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AUGUST 11, 1970

"LIBERALISM" AND "LAW AND ORDER":

MUST THERE BE A CONFLICT?

As you know, I am not a lawyer. But the legal profession is today at the center of a major political issue and a political conflict that may well be shaping an important part of our future in this nation. And so, I am taking this opportunity to give you perhaps a different perception of a problem that I know many of you have already wrestled with, ~~at length.~~

The problem centers to quite an extent around the phrase "law and order", which conjures up different images

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to various minds. ↳ To some it means racial and social oppression; to some it means suppression of rightful and necessary dissent; and to some it means a slow, bureaucratic, unsatisfactory machine working ineffectively to right civil and criminal wrongs. ↳ On the other hand, to some it means the ability to walk safely in a city park on a summer evening; to some it means peace of mind in knowing social stability; and to some it means the assurance of equal application of the law to all wrongdoers.

↳ Maybe it would be best if we could do away with the phrase in view of the difficulty of reconciling what it connotes to a Mississippi sheriff, a Berkeley student, a Minneapolis suburbanite, a construction worker *or a* south Chicago Negro. ↳ But, we can't, and so we must emphasize to these and other Americans what the term really means in its generic sense and under our legal system.

↳ Leadership in this area should come from the legal profession, from the philosophy, expertise and desire of those trained in law and what the law means to society.

* ~~#~~ *

↳ The political conflict that rages over the law-and-order issue is usually described as involving two groups. These groups have been called the "liberals" and the "hard-hats".

↳ To begin, it is probably wise to try to see each side as seen by the other.

↳ Look for a moment at the cluster of cliches that surround the so-called "hard-hats". ↳ To read some press accounts, one would assume that the American middle class is racist, anti-student, anti-intellectual, hawkish, disdainful of civil liberties, incipiently fascist and, most of all, anxious for a crackdown of "law and order" even if it means repression.

↳ Not a very nice picture --- and not very accurate.

↳ But the so-called liberal fares little better when described by some segments of ~~the press~~ ^{the press}. He is often described ^{as} a permissive, elitist and wealthy. He is pictured as concerned primarily about the welfare of the poor black man --- but not about the poor or lower-middle income white man. He is seen as a dove and is identified with dissent and disruption. Most of all, he is perceived as "soft" on law and order, whatever that may mean.

crud ↳ Also, not a very nice picture --- and not very accurate!

The first contribution to sanity is to note emphatically that both these sets of descriptions are far from the truth.

↳ In this instance, as in so many others in recent years, what we have seen is a strange sort of Gresham's Law at work: Bad Rhetoric Drives Out Good!

< Let a fellow citizen express revulsion at flag-burning --- and there are those who will call him a "fascist". < Let a fellow American protest the war or violation of civil liberties or censorship --- and there are those who condemn him as "permissive" or

But the facts are really quite different from the labels.

< Look first at those so-called "hard-hats". *(You've heard of them!)* Depending on the usage and the user, that term has been used to describe "men employed in the construction industries", or "the rank and file of the American labor movement", or "blue collar workers".

< But if we look at the American labor movement --- its membership or its leadership --- it is very hard to make the nasty rhetoric stick. < For, the labor movement in the last forty years has been the point of the spear for every major liberal and progressive program. That includes the

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obvious pro-labor measures like collective bargaining,
the minimum wage and unemployment insurance, but
it also includes aid to education, medicare, aid to cities, *medical research*
and most specifically and dramatically, a concerted effort
in support of a series of major civil rights measures.

Yuu That's not so bad for a labor movement that some voices
describe as reactionary.

↳ In fact, while critical pundits were sipping
martinis at Georgetown cocktail parties and while a new
breed of self proclaimed militants were condemning the
labor movement, that labor movement --- from George
Meany and ^{*the late*} Walter Reuther on down --- was actively and
peacefully helping to revamp the American social and
economic fabric --- and for the better!

But ↳ The charge has been made that it is only the
leadership that is liberal and activist; that the rank-and-
file union member is racist and reactionary, *overindifferent and* sitting around

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in his undershirt drinking beer, cursing hippies, and voting for George Wallace.

↳ I would ask that you look beyond the sometimes surly talk and look at deeds and actions! In America, political deeds are enacted most significantly in the voting booth, and the voting boxes in so-called labor precincts have been solidly Democratic since the New Deal of Franklin Roosevelt. ↳ In most of the traditional ways of looking at politics, these workingman districts have always been liberal, and still are liberal.

