

From University of Michigan News Service
3564 Administration Bldg., Ann Arbor, Mich.
Phone: 3-1511, Ext. 2623

TEXT OF ADDRESS BY JUSTICE BRUCE D. BROMLEY, OF THE NEW YORK COURT OF APPEALS, AT THE 105th COMMENCEMENT OF THE UNIVERSITY OF MICHIGAN, FERRY FIELD, SATURDAY, JUNE 11, 1949. TITLE OF THE ADDRESS IS "THE CONSERVATIVE'S ROLE IN AMERICA."

You leave the University at a time when the citizens of this and every nation are confronted with grave problems. But their scope and complexity are probably no greater than those with which our predecessors have wrestled in the great crises of this and other civilizations. True, it may be that they seem greater; actually they are not. If there be a difference it lies in the fact that for us the consequences of failure are far more ominous than they have been at many periods in the past.

In this spring of 1949 there are two areas in which our attention is focused upon problems the solution of which will call for the earnest and unremitting endeavor of all Americans.

In the first area our task is to join with our fellows in other lands in the creation of an international order which will insure for all nations an existence free from acts of aggression and threats to the peace.

In the second area our task is to join with our fellow citizens in determining upon domestic policy and legislation more completely to protect fundamental human rights and the dignity, worth and security of the human person. The conflicts in the international area are more difficult of adjustment because we are now experiencing so many

divisions of emotion and opinion within our own boundaries in dealing with our internal affairs. We cannot hope to master the problems of the world if we will not solve our own.

In Paris, on December tenth last, the General Assembly of the United Nations approved a Universal Declaration of Human Rights. Although that document has not received the broadest publicity, our President stated in a proclamation last January that the Government and people of the United States support it with whole heart. The Declaration, as you know, has served as the basis for a proposed Covenant on Human Rights which has been submitted to the members of the United Nations for consideration and adoption as a treaty.

Now the rights enumerated in the Universal Declaration of Human Rights are to be afforded to all without distinction as to race, color, creed or national origin. The fundamental and all-inclusive nature of these asserted rights is manifest from a brief catalogue of them. Among the more important are life, liberty, equality and security; freedom of thought, conscience, assembly, religion, and expression, including the right to seek, receive and impart information and ideas, without interference and regardless of frontiers; the assertion of procedural rights, including the right to a public hearing before an impartial tribunal in the determination of all obligations and criminal charges; freedom of movement, right of asylum; and the right to participate in government through periodic and genuine elections by universal and equal suffrage; the right to own property free from the threat of arbitrary seizure; the right to education, which shall be compulsory and free at elementary levels; the right of every man to work at just and favorable compensation, insuring

for himself and his family an existence worthy of human dignity, and the right to a standard of living adequate for the health and well being of the worker and his family, including security in the event of unemployment, disability or old age. Truly, this magnificent proclamation of human rights must serve as notice to all of us that, in the opinion of our representatives in the General Assembly, the domestic affairs of each nation are of vital interest to all in so far as they concern the basic requirements for human dignity.

The primary task of every government is to maintain peace and secure full employment, equality and maximum social benefits for all people. How these objectives are to be accomplished is the principal concern of the immediate future. It is only the reactionary on the one hand and the radical on the other who desire that the means of accomplishment shall be either laissez faire or violent overthrow of existing freedoms. Between these two extremes stand the liberals and the conservatives.

Unlike the parties of Republican and Democrat, liberalism in America as a partisan political principle has little meaning. Its humanistic implications have been accepted by all thoughtful men. Liberalism has really become an ideal of conduct. The Encyclopedia defines a liberal as one who believes in the value of human personality. What definition fits as many Republicans as Democrats, and conservatives as well. But the word possesses a popular advantage. It's a tag which is favorably looked upon to a degree which merely serves to emphasize the differing nature of the response brought forth by the term "conservative." One labeled as a conservative starts off with an initial disadvantage in many quarters. True it is

4.

that conservative means moderate or cautious. It connotes a disposition, it may be said, to maintain existing institutions and to be satisfied with things as they are. But, I submit, that is ^{an} undeserved connotation. Am I a liberal if I defend the rights of the factory worker, but a conservative if I also defend the rights of the company's stockholders and its officers? A conservative is as anxious to protect the rights of all as is a true liberal. But the fact that he desires the fullest examination and discussion of all problems before any solution is adopted, and desires to preserve as much of the good in existing institutions as possible, does not mean that he is less unimpeachable than a liberal in his fidelity to the desirability of securing the maximum measure of life, liberty and happiness for all our people.

Most of those which we have traditionally considered the civilized nations of the world are described today as standing at various stages of evolution toward what some have called the "welfare state." That term connotes a continuing and lively participation by a national government in many matters that in the recent past were left to the attention of local governments, churches, private individuals, or to no one at all. At the moment in this nation we are engaged in vigorous debate over proposals that our Federal Government participate in providing adequate housing, medical treatment and other services for all of our citizens. In other fields, such as old age and unemployment insurance, the national Government already plays a major part, either alone or in conjunction with the states. Incident to this development we are now engaged in a re-examination of the traditional function which has been played in our economic order by

private enterprise and the motive for individual profit.

In this context, measures such as the proposed system of Federal health insurance, to which the Democratic Party is now committed in its national legislative program, have aroused fierce debate, both in our Legislature and among the people. The quality and sufficiency of such debate should be of intense concern to all of us. For the fundamental premise upon which we justify our system of government is the firm conviction that change in the political and economic order shall be preceded by full and searching discussion. That conviction is reflected in the present theory of our Supreme Court that a preferred position is accorded by the First Amendment of the Constitution to the liberties of speech, press, assembly and religion. These freedoms are not to be infringed on slender grounds but are susceptible of restriction only when public interest is threatened by clear and present danger.

