

A MESSAGE ON JUSTICE

Following is the text of Governor Carter's "Law Day" address at the University of Georgia:

Senator Kennedy, distinguished fellow Georgians, friends of the Law School of Georgia, and personal friends of mine:

Sometimes even a distinguished jurist on the Supreme Court doesn't know all of the background on acceptances of invitations. As a matter of fact, my wife was influential in this particular acceptance, but my son was even more influential. This was really an acceptance to repair my ego. There was established in 1969 the L.Q.C. Lamar Society. I was involved in the establishment of it, and I think a lot of it. As Governor of Georgia, I was invited this year, along with two distinguished Americans, to make a speech at the annual meeting which is going on now.

I found out when the program was prepared that Senator Kennedy was to speak last night. They charged \$10. to attend the occasion. Senator William Brock from Tennessee is speaking to the Lamar Society at noon today. I found out they charged \$7.50 for this occasion. I spoke yesterday at noon, and I asked the Lamar Society officials, at the last moment, how much they were charging to come to the luncheon yesterday. They said they weren't charging anything. I said, "You mean they don't even have to pay for the lunch?" They said, "No, we're providing the lunch free."

So, when my son Jack came and said, "Daddy, I think more of you than you thought I did; I'm paying \$7 for two tickets to the luncheon," I figured that a \$3.50 lunch ticket would salvage part of my ego and that's really why I'm here today.

I'm not qualified to talk to you about law, because in addition to being a peanut farmer, I'm an engineer and a nuclear physicist, not a lawyer. I was planning, really, to talk to you more today about politics and the interrelationship of political affairs and law, than about what I'm actually going to speak on. But after Senator Kennedy's delightful and very fine response to political questions during his speech, and after his analysis of the Watergate problems, I stopped at a room on the way, while he had his press conference, and I changed my speech notes.

My own interest in the criminal justice system is very deep and heartfelt. Not having studied law, I've had to learn the hard way. I read a lot and listen a lot. One of the sources for my understanding about the proper application of criminal justice and the system of equity is from reading Reinhold Niebuhr, one of his books that Bill Gunter gave me quite a number of years ago. The other source of my understanding about what's right and wrong in this society is from a friend of mine, a poet named Bob Dylan. After listening to his records about "The Ballad of Hattie Carol" and "Like a Rolling Stone" and "The Times, They Are a-Changing," I've learned to appreciate the dynamism of change in a modern society.

I grew up as a landowner's son. But I don't think I ever realized the proper interrelationship between the landowner and those who worked on a farm until I heard Dylan's record, "I Ain't Gonna Work on Maggie's Farm No More." So I come here speaking to you today about your subject with a base for my information founded on Reinhold Niebuhr and Bob Dylan.

"Justice In A Sinful World"

One of the things that Niebuhr says is that the sad duty of the political system is to establish justice in a sinful world. He goes on to say that there's no way to establish or maintain justice without law; that the laws are constantly changing to stabilize the social equilibrium of the forces and counterforces of a dynamic society, and that the law in its totality is an expression of the structure of government.

Well, as a farmer who has now been in office for 3 years, I've seen firsthand the inadequacy of my own comprehension of what government ought to do for its people. I've had a constant learning process, sometimes from lawyers, sometimes from practical experience, sometimes from failures and mistakes that have been pointed out to me after they were made.

I had lunch this week with the members of the Judicial Selection committee, and they were talking about a consent search warrant. I said I didn't know what a consent search warrant was. They said, "Well, that's when two policemen go to a house. One of them goes to the front door and knocks on it, and the other one runs around to the back door and yells 'come in'." I have to admit that as governor, quite often I search for ways to bring about my own hopes; not quite so stringently testing the law as that, but with a similar motivation.

I would like to talk to you for a few moments about some of the practical aspects of being a governor who is still deeply concerned about the inadequacies of a system of which it is obvious that you're so patently proud.

I have refrained completely from making any judicial appointments on the basis of political support or other factors, and have chosen, in every instance, Superior Court judges, quite often state judges, Appellate Court judges, on the basis of merit analysis by a highly competent, open, qualified group of distinguished Georgians. I'm proud of this.

We've now established in the Georgia Constitution a qualifications commission, which for the first time can hear complaints from average citizens about the performance in office of judges and can investigate those complaints and with the status and the force of the Georgia Constitution behind them can remove a judge from office or take other corrective steps.

We've now passed a constitutional amendment, which is waiting for the citizenry to approve, that establishes a uniform Criminal Justice Court system in this state so that the affairs of the judiciary can be more orderly structured, so that workloads can be balanced and so that over a period of time there might be an additional factor of equity, which quite often does not exist now because of the wide disparity among the different courts of Georgia.