↳ ~~That is a very important statement and one that must be remembered.~~ ↳ At root, and concerning the gut liberal issues, American workingmen are ^{voting} liberals.

↳ Progress has been achieved in America on cities, on health, transportation, environment, race, in a large part because the American labor hard-hats and others have supported it.

↙ If there is to be progress in the future in America, it will require American workingmen to support it. They are a powerful force in our political septem. Reform and remedy for our social ills can be accomplished only with their support.

↙ Now what about the liberals - *yes those Intellectual Liberals!* Are they really the ivy-towered elitists that the ~~some~~ critics say they are? ↓
 don't think so. ↙ There are admittedly a few dilettantes within the current ranks of liberals but most ~~liberals~~ *liberals* in the 1960s were willing to do tough, hard and corageous work. ↙ The civil rights workers who did the town-by-town voter registration work in the South were as corageous a group of young people as this nation has ever seen.

I can also tell you that those liberals --- young or old --- who have sincerely protested the war in Vietnam and its extension into Cambodia; who have protested hunger

in America; who have condemned pollution; who have dramatized the plight of the migratory workers --- are tough-minded idealists. And they are proving their effectiveness day in and day out.

↳ Most important, liberals in America are not now or never have been --- "anti-workingman". Liberals have supported the same progressive programs that the labor movement has supported --- and the same candidates too, at least after primaries and conventions have been concluded!

↳ The most liberal areas of the nation, such as those surrounding our great universities, voted heavily Democratic in 1968, and so did the hard-hat workingmen, just as they voted for LBJ, JFK, Stevenson, Truman and FDR. And just

as America will not get legislative progress on cities, on health, on schools, without the support of ~~workmen~~ *the labor movement*, neither will we get progress without the leadership of America's articulate and activist liberal's *idealists.*

Well

— *L* What, then, is the problem? ~~Both the liberals and the workingmen are espousing the same basic programs now; they have in the past; and they will in the future. They vote for the same candidates.~~ *What threatens this important vital coalition?*

The problem, in the code phrase, is "law and order".

— *L* In 1968 there was a cliche afloat that said, "law and order is a code word for racism".

"Law and order" may indeed sometimes and in some places be a code phrase for racism --- but it is also a code phrase for domestic tranquillity and the protection of

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life, liberty and property. ^{and} Americans are deeply upset about crime, about riots, about violent disruption, about drugs --- all facets of "law and order".

But, again, there is something strange. Both the hard-hats and the liberals are for law and order! I don't have to tell this group that respect for law and the establishment of order is the very basis of human society. ^{and} The bedrock ^{Political} of liberalism is orderly change within the system; change with order, and order with change.

Liberals don't favor crime, or mugging, or riots in the ghetto or on the campus. Nor do they burn the flag or ransack draft boards.

But, yet, all too often that is how liberals are being portrayed by their critics --- but, why? - well lets see -

↳ The nub of the "law-and-order" issue was first raised as a national concern in the elections of 1964.

↳ Senator Goldwater managed to suggest that law-and-order is part and parcel of his own brand of conservatism. ↳ Governor Wallace linked law and order to his very special brand of racism. ↳ The liberals naturally recoiled and many hesitated to talk out on this issue that was deeply disturbing tens of millions of Americans. ↳ When finally they did begin to speak out, they spoke apologetically and in the judgement of the electorate, they lacked credibility.

↳ In the meantime, many Americans grew fearful cities burned and campuses simmered. And as the extremists antics were overpublicized on television screens across the land, real liberalism took a severe beating.

↳ Black militants, burning and shooting, may well have set back the cause of civil rights by a decade. ↳ White

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Liberals must stop using the words "well meaning" about those who see violence and law-breaking as the way to influence public policy.

Extremists who poison the possibility of civil rights progress, of aid to the poor and disadvantaged, of educational progress or of draft reform — are not "well meaning" in my book.

The extremists have contributed to what they claim to abhor — polarization. They have set ~~black~~ white against black, rich against poor, young against old — that is not well meaning in my book.

Liberals above all other political types, know that violence and chaos can lead to no good. They know that the democratic process is based on persuasion and reason. They know that the first casualty of violence and disorder is liberalism itself.

radicals rampaging on campuses may well have spawned an anti-university backlash that could set back the cause of higher education by a decade. Draft-resisters who take the law into their own hands serve neither the cause of peace ^{nor of} draft reform.

