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MEET THE PRESS

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MEET THE PRESS

America's Press Conference of the Star

Produced by LAWRENCE E. SPIVAK

Guest: TOM CLARK
Associate Justice of the Supreme Court (Retired)
RAMSEY CLARK
Former Attorney General of the U.S.

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Panel:

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JAMES J. KILPATRICK,
Washington Star Syndicate
CARL T. ROWAN, *Chicago Daily News*
CARL STERN, *NBC NEWS*

Moderator:

EDWIN NEWMAN, *NBC News*

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MEET THE PRESS

MR. SPIVAK: Our guests today on MEET THE PRESS are Associate Justice of the Supreme Court, Tom Clark, retired, and former Attorney General of the United States, Ramsey Clark. They are the only father and son in our history to have held the office of Attorney General.

Mr. Justice Clark was Attorney General from 1945 to 1949 and Justice from 1949 until his retirement in 1967.

Ramsey Clark was Attorney General from 1967 to '69. I would like to start the questioning with Justice Clark.

Mr. Justice, there are an increasing number of people who say that the rapid rise in crime and violence in this country is due to the inequities in our society rather than to other causes. Why do you think crime and violence have increased so greatly?

JUSTICE CLARK: I think that is one of the reasons, certainly. Other reasons that some attribute it to would be our failure to be able to detect a sufficient percentage of the crime that is committed. For example, only 20 percent is actually detected and becomes a [matter of] prosecution, and out of that 20 percent, of course some are not found guilty.

This rather emphasizes the fact that those who are intent upon a life of crime might believe that they would not be prosecuted or found guilty, and that encourages them. Others say the Court opinions have caused it. I don't subscribe to that at all. I don't think that a criminal reads the Court opinions before he commits a crime.

MR. SPIVAK: Mr. Ramsey Clark, you were reported as saying recently that crime reflects the character of an entire people, not just the criminal element. Do you place major blame for the rise in crime in this country on society rather than on the individual criminal?

MR. RAMSEY CLARK: I am not a blamer, essentially, but try to be a problem-solver. If we really care to reduce crime substantially in America, we have to look to the health of our people, the mental and physical health, we have to look to the quality of their education and the decency of their housing and the beauty of their environment. The criminal justice system alone can't begin to keep us from criminal conduct if within our hearts we have the capacity for it. The best illustration that I can give is that probably fewer than one in 50 of the serious crimes that are committed in America today result in a conviction. It is far from the capacity of the criminal justice system to control crime by itself.

(ANNOUNCEMENTS)

MR. STERN: Mr. Justice Clark, you were a colleague of William Douglas on the Supreme Court for 18 years. You know him well. Do you know of any reason, anything to warrant the present impeachment effort against Mr. Justice Douglas?

JUSTICE CLARK: No, I don't.

MR. STERN: Do you see any good flowing from the decision to impeach him?

JUSTICE CLARK: I don't know of any good that might flow from it. I don't see any myself.

MR. STERN: What kind of a guy is he? Will you describe him to us?

JUSTICE CLARK: He is of course a very industrious and knowledgeable person. He has served on the Court for 31 years. He is, I would say, one of the most capable ones on the Court. In fact he has written more opinions possibly than any other man on the Court.

MR. STERN: Do you consider him a radical?

JUSTICE CLARK: No. I wouldn't say that at all. He is, of course—Bill Douglas is what you would tag as a liberal.

MR. STERN: Are you saddened by the current effort to impeach him?

JUSTICE CLARK: I think it is unfortunate, yes.

MR. KILPATRICK: Mr. Clark, in a recent address before the American Enterprise Institute, you spoke with regret that "Lawyers still struggle with the meaningless distinctions between de facto and de jure segregation, while lives of hundreds of thousands of children are blighted," and so forth. You went on to say: "If segregated public schools are inherently unequal, the equal protection clause of the 14th Amendment prohibits them, whatever their cause."

I wonder, sir, if you would care to expand upon this key point in law.

