meetings by stealth under cover of the night. It belongs in those places on earth where fine literature and art and music have been destroyed and where the schools spread propaganda for those in power.

Intolerance has no place here, and those who embrace it are following not the fathers but someone else. They are not following Jefferson, for it was he who sponsored the Bill of Rights. They are not following Benjamin Franklin, for it was Franklin who deliberately wrote into the Declaration of Independence the phrase "one people." Such individuals forget that America became great because it was created and has remained spiritually one people.

Go down in the subway of the great metropolis, walk the crowded streets and the market places, stand near the factory gates at closing time, and what do you see? Not Englishmen or Italians alone, or Gentiles or Jews alone, or white people or black alone, or conservatives or progressives alone. You see the children of every race and every nation and every creed under the sun. You see America and America's future.

If you are disheartened by what you see, if these people of other races and national origins seem alien to you, then America's future and your own, will not be happy. But if you see them all as being of the stock that built this great nation from a wilderness, if you look at them as fellow servants of democracy, then our future is bright and full of hope.

America is not 100 percent Puritan or 100 percent Cavalier. America is an amalgam of men and women of different kin with a common passion for liberty and tolerance. And with them all rests the future of American democracy.

In many ways, the period we live in is like the period that followed the Civil War. There has been no Gettysburg or Bull Run, but, in the manner

of war, the depression has inflicted wounds and brought hardship to many. Today, as in 1865, the nation faces a tremendous job of reconstruction.

We need to place the economic system in such order that men may have the chance to work and to earn a living wage. We need to find ways to bring health and decent shelter to those who lack them. We must take care that the aged are adequately insured against want and the worker against unemployment.

We must protect the quality of government service by weeding out the incompetent, and protect its integrity by eliminating those who violate their public trust. We must cut the alliances between politics and corruption wherever they exist.

Just as it was with Lincoln in 1865, we need "to bind up the nation's wounds;" to care for those who have borne the modern battle; "to do all which may achieve and cherish a just and lasting peace."

And now, as never before, we need to do our work, as Lincoln advised, "with malice toward none, with charity for all." We need to do it with tolerance for those with whom we disagree; with compassion for those who are less fortunate than we; with sympathy and understanding for those who speak a different tongue or whose background is in a different land. We need to do it with a constant understanding that the things we have in common are far bigger and more important than any difference that may seem to keep us apart.

It is in such a spirit, and such a spirit alone, that peace is won, justice achieved, and the sons of men made free.