↳ And when some liberals responded by saying "I don't agree with it, of course, but they are well-meaning..." the cherished goals of liberalism ^{are} set back.

↳ Liberals must stop using the words "well meaning" about those who see violence and law-breaking as the way to influence public policy. Extermists who poison the possibility of civil rights progress, of aid to the poor and disadvantaged, of educational progress or of draft reform -- are not "well meaning" in my book.

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↳ Liberals above all other political types, know that violence and chaos can lead to no good -- they know that the democratic process

is based on persuasion and reason. They know that the first casualty of violence and disorder ~~is~~ is liberalism itself. #

↳ Liberals have demonstrated the willingness and courage to take on unpopular position when they believed the issue or the cause was right.

↳ What liberals must face up to now, is an ironical imperative; they must show the courage to take a popular position when the cause is right. ~~and the cause of civil disorder~~ #

↳ Politics is often a contest where atmospherics are as important as substance --- indeed, where atmospherics sometimes become substance.

↳ The atmospherics that liberals must now attune themselves to are obvious. They must let the hard hats know that they understand what is bugging them and that they too condemn ~~criminality and~~ Crime riots, ~~and~~ violence and ~~also~~ extreme social turbulence, and scorn extremists of the left as well as extremists of the right -- black extremists with guns and white extremists with sheets and guns.

↳ We have demanded, properly I think, that students be heard and that the administration at least try to understand

15 on college campus + government
be heard and that the administration, at least try to understand

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what is bothering them. XXX Fine, I agree with that.

But what about middle American and the hard-hats?
the Poor, the Blacks -

Aren't they entitled to the same thing? ~~Something~~ + Sometimes we

talk about alienation as if it were the exclusive province of

people who write introspective novels. But what about the

American who is working hard for his \$9,000 a year and is

~~getting himself up inside~~ *angry* because he feels that no one knows *or wants to know*

what he feels? What about the farmer and the merchant,

all deeply concerned about crime and lawlessness and

disruption and about what they perceive as permissiveness?

The time has come for liberals to let America know--
in the most emphatic of terms--that they share these concerns!

* * *

Once liberals establish credibility in this area,
they can lead America forward on the programatic issues,
and on the vital matters of civil justice and social order.

A man who ~~is~~ *is* perceived by the voters

as cognizant of the real threat of extremism, need fear nothing from the voters if he makes it clear that he is equally cognizant of the real threat of repression or any real threat to civil liberties.

↳ Having established credibility, we can more easily cope with ~~an~~ different violence: the social and psychological violence of the slum, which is the breeding ground of

physical violence. ↳ I do not believe that the only solution to our problems is

the so-called "long-range solution" ---that is, the elimination of the heartless conditions that breed crime in our society. But it clearly is one important approach. ↳ Poverty, discrimination, unemployment --- these factors do breed crime and ~~and~~ *and* violence and if we want to deal with violence and crime realistically we must get off the dime and re-order our social and economic ~~XXXX~~ priorities so that every American has the opportunity to lead a decent and dignified life.

In the long run we cannot have civil order without social justice.

↳ But ~~the~~ violence and crime are ~~not~~ rapidly becoming a barrier to these long range goals. ↳ Violence and disorder are generating an ugly spirit in our communities -- a spirit which threatens to rend the

fabric of society

What irony. Just when a host of new legislation has enabled action in our cities, such as the Model Cities program, and the Safe Streets Act ... just when law schools are turning out a new breed of young lawyers bent on service to the poor and to new measures of criminal justice ... just when the courts are giving new vigor to the spirit of protection offered by our Constitution ... now, ~~also~~, comes a devastating crisis *of disorder* **and** urban crime, calculated to grow, and sure to bring repression, if some people persist in looking the other way..

Nobody with conviction in the rightness of this nation -- and certainly no one who has given of himself in the welfare of its people -- ought to keep silent on the subject of crime *and Violence* in America.

You can't play Hamlet with crime *and Violence*.

and believe me we need to
go to work - In all too many
ways the system of justice
is indeed stacked against the
ignorant, the poor, the people
of limited scope in their
means and social contacts.

Get a good look at some of the
~~unfairness~~ injustices in
of justice & you get
fighting mad - but the
answer is more efficient
systems of justice - it is
surely not the coddling
of criminals of any age
background or race -
or condoning violence
in the name of sympathy.