However we choose to formulate the theoretical bases for these freedoms of expression, their ultimate and pragmatic justification must depend on the candor, talent and vigor which are devoted to the discussion of public affairs. For the right to speak, or to print, necessarily implies a duty to offer one's opinions -- a duty which is not satisfied by irresponsible and self-regarding utterance. The manner in which the case is presented for, and against, proposed national policies often is more significant in the process of decision than the merits of the case.

At this stage in our history we should have a vigorous and well informed conservative source of opinion, which is not blindly opposed to change, which recognizes the errors we have committed in the past, but which is wise enough to insure discrimination in our

reforms. To suggest the need for such a body of opinion is not to urge a negative approach toward our national problems, but rather a conscious effort to search for the weaknesses in our institutions and to formulate remedies for them.

"Conservatism" has been described as merely a "habit of mind," and the term has little meaning which it can carry from one context to another. I would employ it here in the sense that signifies a desire to preserve what is of value in existing institutions. In that sense there is a necessary place in a working democracy for the conservative. Bent on change, the liberal often will not pause before answering the question, "What must be destroyed?" to consider "What must be preserved?". Too often the false liberal wants to divide what he finds and then hope that somebody will create some more. I submit that a better philosophy is offered by the conservative, who believes in preserving the system which can provide the widest opportunity to create more. I hold no brief for those whose conservatism is a mask for reaction and who desire to accumulate selfishly and unfairly at the expense of their fellows. Of course the prime objective is to see to it that all people get a fair share of our national wealth, but I submit not at the expense of reward based on individual effort or opportunity to achieve outstanding success. Our high objectives are to be accomplished, if at all, within the frame of the capitalistic system, through free and competitive enterprise spurred on by the profit motive and protected by our constitutional guaranties, which recognize that property rights are no more subject to unlawful invasion than personal rights.

My purpose is simply to venture the suggestion that more of

us should devote our attention to the question of what is to be preserved, and that the expression of an answer to that question should not be left to those who will appear to give an answer based upon self interest alone. To say that the Taft-Hartley Act should be repealed and the Wagner Act restored because the latter is more favorable to labor is to pervert the task of citizenship. Surely labels should not control or even influence the determination of what is fair both to labor and capital. What is needed is a fair labor law, and the task of the conservative is to assure protection to the public against undue favoritism either to labor, labor leaders, unions, or capital and employers. There is much good in the Taft-Hartley Act and much which should be preserved, and no modification of it should be the result of a desire to prefer labor any more than its retention unchanged should be the result of a desire to prefer capital.

A proper concern for the dignity of the individual citizen, while intent upon insuring his security, should also lead us to preserve for him as large an area of free choice as is consistent with his responsibility. The regimentation of the "welfare state" deprives the citizen of much of his opportunity for free choice and degrades the dignity of the individual.

The structure of our economic system should arouse in a conservative a concern lest we continue our present trend toward ever larger and fewer aggregations of economic power until we have reached a point where it may become difficult to answer the arguments of those who advocate government control of the means of production. To bring the average American into closer association with the affairs of our commercial and industrial corporations as an owner is a matter of

pressing necessity. Its desirability already is actively recognized by many of our business leaders and progressive business concerns. If further progress will require changes in the anti-trust laws and in the laws concerning the administration of private corporations, they should be made at an early date. But changes such as these should not kill the goose that lays the golden egg. Business that is big is not, for that reason, bad. The right to strike is no more sacred than the right to earn a fair return on one's capital. Both are but aspects of the right to receive just and favorable remuneration for one's efforts. The conservative should strive to make clear the undeniable fact that there is no irreconcilable clash of interests between employers and employees. One of our chief difficulties is that a false liberal viewpoint has engendered and fostered an attitude of unjust suspicion against employers. At the same time this viewpoint has created the illusion which is responsible for the unsound idea that maximum prosperity is inconsistent with the preservation of authority in the employer.

Upon one other aspect of our national culture the conservative has a special responsibility. That is religion. It is pertinent, it seems to me, to re-emphasize how many of our ideas concerning the dignity of our fellows enunciated in the Declaration of Human Rights are derived from our Jewish and Christian religious tradition. The preservation of that tradition as an active force in our national life is of vital importance, for we have seen in the past ten years the terrible consequences which flow from a total rejection of religious ethics.

There is no substitute for a vital religion and a citizenry

made up of practicing believers in God. Neither radio, nor television, nor the golf course, can take the place of regular attendance at church. The resolution of many of our problems could be immeasurably aided by the application of religious principles and a more direct resort to God's teachings as to the brotherhood of man.

In closing, I reaffirm my strong conviction that our system, under which the ultimate decisions concerning national policy must be affirmed by a majority of our citizens, will not furnish satisfactory working solutions for the problems with which we are now concerned, unless the character of their public discussion is altered by the introduction of a conservative body of opinion which is addressed to the need for sound and intelligent change in our present institutions. I do not mean to imply that there are not many men in this country who have felt this need and who labor to meet it. They are working with a sacrificial devotion to the welfare of our country. Those of you who rendered the greatest of all services to the nation in the last war realize, I am sure, that the interests of liberal and conservative are no more irreconcilable in time of peace than in time of war. Together they can work out the delicate, and at times almost indefinable, lines of agreement which ultimately will spell lasting peace and prosperity for our great nation. Success in their efforts -- a success which in the first instance will pose fair and candid alternatives for the voters -- depends in part upon the assistance which they receive from those who are now graduating from colleges and universities. For this, we call upon you, the graduates of 1949.