MR. RAMSEY CLARK: It is a point that has been expanded on by the judiciary itself as long ago as 1964. The Supreme Court of California decision arising out of the Pasadena School District held that under the state constitution and its clause, which is essentially the same as our equal protection clause, that school segregation in the public systems is unconstitutional, whatever its cause.

But in fact there is no purely de facto segregation in America. The strains of racism in our society have been there so long and so deep, and they are so pervasive that there is not the place that government action hasn't contributed to neighborhood segregations and to segregations in schools. The FHA itself, the Federal Housing Administration itself, as recently as 1948, required the placement of restrictive, covenants in deeds to property that it insured, and this causes neighborhood segregation that still exists. We just can't spend our time worrying about details. Did the government cause this? Did something else cause it? To the kid in school the results are the same, and the equal protection clause has got to protect them.

MR. KILPATRICK: Would you like to see children assigned to various schools by reason of their race in order to correct this unconstitutional situation?

MR. RAMSEY CLARK: I think the governments and all the institutions of a society have the highest obligation to fulfill the supreme law of the land, and the Constitution is the supreme law of the land. Of course we have to do it. You can't do it by school assignments alone. The problems of integration are much greater than that.

MR. KILPATRICK: Busing holds no terrors for you?

MR. RAMSEY CLARK: Busing holds no terrors for me. For generations we would bus black children in the South 50 miles past four white schools, and no one complained. We've bused thousands—we bus millions of children today. We could achieve more integration today with less busing if we cared. It is a question of which way the buses ride.

MR. GRAHAM: Mr. Justice Clark, much of the controversy about Justice Douglas has grown out of his authorship of that little book "Points of Rebellion," which had to be a controversial book. Historically what are the proprieties of a sitting member of the Supreme Court publishing a controversial book of this nature?

JUSTICE CLARK: Justice Douglas of course has published several books since he has been on the Court. I don't know just

how many. You possibly know better than I, but I would say at least ten or 12 books. Other Justices have written while they were there. I write articles and wrote articles for law reviews when I was there. I didn't publish any book, haven't yet, but it is not because I thought it was wrong to publish a book.

MR. GRAHAM: None of them became a point of controversy of this magnitude, did they, sir?

JUSTICE CLARK: Well, no. I didn't have any published.

MR. GRAHAM: Going back to your own retirement from the Supreme Court, I believe you were 67 years old at that time. Do you have any feeling as to what age Justices should step down? We now have three who are over 70, Justices Douglas, Harlan and Black.

JUSTICE CLARK: Mr. Graham, as you know—you are well versed in this—this is a very difficult question, because we have had Justices like Holmes and Black and others that have sat there—Holmes was 93, I believe it was. Justice Black is now 83, and they are just as sharp now—I didn't know Justice Holmes, just casually—but I know Justice Black, and he is just as sharp now as the day I stepped on that Court, and before then, even. I think it is difficult to call a line. If I had to call a line, I would say 75, something like that.

MR. ROWAN: Mr. Clark, in 1968, some Republicans called you a "cream puff" when it came to fighting crime. Some analysts say President Nixon really ran against you and that your alleged permissive stand was what gave him victory. Do you believe this to be so?

MR. RAMSEY CLARK: I am probably not the best person to judge that. I would let others.

The thing we have to do is address ourselves to real issues. We have real problems. My view on crime control is very clear. We have to professionalize police. We have got to increase vastly the salaries of police. We can't go on like this. Courts have to be modernized. We have got to rehabilitate persons convicted of crime. This is [repeaters commit] 80 percent of all serious crime. We have got to increase immensely our effort in prison reforms. If that is being a "cream puff," so be it.

MR. ROWAN: The Congress gave you some new tools for fighting crime, like wire tapping, which, as I understand, you refused to use. Why?

MR. RAMSEY CLARK: Because crime can't be controlled by wire tapping. It undermines the confidence of the people in their government. It demeans human dignity in the long run. It

escalates the levels of violence in America. We wanted tools. We wanted tools like gun control, but neither President Nixon nor the Congress would ask for it or give it to us, and these are the ways you will control crime in America.