We passed this year a judge sentencing bill for non-capital cases with a review procedure. I've had presented to me, by members of the Pardons and Paroles Board, an analysis of some of the sentences given to people by the Superior Court judges of this state, which grieved me deeply and shocked me as a layman. I believe that over a period of time, the fact that a group of other judges can review and comment on the sentences meted out in the different portions of Georgia will bring some more equity to the system.

We have finally eliminated the unsworn statement law in Georgia—the last state to do it.

This year, we analyzed in depth the structure of the drug penalties in this state. I believe in the future there will be a clear understanding of the seriousness of different crimes relating to drugs. We've finally been able to get through the legislature a law that removes alcoholism or drunkenness as a criminal offense. When this law goes into effect next year, I think it will

create a new sense of compassion and concern and justice for the roughly 150,000 alcoholics in Georgia, many of whom escape the consequences of what has been a crime because of some social or economic prominence, and will remove a very heavy load from the criminal justice system.

In our prisons, which in the past have been a disgrace to Georgia, we've tried to make substantive changes in the quality of those who administer them and to put a new realm of understanding and hope and compassion into the administration of that portion of the system of justice. Ninety-five percent of those who are presently incarcerated in prisons will be returned to be our neighbors. And now the thrust of the entire program, as initiated under Ellis MacDougall and now continued under Dr. Ault, is to try to discern in the soul of each convicted and sentenced person redeeming features that can be enhanced. We plan a career for that person to be pursued while he is in prison. I believe that the early data that we have on recidivism rates indicates the efficacy of what we've done.

The GBI, which was formerly a matter of great concern to all those who were interested in law enforcement, has now been substantially changed—for the better. I would put it up now in quality against the FBI, the Secret Service, or any other crime control organization in this nation.

Well, does that mean that everything is all right?

It doesn't to me.

Searching for a Better Way

I don't exactly know how to say this, but I was thinking just a few moments ago about some of the things that are of deep concern to me as governor. As a scientist, I was working constantly, along with almost everyone who professes that dedication of life, to probe, probe every day of my life for constant changes for the better. It's completely anachronistic in the make-up of a nuclear physicist or an engineer or scientist to be satisfied with what we've got, or to rest on the laurels of past accomplishments. It's the nature of the profession.

As a farmer, the same motivation persists. Every farmer that I know of, who is worth his salt or who's just average, is ahead of the experiment stations and the research agronomist in finding better ways, changing ways to plant, cultivate, utilize herbicides, gather, cure, sell farm products. The competition for innovation is tremendous, equivalent to the realm of nuclear physics even.

In my opinion, it's different in the case of lawyers. And maybe this is a circumstance that is so inherently true that it can't be changed.

I'm a Sunday school teacher, and I've always known that the structure of law is founded on the Christian ethic that you shall love the Lord your God and your neighbor as yourself—a very high and perfect standard. We

all know the fallibility of man, and the contentions in society, as described by Reinhold Niebuhr and many others, don't permit us to achieve perfection. We do strive for equality, but not with a fervent and daily commitment. In general, the powerful and the influential in our society shape the laws and have a great influence on the legislature or the Congress. This creates a reluctance to change because the powerful and the influential have carved out for themselves or have inherited a privileged position in society, of wealth or social prominence or higher education or opportunity for the future. Quite often, those circumstances are circumvented at a very early age because college students, particularly undergraduates, don't have any commitment to the preservation of the way things are. But later, as their interrelationship with the present circumstances grows, they also become committed to approaching change very, very slowly and very, very cautiously, and there's a commitment to the status quo.

I remember when I was a child, I lived on a farm about 3 miles from Plains, and we didn't have electricity or running water. We lived on the railroad—Seaboard Coastline Railroad. Like all farm boys, I had a flip, a slingshot. They had stabilized the railroad bed with little white round rocks, which I used for ammunition. I would go out frequently to the railroad and gather the most perfectly shaped rocks of proper size. I always had a few in my pockets, and I had others cached away around the farm, so that they would be convenient if I ran out of my pocket supply.

One day I was leaving the railroad track with my pockets full of rocks and hands full of rocks, and my mother came out on the front porch—this is not a very interesting story but it illustrates a point—and she had in her hands a plate full of cookies that she had just baked for me. She called me—I am sure with love in her heart—and said, "Jimmy, I've baked some cookies for you." I remember very distinctly walking up to her and standing there for 15 or 20 seconds, in honest doubt about whether I should drop those rocks which were worthless and take the cookies that my mother had prepared for me, which between her and me were very valuable.

Fear of Change

Quite often, we have the same inclination in our everyday lives. We don't recognize that change can sometimes be very beneficial, although we fear it. Anyone who lives in the South looks back on the last 15 to 20 years with some degree of embarrassment, including myself. To think about going back to a county unit system, which deliberately cheated for generations certain white voters of this state, is almost inconceivable. To revert back or to forego the one man, one vote principle, we would now consider to be a horrible violation of the basic principles of justice and equality and fairness and equity.

