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Prayer Breakfast, American Bar Association, San Francisco, CA

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Prayer Breakfast
American Bar Association
San Francisco, California
August 13, 1972
Lewis F. Powell, Jr.

When President Jaworski invited me to give the "lay sermon", my initial reaction was negative. I have never addressed a religious gathering larger than a small teenage Sunday School class. Even the latter made me uneasy, as I have no competency to sermonize to others.

Your President assured me, however, that you would be a tolerant audience - expecting little and hoping only for brevity.

Lawyers and judges are most at home when they are talking about "rights". I was tempted to select a subject in this area, as safeguarding the values protected by the Bill of Rights remains the highest responsibility of our profession.

But there is reason for concern as to other values, once held high in our civilization. I will talk briefly about some of these - without attempting to say anything

original or profound. At most, in the meditative atmosphere of a Prayer Breakfast, I will ask you to think with me about some of the relationships and concepts that tend to be denegated in modern society.

In general, I have in mind those values the individual once gained from respect for authority and from responsible participation in a larger community life. Today, we are being cut adrift from the type of humanizing authority which in the past shaped the character of our people.

I am thinking, not of governmental authority, but rather the more personal forms we have known in the home, church, school and community. These personal authorities once gave direction to our lives; they were our reference points, the institutions and relationships which molded our characters.

We respected and grew to maturity with teachers, parents, neighbors, ministers and employers - each imparting their values to us. These relationships were something larger than ourselves, but never so large as to be remote impersonal or indifferent. We gained from them an inner

strength, a sense of belonging as well as of responsibility to others.

This sense of belonging was portrayed nostalgically in the film *Fiddler on the Roof*. Those who saw it will remember the village of Anatoepka in the last faint traces of sunset on Sabbath eve. There was the picture of Tevye, the father, blessing his family, close together around their wooden dining room table. They sang what must have been ancient Hebrew hymns, transmitted from family to family through untold generations. The feeling of individual serenity in the common bond of family life was complete.

Sadly, this is not the portrait of contemporary American life. The refuge we once found in family and other community relationships is a fading concept. We are all familiar with the causes, though we may differ in evaluating their influence. The shape and style of our lives have been revolutionized by changes beyond our control: by advances of science and technology, by mass communications, mass transportation and the bewildering problems of an urbanized society. Whatever the causes, many of the old ethics and values seem threatened by new ones.

A nationally syndicated columnist, Joseph Kraft, recently described the reorientation of values as a "nearly universal war on authority"*. He referred to many young people who:

". . . assert their values in ways that are not benign. They undermine the chief restraint on Western society - the restraint of conformity, which is another way of saying respect for other people and their values. They are subversive of parental and school authority. And as their protests gain attention and concessions, other groups are encouraged to follow suit."

One need not be this pessimistic to recognize a considerable truth in what Joe Kraft says. The overriding concern - not merely of youth but of large segments of our people - often seems to be a highly individualized self interest. In the familiar phrase, everyone wants "to do his own thing". Or putting it differently, self assertion seems to be the modern aspiration: to be independent of - if not indeed to reject - the familiar disciplines of home, school, church and community.

*Kraft, Washington Post, May 21, 1972.

The work ethic, in many ways the cornerstone of a viable society, is also scorned by many - by some who simply think society owes them a living, and by others who equate dedication to work with a materialism which they wish to repudiate.

Perhaps the primary belief of the New Ethic is that the individual owes little loyalty or obligation to the types of authority I have mentioned, or to their traditional values. Rather, one's chief allegiance is to his own conscience and his own desires.

We see manifestations of this unanchored individualism in the new mores of our time. We see it, for example, not merely in hostile attitudes toward existing institutions but in excessively tolerant views toward personal conduct: sexual morality, use of drugs, and disobedience of laws believed by the individual to be unjust. Even the concept of honor is now widely questioned.

This is no occasion for a parade of horrors. I will, however, cite two recent stories in the national press.

The first described the flourishing new business of producing college theses and term papers, available for sale to the thousands of students who practice cheating. *One of our great*
~~The University of Wisconsin~~ is reported to have withheld grades from some 600 students suspected of submitting, as their own work, papers they had bought from commercial firms. Many colleges and schools have been forced to abandon any pretense of maintaining honor systems.

Another recent front-page story was headlined "Sex at Home for Young". It described the "changing concept of sexual morality", and addressed the question:

"What happens when the liberated young return (home) for the weekend, with a friend of the opposite sex and expect to share the same bedroom?"