MR. ROWAN: Do you think the techniques of Attorney General John Mitchell are reducing crime? He has taken a different tack from what you look.

MR. RAMSEY CLARK: Let's face it. The Attorney General of the United States has very little to do with controlling crime in America. His opportunity is terribly limited. Crime control is a local responsibility and must remain so. The role of the Attorney General has to do with the image that we give to our purpose: will we be fair, will we treat everyone in the country fairly and can we be effective, fairly.

MR. SPIVAK: Mr. Clark, may I ask you this question: You have spoken frequently and with strong feeling about the importance of preserving the right of dissent. What is your opinion on the use of violence to express dissent?

MR. RAMSEY CLARK: Maybe I am a "cream puff": I don't like violence. I don't like violence of any sort. I think we have come to a time in civilization when violence as a problem-solver internationally or inter-personally is no longer acceptable. It is too dangerous. Our times are too turbulent for it, and I think we have to be prepared to suffer grievous injury before we commit violence. But I'd rather talk to the constructive side of it. Dissent has been the principal catalyst in the alchemy of truth all through history. We have got to hear people, we have got to listen, and we have got to test in the market place of opinion. If we will do that, we can solve these problems. If we suppress dissent, we will never get the answers we need.

MR. KILPATRICK: Mr. Justice Clark, this summer, the Supreme Court, following its pattern, will adjourn somewhere toward the middle of June and will not resume its sessions until sometime in October. Considering the high salary that is paid to these members of the Court, is there truly, sir, any real justification for their taking more than a three months' vacation?

MR. JUSTICE CLARK: It is not a vacation, Mr. Kilpatrick, as Mr. Graham can tell you. I would say a thousand cases will be filed there. When I was there, around 800. And the number is increasing appreciably.

MR. KILPATRICK: Nevertheless, no cases will be argued?

MR. JUSTICE CLARK: No, but the Justices have to go through every case. Our Constitution says there shall be one

Supreme Court, and the Congress says there shall be nine members, and so every member has to go through every paper that is filed there, and those cases have to be studied during the summer.

MR. KILPATRICK: But this is a year-round process, the reviewing of petitions for certiorari, it doesn't occur only in the summer?

MR. JUSTICE CLARK: No, but there is a large accumulation in the summer that has to be taken care of.

MR. STERN: Mr. Clark, you did not get to testify at the Chicago Seven trial. What, basically, would you have said there?

MR. RAMSEY CLARK: Well, you know, if you don't testify in court, you don't testify out of court, if you are a man of the law. The defense and the prosecution know what my testimony would have been, and it is preserved in the record to the extent that it was permitted by the judge. I leave it at that.

MR. STERN: But isn't it true though that you blame what happened in Chicago as much on the local officials and the police in Chicago, their unwillingness, alleged unwillingness, to adopt certain techniques toward the demonstrators as you do the demonstrators, themselves?

MR. RAMSEY CLARK: I am not a blamer, essentially, but I know this, that you cannot keep the emotion, the action and the passion of our times out of the court room, and if Congress passes laws that are unwise and that emotionalize, and if leadership emotionalizes police, who have the most difficult responsibilities in the United States, today, if we fail to give persons the opportunity to exercise their right to free speech under the First Amendment, we will have emotional content in our trials and in our courts, and we can't escape it.

MR. STERN: Civil libertarians feel you were pitching a near perfect game going into the ninth inning, but then there was a wild pitch in the ninth inning when you decided to go after Dr. Spock. Do you believe, now, that that was a mistake?

MR. RAMSEY CLARK: I don't second-guess other people, and I don't second-guess myself. I will let history speak for that. I know this, that we have to make distinctions. Distinctions are hard to make in our complex times, and there was an affront to the Selective Service Act, whether that act is morally right or wrong. The prosecution has a responsibility under every theory that I can subscribe to, including those of Dr. Gandhi, himself, either to enforce the law or resign, and that is what I tried to do.

MR. ROWAN: Justice Clark, I note when you were Attorney

General in 1948, Representative John McDowell wanted to impeach you for allegedly refusing to prosecute Communist spies. Exactly twenty years later, Representative Hall wanted to impeach your son for being soft on crime. Does this alleged softness come from the fact that you are both Democrats or both Clarks?