The first speech I ever made in the Georgia Senate, representing the most conservative district in Georgia, was concerning the abolition of 30 questions that we had so proudly evolved as a subterfuge to keep black citizens from voting and which we used with a great deal of smirking and pride for decades or generations ever since the War Between the States—questions that nobody could answer in this room, but which were applied to every black citizen that came to the Sumter County Courthouse or Webster County Courthouse and said, "I want to vote." I spoke in that chamber, fearful of the news media reporting it back home, but overwhelmed with a commitment to the abolition of that artificial barrier to the rights of an American citizen. I remember the thing that I used in my speech, that a black pencil salesman on the outer door of the Sumter County Courthouse could make a better judgment about who ought to be sheriff than two highly educated professors at Georgia Southwestern College.

Dr. Martin Luther King, Jr., who was perhaps despised by many in this room because he shook up our social structure that benefited us, and demanded simply that black citizens be treated the same as white citizens, wasn't greeted with approbation and accolades by the Georgia Bar Association or the Alabama Bar Association. He was greeted with horror. Still, once that change was made, a very simple but difficult change, no one in his right mind would want to go back to circumstances prior to that juncture in the development of our nation's society.

A Long Way To Go

I don't want to go on and on; I'm part of it. But the point I want to make to you is that we still have a long way to go. In every age or every year, we have a tendency to believe that we've come so far now, that there's no way to improve the present system. I'm sure when the Wright Brothers flew at Kitty Hawk, they felt that was the ultimate in transportation. When the first atomic bomb was exploded, that was the ultimate development in nuclear physics, and so forth.

Well, we haven't reached the ultimate. But who's going to search the heart and soul of an organization like yours or a law school or state or nation and say, "What can we still do to restore equity and justice or to preserve it or to enhance it in this society?"

You know, I'm not afraid to make the change. I don't have anything to lose. But, as a farmer, I'm not qualified to assess the characteristics of the 9,100 inmates in the Georgia prisons, 50 percent of whom ought not to be there. They ought to be on probation or under some other supervision and assess what the results of previous court rulings might bring to bear on their lives.

I was in the governor's mansion for 2 years, enjoying the services of a very fine cook, who was a prisoner—a woman. One day she came to me, after she got over her 2 years of timidity, and said, "Governor, I would like to borrow \$250 from you."

I said, "I'm not sure that a lawyer would be worth that much."

She said, "I don't want to hire a lawyer, I want to pay the judge."

I thought it was a ridiculous statement for her; I felt that she was ignorant. But I found out she wasn't. She had been sentenced by a superior court judge in the state, who still serves, to 7 years or \$750. She had raised, early in her prison career, \$500. I didn't lend her the money, but I had Bill Harper, my legal aide, look into it. He found the circumstances were true. She was quickly released under a recent court ruling that had come down in the last few years.

I was down on the coast this weekend. I was approached by a woman who asked me to come by her home. I went by, and she showed me documents that indicated that her illiterate mother, who had a son in jail, had gone to the County Surveyor in that region and had borrowed \$225 to get her son out of jail. She had a letter from the Justice of the Peace that showed that her mother had made a mark on a blank sheet of paper. They paid off the \$225, and she has the receipts to show it. Then they started a 5-year program trying to get back the paper she signed, without success. They went to court. The lawyer that had originally advised her to sign the paper showed up as the attorney for the surveyor. She had put up 50 acres of land near the county seat as security. When she got to court she found instead of signing a security deed, that she had signed a warranty deed. That case has already been appealed to the Supreme Court, and she lost.

Well, I know that the technicalities of the law that would permit that are probably justifiable. She didn't have a good lawyer. My heart feels and cries out that something ought to be analyzed, not just about the structure of government, judicial qualification councils and judicial appointment committees and eliminating the unsworn statement—those things are important. But they don't reach the crux of the point—that now we assign punishment to fit the criminal and not the crime.

Only the Poor Go To Prison

You can go in the prisons of Georgia, and I don't know, it may be that poor people are the only ones who commit crimes, but I do know they are the only ones who serve prison sentences. When Ellis MacDougall first went to Reidsville, he found people that had been in solitary confinement for 10 years. We now have 500 misdemeanants in the Georgia prison system.

