

Law Day Dedication Address

May 4, 1979

INTRODUCTION

By Griffin Bell

Dr. Harris, Chief Justice Burger, Chief Justice Nichols, distinguished State and Federal Judges, other distinguished guests, ladies and gentlemen. At the Law Day ceremony at the White House Tuesday afternoon, I presented the Chief Justice and he made some remarks during which he quoted from the Snail Darter opinion. Some of you may not know it but I argued the Snail Darter and lost. The Chief Justice wrote the opinion against me. This is the first time I've had the chance to respond to what he said Tuesday. Shortly before the American Revolution, Sir Edmund Burke was speaking to Parliament and he said that you must beware of the Americans, that they are very litigious, that they have bought more copies of Blackstone's Commentaries on the Law in the American Colonies than have been sold in all of England. Beware of the Americans, they are a litigious lot he said. Alexis de Tocqueville was here to the States three to four years in the 1830's studying America and went back to France and wrote *Democracy in America*. He said that the Americans said the same thing. He said that they take everything to court, that there is scarcely any political question that will not eventually be resolved in the courts. I say that the law, the system of law that we have, is our greatest heritage. Americans have a tradition of taking things to law and I think that is good. That is why we have to have great law schools and why we have to train lawyers. Someone once said that the mark of a great civilization, the test of a civilization, is what kind of criminal justice system a country has. In our country it has to go further than that: it is what kind of a *justice* system do we have, because it is a peculiar thing to our country that we do resolve our problems in law, not *viet armis*, but in law.

The office of the Chief Justice of the United States is a great office. You must remember that the Chief Justice is more than a presiding justice of the Supreme Court, the Chief Justice is a separate office. An aspect of the Chief Justice's role is that he is in charge, I think, of our entire justice system. That is his highest responsibility, even higher than presiding over the Supreme Court. In our present Chief Justice we have one of the greatest leaders that our nation has ever produced in judicial leadership, in judicial reform, in being certain that our judicial system is maintained and improved on a constant and continuing basis. I think Chief Justice Burger

is the greatest leader we have in American law. He is interested in many things that are not even in the court system, as such. For example, he is one of the experts in the world on prisons, prisoners, and prison reform. He is one of the few people I know in this country who has really studied and thought out just what is wrong with the prison system in our nation.

I want to stop now and say that the Chief Justice of the United States honors all of us, he honors Mercer University, he honors this great law school, by agreeing to be here today. It is a privilege for me to be asked to present him. It is an honor to be able to present him. He honors us, and I am honored to be the one to introduce Chief Justice Burger.

ADDRESS

By Chief Justice Warren Burger

Thank you Mr. Attorney General, President Harris, distinguished guests, my colleagues of the state and federal courts and my colleagues of the bar. I am honored to be here, particularly at the personal invitation of my old friend and colleague, the Attorney General, and I thank you, Mr. Attorney General, for those warm remarks.

Thirty years ago, Henry Steel Commager said "nothing, nothing, in all history succeeded like America." Dr. Commager was not speaking simply of the success of the unique political experiments we launched two hundred years ago or of our remarkable productivity and material prosperity but of the flowering of the human spirit under the system of government we established two hundred years ago. Why was this so?

All over the world then, as today, people were engaged in bloody struggles to reconcile regional, national, religious, ideological, ethnic, and racial differences. People were trying to create a functional, civilized society.

Central to all of the struggles then, and those going on in the world today, is the hunger of the human race for freedom. I suggest to you that our country's position in the world today flows directly from the freedom which was made possible by two extraordinary documents in our history, the Declaration of 1776 and the Constitution that followed. To this we must add our belief that with freedom as with power there must be accountability.

Two hundred years ago spread thinly over the Eastern Seaboard of our Continent, were approximately three million people. Barely more than a century before that the Continent was almost a total wilderness. In 1776 America had little or no traditions or background of culture, no old castles, no palaces, no museums, no art galleries; almost no universities. Its greatest resource was a hardy people who had left Europe to seek religious and political freedom and in a larger sense, the opportunities that flow from freedom. The hunger of people for freedom and opportunity was a common denominator of all who came to these shores.

Ancient Athens and Rome had freedom, but it was freedom for the elite. China and Russia at that time had centuries of culture behind them, and in the case of China, five or six thousand years. But we had something new, something entirely new, a freedom that reached all except those who were in the bonds of slavery. Standing alone, the Declaration and the Constitution could not create a cohesive society or a government, they could only declare the hopes and dreams that people had cherished for centuries. The Constitution of 1789 and the Bill of Rights in 1791 gave meaning to a kind of freedom often dreamed of before but never seen.

