

Freedom Could Use Some



The Washington Post

Mayor John V. Lindsay . . . "Who has really won?"

*P. 6
4/20/70* By John V. Lindsay

The following is excerpted from a speech by the Mayor of New York at the centennial program of the Association of the Bar of the City of New York last week.

THIS IS, UNHAPPILY, a time to remind ourselves of our obligation as lawyers to protect our citizens' rights and liberties from threats and infringements. The blunt, hard fact is that we in this nation appear headed for a new period of repression more dangerous than at any time in years.

The frenzy, the bitterness, the tumult of the last few years have led many people—including many in positions of power—to expect peace and order to come by whittling away at the Bill of Rights of our Constitution.

Not long ago, the Senate passed a drug law. It would permit federal agents to enter the home of a private citizen with no warning whatsoever. Not one Senator voted against that bill.

At almost the same time, the Senate passed a crime bill which drastically limited a defendant's right to examine possibly illegal sources of evidence; which imposed a statute of limitations on the right to be free of illegal searches. Only one man stood up against that bill.

And a week later, the House passed a "Defense Facilities Bill" which would extend to private industry broad gov-

Defense From Lawyers

ernment investigatory powers. It would authorize federal agents to examine the political association and acts of people in private industry—and it would permit these private citizens to be fired from their jobs without even being told the basis for the dismissal.

And while this bill was being passed, the Justice Department issued—then retracted—a startling series of subpoenas asking for the notes and tapes of newsmen—a step which could basically endanger the traditional independence of our news media.

All of this has happened within the last few weeks. Yet where are the declarations of opposition? Where are the leaders, in politics, the bar, and academic life, speaking out against these new threats to our constitutional freedoms?

Of course these are controversial areas. The most dangerous threats to freedom always are. When government intrudes in a trivial field, we all enjoy laughter aimed at the clumsy workings of bureaucrats. But it is precisely when government treats real dangers—like crime, drugs and security—with dangerous means that government is most likely to endanger our freedoms by increasing repression. And it is at this point that the defense of freedoms must be made.

There is a similar duty, too, to speak out in defense of the judicial process itself.

All of us, I think, see the recent Chicago trial as a defeat for the integrity of the judicial process. All of us, I think, see in that trial a tawdry parody of our judicial system. But it is important to understand the roots of this disaster.

When you try political activists under a conspiracy charge—long considered to be the most dubious kind of criminal charge, difficult to define or to limit—and when a trial becomes fundamentally an examination of political acts and beliefs, then guilt or innocence becomes almost irrelevant. The process becomes a matter of political opinion instead of legal judgment, and the sense of a courtroom as an independent, open and judicious tribunal becomes lost.

And we lost something else, too. Whatever the ultimate verdicts, who has really won in this case? Think of yourself as a young man or woman emerging into political concern. If you had witnessed what happened in Chicago, which of you would believe that our system was open, fair-minded and humane? Which of you would come away from this trial with a renewed faith in our judicial system?

With this matter now on us—with the range of new laws of dubious value

or legitimacy—what must concern us all as lawyers is this growing evidence of encroachment on our most cherished rights and liberties. And this concern must remain whether the threat comes from our executive, legislative or judicial branches of government or from individual citizens under the false notion that violence, disruption and repression of their own is the way to a better society.

This association has always had the courage to stand up for its beliefs, even at great cost. Exactly 50 years ago, led by Charles Evans Hughes, this very association spoke out against the unseating of five Socialist legislators by the State Assembly. The men who led this fight had nothing in common politically with the victims of that repression. But they did have a faith in freedom—and they acted on that faith.

Today, when the turmoil of the last few years has made repression a politically popular step, it is our obligation as lawyers to stand against it in whatever form it takes. It is time again to put our faith in the system of open and free debate and in full constitutional protection for those accused of crimes. It is time again to speak out in defense of these precious barriers between tyranny and liberty.

This is not an easy task. But there is none more vital today. And there is none more noble to begin your second century of life.