Well, I don't know the theory of law, but there is one other point I want

to make, just for your own consideration. I think we've made great progress in the Pardons and Paroles Board since I've been in office and since we've reorganized the government. We have five very enlightened people there now. And on occasion they go out to the prison system to interview the inmates, to decide whether or not they are worthy to be released after they serve one-third of their sentence. I think most jurors and most judges feel that, when they give the sentence, they know that after a third of the sentence has gone by, they will be eligible for careful consideration. Just think for a moment about your own son or your own father or your own daughter being in prison, having served 7 years of a lifetime term and being considered for a release. Don't you think that they ought to be examined and that the Pardons and Parole Board ought to look them in the eye and ask them a question and, if they are turned down, ought to give them some substantive reason why they are not released and what they can do to correct their defect?

I do.

I think it's just as important at their time for consideration of early release as it is even when they are sentenced. But, I don't know how to bring about that change.

We had an ethics bill in the state legislature this year. Half of it passed—to require an accounting for contributions during a campaign—but the part that applied to people after the campaign failed. We couldn't get through a requirement for revelation of payments or gifts to officeholders after they are in office.

The largest force against that ethics bill was the lawyers.

Some of you here tried to help get a consumer protection package passed without success.

The regulatory agencies in Washington are made up, not of people to regulate industries, but of representatives of the industries that are regulated. Is that fair and right and equitable? I don't think so.

I'm only going to serve 4 years as governor, as you know. I think that's enough. I enjoy it, but I think I've done all I can in the governor's office. I see the lobbyists in the state capitol filling the halls on occasions. Good people, competent people, the most pleasant, personable, extroverted citizens of Georgia. Those are the characteristics that are required for a lobbyist. They represent good folks. But I tell you that when a lobbyist goes to represent the Peanut Warehousemen's Association of the Southeast, which I belong to, which I helped to organize, they go there to represent the peanut warehouseman. They don't go there to represent the customers of the peanut warehouseman.

When the state Chamber of Commerce lobbyists go there, they go there to

represent the businessman of Georgia. They don't go there to represent the customers of the businessman of Georgia.

When your own organization is interested in some legislation there in the capitol, they're interested in the welfare or prerogatives or authority of the lawyers. They are not there to represent in any sort of exclusive way the client of the lawyers.

The American Medical Association and its Georgia equivalent—they represent the doctors, who are fine people. But they certainly don't represent the patients of a doctor.

As an elected governor, I feel that responsibility; but I also know that my qualifications are slight compared to the doctors or the lawyers or the teachers, to determine what's best for the client or the patient or the school-child.

Striving For Fairness And Equity

This bothers me; and I know that if there was a commitment on the part of the cumulative group of attorneys in his state, to search with a degree of commitment and fervency, to eliminate many of the inequities that I've just described that I thought of this morning, our state could be transformed in the attitude of its people toward the government.

Senator Kennedy described the malaise that exists in this nation—and it does.

In closing, I'd like to just illustrate the point by something that came to mind this morning when I was talking to Senator Kennedy about his trip to Russia.

When I was about 12 years old, I liked to read, and I had a school principal, named Miss Julia Coleman, Judge Marshall knows her. She forced me pretty much to read, read, read, classical books. She would give me a gold star when I read 10 and a silver star when I read 5.

One day, she called me in and she said, "Jimmy, I think it's time for you to read 'War and Peace.'" I was completely relieved because I thought it was a book about cowboys and Indians.

Well, I went to the library and checked it out, and it was 1,415 pages thick, I think, written by Tolstoy, as you know, about Napoleon's entry into Russia in the 1812-15 era. He had never been defeated, and he was sure he could win, but he underestimated the severity of the Russian winter and the peasants' love for their land.

To make a long story short, the next spring he retreated in defeat. The course of history was changed; it probably affected our own lives.

The point of the book is, and what Tolstoy points out in the epilogue is, that he didn't write the book about Napoleon or the Czar of Russia or even

the generals, except in a rare occasion. He wrote it about the students and the housewives and the barbers and the farmers and the privates in the army. And the point of the book is that the course of human events, even the greatest historical events, are not determined by the leaders of a nation or a state, like Presidents or governors or senators. They are controlled by the combined wisdom and courage and commitment and discernment and unselfishness and compassion and love and idealism of the common ordinary people. If that was true in the case of Russia where they had a czar or France where they had an emperor, how much more true is it in our own case where the Constitution charges us with a direct responsibility for determining what our government is and ought to be?

Well, I've read parts of the embarrassing transcripts, and I've seen the proud statement of a former attorney general, who protected his boss, and now brags on the fact that he tiptoed through a mine field and came out "clean." I can't imagine somebody like Thomas Jefferson tiptoeing through a mine field on the technicalities of the law, and then bragging about being clean afterwards.

I think our people demand more than that. I believe that everyone in this room who is in a position of responsibility as a preserver of the law in its purest form ought to remember the oath that Thomas Jefferson and others took when they practically signed their own death warrant, writing the Declaration of Independence—to preserve justice and equity and freedom and fairness, they pledged their lives, their fortunes and their sacred honor.

Thank you very much.