In the century that followed, immigrants poured to our shores from virtually every country of Europe, and even some of Asia. Never before or since has there been such a mass movement of so many different peoples from so many different cultures and backgrounds to form a single nation. The philosophers of that day, you remember, expressed doubts that this heterogeneous mass of people could ever form a workable political union that could combine effective government and still preserve individual freedom. To do that was contrary to all history. But as Commager said "nothing in all history succeeded like America."

The one dominant, pervasive, enduring factor that had never before been witnessed in world history on such a scale was the energizing, animating spirit of freedom—a freedom that unleashed the energies and the latent talents and motivated our people. Not just the elite, but the ordinary people—the ordinary people who, under inspired leadership, then proceeded to make this country, in the short span of two hundred years a great world power. To say that this was a new kind of freedom never known before was not enough. What was unique was that this new freedom released the creative and dynamic outpourings of even the most ordinary of people. It is not too much to analogize that experience to the energy released when we first learned to split the atom. How else can we account for the prodigious accomplishments, both individual and collective, that were witnessed in this short period of two centuries, overtaking the ancient civilizations that had been extant long before and matching the greatest in accomplishments.

We see that freedom flowered in all of its manifestations: in poetry, in plays, in paintings, railroads, factories, farms, and great universities. And our system with the novel separation of delegated and coequal powers has protected the freedom that produced these unparalleled fruits. The older societies, I mentioned China and Russia for example, with all the great backgrounds that they had and the values they possessed have not matched the growth and development of what was launched here on the Eastern Seaboard so short a time ago as we measure history. It was the opportunity that flowed from this new freedom that provided motivations to achieve. The natural resources that were available to us were of course very important. But China and Russia had, and still have, similar vast resources. They too had, as they have today, people of great industry, talent, and

ability. But no other country in all history has combined the natural resources and the industry of the people with the freedom, the new kind of freedom, that was introduced to our shores, two hundred years ago. That freedom, it bears repeating, generated inventiveness, optimism, willingness to take risks, willingness to make sacrifices for the future. It was a combination of energizing elements that enabled an amazing mixture of people of these conflicting ideologies and diverse origins to produce what is today one of the most productive nations on earth—and with freedom.

Let me give just three examples, and forgive me for drawing on my native State of Minnesota for this purpose. One man, an immigrant from Ireland, settled in Minnesota and was first a coal dealer, then became interested in a railroad and built what was then the world's greatest railway system. He was James J. Hill. Another immigrant, from Europe, Frederick Weyerhaeuser, came from Germany with only an elementary education. He began work in a saw mill, started his own saw mill, and developed the world's largest private lumber producing company. There was another working class man who came from Birmingham, England. By the processes of that day, studying as an apprentice to a doctor, he became a physician and he and his two sons, Will and Charles Mayo, founded the Mayo Clinic, which is today the world's greatest medical center for education, research, and patient treatment.

Every state in this Union can point to people like these who, because of the opportunity offered by this country under our freedom, were able to develop their talents to the highest degree. In my youth, these remarkable achievers and others in our Minnesota history were constantly spoken of by our teachers and our parents. How many of these men do you think would be remembered today if they had stayed in their native countries without the opportunities, the freedom, and the incentives that our kind of freedom gave them. The Declaration first and then the Constitution were only premises of freedom of the future. That freedom has been threatened many times. Confidence in our institutions has been impaired in recent years. We can never regard our freedom or our system as totally secure. In this struggle to create this freedom, a majority of the draftsmen were members of the legal profession and ever since that time, lawyers have played as they always will play, a major role in protecting the values of freedom. This splendid school of law at Mercer will produce leaders who will shape and protect these freedoms.

But there is one thing more. Freedom without order and accountability for its use is likely to lead to anarchy. In just the past dozen years we have come to see that power flowing from our freedoms without accountability can be destructive. As our public leaders must be accountable, business leaders must be accountable, labor leaders must be accountable, teachers must be accountable, students must be accountable. No one who exercises the power and the guarantees of freedom can be exempt from accountabil-

ity for the use of our freedom. And so, as you dedicate this building today, I would hope that we would all remember that beautiful as it is, it is merely a shelter, a shell. Far more important are the men and the women, the faculty and the students, the spirit of dedication — your dedication to freedom with accountability for its use, for that is far more important than even this splendid structure.