MR. JUSTICE CLARK: Maybe it runs in the family. I don't know, Mr. Rowan. I remember both of these incidents. Of course, as Ramsey just said, you have to make the decision, someone does, in the Department of Justice as to what case is to be prosecuted. Most of them are decided at the lower level, at the District Attorney level. But quite often, they come to the Attorney General, and so I decided, then, that those were not violations of law, and so we didn't prosecute them.

MR. ROWAN: I noticed that the Republicans capitalized pretty well on alleged softness on communism, and indeed we got an era of McCarthyism out of it.

Do you see any new wave of McCarthyism coming out of this fear of crime and this talk of being soft on crime?

JUSTICE CLARK: I think there is a little bit of evidence of that. I am not talking now about officialdom or government, but in the so-called Establishment, as they call it, which is the "ruling classes," you might say, why, there are indications that things [will] be a little more strict and possibly—certainly less liberal.

MR. GRAHAM: Mr. Clark, you mentioned a moment ago that the federal government and the Attorney General can't really have much impact on crime, but I wonder if there couldn't be a psychological element here. I noted that in the last three years of the Johnson Administration, the FBI crime index rose 15 percent at least each year. In the first year of the Nixon Administration it rose only 11 percent. Could it be that a law and order government does, psychologically, affect the crime picture?

MR. RAMSEY CLARK: I think that leadership can have an impact, and I tried to state that earlier, in terms of emotionalization or stabilization of the instrumentalities of criminal justice, but I would caution you against reading too much from crime statistics. Most crime is never reported to the police, and if our concern for crime is only whether it is increasing or decreasing and not for the vastness it has in our total social fabric, why our lights are very limited and dim indeed.

MR. GRAHAM: We have read lately that Mr. Mitchell told you that there would be an apology forthcoming from President Nixon because of some of the things that were said about you during that campaign. But no apology came.

Did the Attorney General in fact say that to you?

MR. RAMSEY CLARK: No, he never told me that an apology would be forthcoming. He did on one occasion say that he hoped I didn't take it personally.

MR. GRAHAM: Did you?

MR. RAMSEY: No.

MR. STERN: Mr. Clark, senior, you are a Southerner, a strict constructionist, I assume, by the President's definition. Would you agree there is a bias in the Senate today against putting a Southerner and a strict constructionist on the bench?

JUSTICE CLARK: I don't think so. I am not sure I would comply with the requirements of your definition of strict constructionist. If you mean by that that [one] follows the literal language that is in a constitution or in a statute, I don't follow it. I look to the legislative history, what the Congress said at the time the Act was passed or the state legislature. Or if it is the Constitution, it is written in general language, ambiguous quite often, so I have to try to interpret it by past decisions and things of that kind.

MR. STERN: I am sure you followed the Haynsworth and Carswell debate as it unfolded in the Senate. Do you believe they were defeated because they were from the South and strict constructionists?

JUSTICE CLARK: I don't think so. I think they were defeated because of a combination of unfortunate circumstances that arose during the time.

MR. SPIVAK: Mr. Justice, Ramsey Clark is reported as saying, "You have to have respect for law, but you can never have respect for law if the law isn't respectable."

He said that, according to the Washington Star, in reference to the draft. Do you go along with that?

JUSTICE CLARK: I certainly do. It is not entitled to respect unless the law is respectable.

MR. SPIVAK: Should each man determine for himself whether a law is respectable in your judgment?

JUSTICE CLARK: No. No, he shouldn't. If his conscience operates against a law, then he should follow his conscience as long as the law has not been decided finally. But after a law is definitely decided, why, all of us, whether we have conscientious objections or not, must obey it.

MR. KILPATRICK: Mr. Ramsey Clark, returning to the crime

picture, is it your conviction, sir, that such decisions of the Court as the Miranda decision have had no adverse effect whatever upon police enforcement?