~~fabric of society~~, Those who are dedicated to social reform and progressive programs such as comprehensive health care, aid to education, consumer protection, extension of civil rights and protection of civil liberties, urban rehabilitation, decent housing, pollution control, the ~~XX~~ war on poverty ~~and so on~~ must recognize that all of this is in jeopardy if fear and anger dominate the political environment. The true liberal will insist that there can be no alternative to public safety. It is the heart -- indeed, it is the unspoken, unwritten, underlying premise of the social ~~contract~~ contract.

Once we understand this, we can more easily attack all the other agents that assault our system of justice: the policeman who disregards constitutional rights of the citizenry, the housing inspector who winks at violations, the judge who abuses his judicial powers, the welfare system that violates privacy and compassion.

When Americans finally understand that liberals as well as conservatives are concerned about the violence and turbulence then we will be able to establish a better America. We must come to

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understand that the real struggle is not between hard hats and
liberals or conservatives and liberals³³ --- it is between those who
seek to destroy the system and those who accept and support the
system and are willing to work to make it better.

LA and we can make it better, if we are willing to work at
it. But we need action, we need it desperately, and we need it
now.

As we join ranks in this common struggle against
crime and violence, we will also contribute to building the
larger, single community to which this nation is still dedicated
and on which the long-run survival of this nation depends. ~~and~~

not used

radicals rampaging on campuses may well have spawned an anti-university backlash that could set back the cause of higher education by a decade. Draft-resisters who take the law into their own hands serve neither the cause of peace nor of draft reform.

↳ And when some liberals responded by saying "I don't agree with it, of course, but they are well-meaning..." the cherished goals of liberalism were set back.

← Paradoxically, while liberals in the early and mid-1960s were making great strides in areas such as medicare, the war on poverty, job training, civil rights and aid to education --- the term "liberal" was losing favor among voters.

↳ What, then, is the answer? Stating again the situation points to an answer. The liberals and the hard-hats are not ~~disputing~~ at cross purposes programs. The hard-hats are liberal

Liberals have demonstrated the willingness and courage to ~~to~~ take an unpopular position when they believed the issue or the cause was right

and liberals are pro-labor and pro-middle class.

Concerning the wedge which separates them --- the fuzzy issue of law and order --- there is also little substantive difference. Liberals, above all political types, know that chaos and criminality can lead to no good. And finally, this phony wedge threatens to split a great coalition in America and in splitting the coalition, threatens to halt a valuable momentum.

What liberals must face up to ~~now~~^{now}, is an ironical imperative: ~~liberals~~^{they} must show the courage to take a popular position when the cause is right.

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all deeply concerned about crime and lawlessness and disruption and about what they perceive as permissiveness?

The time has come for liberals to let America know --- in the most emphatic of terms --- that they share these concerns, just as they share the more social concerns such as ^{the need for} comprehensive health care, aid to education, pollution control, decent housing, urban rehabilitation, improved social security and consumer protection and ~~and~~ ^{and a relentless attack on} ~~and~~ ^{on equality and discrimination} ~~and~~.

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* * *

~~It is difficult for some liberals to accept this ---
but it is so.~~

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A man who is perceived by the voters as cognisant
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~~The hope of reform & social
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run back to 1964

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(Ananta)

and ~~anger~~ *anger* dominate the political environment. The True liberal will insist that there can be no alternatives to public safety. It is the heart - indeed, it is the unspoken, unwritten, underlying premise of the social contract.

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When Americans finally understand that liberals as well as conservatives are concerned about the violence and turbulence then we will be able to establish a better America. ~~When we understand that the real struggle is not between hard hats and liberals ---~~ *We must come to hard hats and liberals or* ~~between~~ conservatives and liberals --- it is between those who seek to destroy the system and those who accept and support the system and are willing to work to make it better.

and We can make it better, if we are willing to work at it. ~~But~~ We need action, we need it desperately, and we need it now. ~~I urge you to this work.~~

As we join ranks in this common struggle against crime and violence, ~~and~~ we will also contribute to building the larger, single community to which this nation is still dedicated and on which the long-run survival of this nation depends. *(End)*

Efforts ~~But that, in the end, is our only hope: ~~that~~~~ by dedicated persons like yourselves, in conjunction with the efforts of the total community, can produce the changes which are so urgently needed.



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