I do not pretend to know whether immorality today is more widespread than in some of the other more notably boisterous ages of the past. It is certainly more visible and openly tolerated. But whatever the facts may be, the greater concern must be with the impact upon the home. The relationships clustered around the home, between husband

and wife and parents and children, are the most sacred of all human relationships.

Leaving random examples, and returning to the broader causes of the alienation of so many young people, I wonder if persistent and often destructive self criticism is not a cause. It has become increasingly fashionable to question and attack the most basic elements of our society. It is said that religion is irrelevant, our democracy is a sham, the free enterprise system has failed, and that somehow America has become a wholly selfish, materialistic, racist society - with unworthy goals and warped priorities.

It is also persistently said - and this is directed to lawyers and judges - that our system of criminal justice is repressive. If these criticisms are accepted, there is little wonder that our institutions and inherited values are no longer respected.

We have always been prone to self criticism. Certainly no thoughtful person would wish to mute the type of debate and dissent which have strengthened our democracy. No traditions are more firmly rooted, nor more essential to the ultimate preservation of our liberties, than the rights of speech, press and assembly protected by the First Amendment.

One might wish, however, for a somewhat better balance and for a higher level of responsibility in the criticism. America, its institutions, and the values of our people deserve a better billing than they often receive.

It may be that - in our concern with the present and our serious social problems - we are losing a proper perspective of history. History enables one to understand the importance of evolution; it balances the frustration of "how-far-we-have-to-go" with the satisfaction of "how-far-we-have-come". It teaches us tolerance for the human shortcomings and imperfections which are not uniquely of our generation, but of all time. Indeed, it immortalizes all of us in the sense that we are not seen solely as the product of the present day, but as links in an ageless chain of human struggle and progress.

We, as a people, are entitled to recall that the history of America is a proud and decent one. However slow and painful progress at times may seem, the consistent American vision is of a society in which all men - without

regard to race, creed, belief or origin - can live in self respect and pursue responsibly their own aspirations.

It is of course true that we have witnessed racial injustice in the past, as has every other country with significant racial diversity. But no one can fairly question the present national commitment to full equality and justice. Racial discrimination, by state action, is now proscribed by laws and court decisions which protect civil liberties perhaps more broadly than in any other country. But laws alone are not enough. Racial prejudice in the hearts of men cannot be legislated out of existence; it will pass only in time, and as human beings of all races learn in humility to respect each other - a process not furthered by recrimination or undue self accusation.

The frequently made charge that criminal justice is unfair and repressive is another example of exaggerated self criticism. Whatever may be said as to the past, the present dedication to fairness in criminal trials - in courts throughout America - cannot be doubted. Former California Chief Justice, Roger J. Traynor, whose name will rank among the great American jurists of all time, has said:

"It is irresponsible to echo such demagogic nonsense as the proposition that one group or another in this country cannot get a fair trial. . . . No country in the world has done more to insure fair trials."

It would be irrational to say that all of the criticisms of America and its institutions are unfounded. Yet, excessive self flagellation can weaken - or even destroy - the ties that bind a people together. This, it seems to me, has been happening in this country. The time has come when thoughtful judgments as to our institutions, and our role in history, should be tempered by the wisdom and perspective of history. In the long view, American has been a remarkably responsible member of the society of nations. Our system of government and our institutions have forged a country which in many respects has been the envy of the world.

I have referred to our history because it is inseparable from the traditional values of our people. The revisionist concept of this history contributes to the eroding of these values and to the weakening of the authority of the institutions which sustain them - the home, church, school and community. I believe these institutions are irreplaceable.

And as to values, I was taught - and still believe - that a sense of honor is necessary to personal self respect; that duty, recognizing an individual subordination to community welfare, is as important as rights; that loyalty, which is based on the trustworthiness of honorable men, is still a virtue; and that work and self discipline are as essential to individual happiness as they are to a viable society. Indeed, I still believe in patriotism - not if it is limited to parades and flag waving, but because worthy national goals and aspirations can be realized only through love of country and a desire to be a responsible citizen.

Finally, on this Sunday morning, I affirm my belief in the worthiness of religion, and of its indispensable role in the development of the human spirit.

And speaking of the spirit, I am afraid that this talk - which I will now end - has done little to uplift our spirits. Perhaps lay sermons are meant to be this way. In the brief time available I have accented negative rather than positive aspects of contemporary America. There is much that is positive and cause for optimism. The idealism, and

genuine concern, of so many of the young afford real hope for the future.

And we must always remember that the values and institutions, which now seem endangered, have survived other periods of doubt and challenge. In the ebb and flow of history, I am confident that their intrinsic merit will again be reaffirmed.