MR. RAMSEY CLARK: We need to study a decision like Miranda very carefully, because I think in terms of fairness what it says is that the poor and the sick and those who can't defend themselves, powerless people, must be treated as fairly as the rich or the mobster or the powerful people. They should have a lawyer, too. In my judgment that is essential, if we are to be a government of laws, if we really believe in law.

In fact when you look at police conduct, it hasn't been significantly changed by Miranda. We ignore it very much as we ignored Brown v. Board of Education. Years go by and nothing happens. It is true Miranda has helped emotionalize police because demagogues have taken the case of Miranda v. Arizona and say, it is responsible for our crime, as if we had had no crime before June 17, 1966. In fact, Miranda will cause police to professionalize. It will force it. They will have to use scientific techniques rather than confessions from mentally unstable persons.

MR. KILPATRICK: In dissenting to Miranda, your father called it "doctrinaire" and "arbitrary." You don't agree with that.

MR. RAMSEY: No.

MR. JUSTICE CLARK: I dissented on the grounds that I would follow the due process clause. In other words, I agreed with the result in that case, but I would not have gone—I thought it was going too far, too quick, if you will read my opinion a little closer.

MR. KILPATRICK: "The changing of the traditional rules of interrogation which this Court has so long recognized as a justifiable and proper tool in balancing individual rights against the rights of society."

That is what you said, then.

MR. JUSTICE CLARK: What I had in mind was using the due-process clause, which would take the whole circumstances of each case and then determine whether or not it was a fair interrogation, a fair procedure.

MR. SPIVAK: Gentlemen, we have less than three minutes.

MR. GRAHAM: Justice Clark, early in the Truman administration when you were Attorney General, you persuaded President Truman to expand the government's use of wire tapping and then

later one of your last opinions was to crack down on the New York wire-tapping law.

Did your opinion of wire tapping change over the years?

MR. JUSTICE CLARK: If I might—I wouldn't say "correct," you—but wire tapping, as far as I know, was started way back before I ever came there, and every Attorney General before me, beginning, to my knowledge, with Mr. Cummings, who was three or four before me, had even asked Congress for a specific statute [on] wire tapping, so I didn't inaugurate it at all. I did follow the precedent that had been set in the past.

As far as changing, I have changed quite often on the Court. You know, many of the decisions I made when I was Attorney General, why, I was Attorney General, but when I got on the Court there was a different viewpoint. There is something behind your chair, you know, that sort of nudges you now and then, and so you get a different view of the situation. I am a Justice, then, so I try to decide it as a Justice.

MR. ROWAN: Mr. Clark, in Boston, and a few places, they are talking about running you for President in 1972. Do you have presidential ambitions?

MR. RAMSEY CLARK: No.

MR. ROWAN: Have you made any effort to stop this little hand wagon from rolling in Boston?

MR. RAMSEY CLARK: If you call not answering your mail an effort, I guess you could say, yes. Otherwise, no.

MR. SPIVAK: Mr. Justice, I would like to ask both of you this one question: What do you consider the most serious problem today connected with the administration of justice in this country?

MR. JUSTICE CLARK: Which one do you want to go first?

MR. SPIVAK: You go first.

MR. JUSTICE CLARK: There are quite a few problems, Mr. Spivak. You see, I have been in the Federal Judicial Center now for two years. I am just retiring on account of my age, and I have found a considerable number of inequities and injustices in justice, so I have been trying to correct them. One of them that I think is the most prevalent is possibly the delay [in trial], the backlogs, which we are trying to correct, now.

MR. SPIVAK: Mr. Ramsey Clark.

MR. RAMSEY CLARK: Are you limiting this to the judiciary or the total range of the—

MR. SPIVAK: The total range of the administration of justice.

MR. RAMSEY CLARK: Within Justice we spend 65 percent of our resources on police, and that is where a major part of the action is—more salaries, greater professionalization; in courts—more fairness, more efficiency, more effectiveness; and in corrections, in prisons—rehabilitation, we have got to rehabilitate offenders.

MR. SPIVAK: I am sorry to interrupt, but our time is up.

Thank you, Gentlemen, for being with us today on MEET THE PRESS.