

MESSAGES ON THE LAUNCHING OF THE "BILL OF RIGHTS REVIEW"

FROM CHARLES A. BEARDSLEY, *President of the American Bar Association, 1939-1940*

I suggest that one of the principal purposes of the REVIEW should be to foster a consciousness of the importance to man of the rights of man gained as a result of his struggle through the ages, a capacity to detect encroachments on those rights, and a will to protect those rights.

Having inherited the rights of man from those who struggled to attain them, we are only casually conscious of their importance to us. We need to be reminded, not once, but many times, that the rights that we have inherited are worth preserving.

Being far removed from the struggles by which our rights were attained, we do not readily detect encroachments thereon. We are much inclined to assume that, as of course, what we have thus inherited will belong to us and be enjoyed by us always, unless it is taken from us by armed force. We need to be awakened to the fact that

the most dangerous assaults upon our rights are those that are inconspicuous and subtle, those that tend slowly to undermine the foundation of the structure that is necessary to protect our rights, and those that are accompanied by the most effusive professions of the deepest devotion to our welfare.

When we recognize the importance to man of the rights that he has inherited from those who struggled to attain them, and when we learn how to detect encroachments on those rights, the will to protect them should come naturally, even though that protection entails further struggles, comparable to the struggles as a result of which they were attained.

By fostering this consciousness, this capacity to detect encroachments and this will to protect the rights of man, the REVIEW can render a much-needed service.

FROM ROBERT H. JACKSON, *Attorney General of the United States*

Every failure of civil rights is at bottom a reflection on the legal profession. The last census revealed approximately 160,000 lawyers in the United States, or one lawyer for about 760 of population. These lawyers reside in every community, large and small; they are in contact with every class of the people; and they take part in every individual and group struggle. If their professional instruction has not been in vain they know genuine civil

rights from the sham claims, and they know the real violations of civil rights from proper restraints which society must impose on individuals. If this bar is properly functioning it should be an adequate guarantee of the civil rights of every citizen.

The American Bar Association numbers approximately 32,000 members. While this is a numerical minority it constitutes the largest body of lawyers and the most widespread group to

accept any cohesive program, any plan of organization or any leadership within the profession. It embraces the most active and influential section of the bar and, if the members of the American Bar Association can each act as a Committee of One on Civil Rights, it would constitute the most permeating, responsible and intelligent line of defense that civil rights could have in America. There are eight lawyers in the Civil Liberties Unit of the Department of Justice. It will be at once seen how much more significant to civil rights is the attitude of this vast army of private practitioners throughout the country than the efforts of a handful of men in Washington.

The problem of the Association is to coordinate and stimulate its members to an uncompromising but intelligent defense of civil rights. This BILL OF RIGHTS REVIEW should serve both as an inspiration and as an arsenal for the lawyer in the field. I congratulate the Committee and its distinguished Chairman on its successful launching.

The advent of the BILL OF RIGHTS REVIEW would, if space permitted, be an appropriate time for a reexamination of the relation of the Department of Justice to Civil Liberties. A considerable body of opinion has come to rely on this Federal Department to protect citizens against Ku Kluxism, Vigilantism, oppressive police methods, corrupt local politics, overreaching action by municipal authority, and invasions of civil rights generally. At the same time another body of opinion charges that the Department itself is careless of Civil Liberties in its own procedure, and that the Department has been going beyond prosecution of crime into prosecution of opinions and political attitudes.

The staff of our Civil Liberties Unit in the Department is small, but apart from the personnel limitation it must confine itself within the boundaries of Federal Jurisdiction. These limitations are not very well determined. Perhaps the most valuable contribution now being made is in the prosecution of various typical fact situations to clarify and delineate the scope of Federal Civil Rights. The present state of the decisions seems to warrant prosecution only in two areas, speaking in broad outline:

1. Where there is a conspiracy by private individuals to abrogate the free exercise of a right affirmatively created by Federal law or vested by the Federal Constitution.
2. Where a State or one of its subdivisions or agents deprives a person of a right created or secured by the Federal law or Constitution, or therein protected from State encroachment.

Compared with these rather narrow powers to advance civil rights the possibilities that the Department of Justice by misuse of power will invade civil rights really gives me more concern. There is an ever present danger of overstepping in investigations, of publicity tending to prejudge the accused, of wandering beyond the realm of criminal acts into that of unpopular opinion, of exceeding the proper bounds of Federal power. In all of these things the Department of Justice under my administration will try to adhere to the best tradition of a department of law enforcement that is itself under, and obedient to, the law.

But it would be less than candid to fail to recognize that any prosecuting

office is a potential invader of civil liberties and that no man charged with the responsibilities of prosecutive work is a good judge of his own performance. We therefore welcome the critical scrutiny of the bar, confident that it will sustain us in so far as we are in the right and that when we err its criticism will be constructive and well informed and designed to keep, not to break down, the law enforcement agencies.

The practicing lawyer, as a Committee of One on Civil Rights, should also look well to the selection of local law enforcement officers, and should not leave the righting of local wrongs to angels sent from Washington. Oppression of minorities, acts of intolerance and discrimination that are the more provocative because so petty, and tyranny with or without color of law, often flow from a local situation. Any

Federal intervention, even if appropriate, would be a temporary expedient. Permanent solution must be locally found and locally applied. In such a program the community bar is the logical leader.

Respect for civil rights, tolerance, the will to live and let live, the determination to see fair play is not mere doctrine of legal practitioners — it is the basic tenet of any democratic culture. It must be taught endlessly until it is as much a daily habit of thought with laymen as with lawyers.

Such a program of education, of critical study of sources of danger to civil rights and of decentralized and individual enforcement of them requires a clearinghouse and a spokesman. For meeting such a need with the BILL OF RIGHTS REVIEW the Committee merits the appreciation of the profession.