

# Faith in the Truth

By Ramsey Clark

As the nation faces further crises in law and constitutional government, it may be helpful to examine one just past.

The criminal acts of Spiro Agnew were tragedy enough for America in this time of profound doubt. The contempt for law manifested by the officials who handled his case compounded that tragedy. If we cannot adhere to law with greatest fidelity to its principles and purposes in time of crisis, it will earn slight respect and fail when needed most.

The pragmatic disposition of the Agnew case ignored the need for faith in truth as the foundation of the law. As a result, the people do not have the facts needed to know whether they have witnessed power over innocence, corruption in high office covered up, personal sacrifice to an unfair system or protection of the President. There is no visible vindication of the public interest, fairness to the accused or due process of law.

Former Attorney General Richardson said the initiative for the pre-indictment resolution of the issues by the sudden plea came from the office of the President. There is no surer way to politicize the system of criminal justice than intercession by the White House. Henry Petersen is reported to have said the President would be a "blithering idiot if he weren't trying to exert some role." The same can be said for anyone interested in a criminal case. The prosecution would be an outlaw if it permitted such interference. Archibald Cox understood this.

Nothing could have been more disrespectful to the office of the Vice President, or the integrity of law, than for the Attorney General of the United States to agree to intercede personally in return for the resignation and plea of the Vice President. This is bartering with the second highest office in the land. Is it enough to tell the hundreds of thousands of defendants sentenced to prison that they would have fared better had they been Vice President? Will angry convicts see ours as a system of power, not law intending justice? The Vice President is always a step away from the Presidency. This does not place him a step above the law.

Neither the U.S. Department of Justice nor the court should have accepted the plea of *nolo contendere* to the remote and ambiguous 1967 tax charge. Doubt about the charges and the guilt will plague young Americans gaining their first impressions of American justice. The allegations were far too serious, the need of the public to know too great, to permit such a disposition.

The submission of a forty-page *ex parte* statement of the prosecutor is a dangerous practice. It removes the shields of the grand jury, the rules of evidence and a petit jury verdict. These protect accused persons from unsupported charges. The press-conference plea by Mr. Richardson for public support for the settlement was trifling with the law. It speaks for itself by acts of grand juries, petit juries and judges.

For U.S. Attorney James Thompson of Chicago to tell the world he has studied the Agnew file, that it is as bad as he has seen, that Mr. Agnew is a "common crook," is ethically corrupt. We have not heard a word of reprimand. A system of law cannot tolerate extrajudicial comments by a prosecutor from investigative files on the character or conduct of citizens.

Then, there is the failure by the state of Maryland against which many of the offenses were apparently committed. Two state officers have stated no action will be taken. Thousands of persons charged and convicted of Federal crime have known Maryland to wait years to imprison them when they were released from a Federal penitentiary. Is a Vice President simply too powerful for the rule of law?

What was needed was clear enough — simply faithful execution of the laws. Emotional as the experience may have been, a modicum of instinct would have instructed. Present the evidence to the grand jury as nearly like any other case as is possible. Make no comments out of court. If the person under investigation wants to enter a plea before indictment, formally delineate all the charges so the law can know what was charged and where jeopardy attaches. Insist on a plea of guilty. If no plea is offered, submit the case to the grand jury and if there is an indictment, prepare for trial.

The question of resignation is for the official involved, not for trade. Certainly out of respect for the office he should resign, if indicted, unless he believes the prosecution is in bad faith to remove him.

Sentencing is the function of the court. If the court wants the prosecutor's recommendation, as many do, it is entitled to it, but a special plea for leniency is improper. A prison sentence makes no sense for crimes of extortion, bribery, or tax evasion, or most other crimes for that matter. Some day we need to face this. But it does not serve the nation to humble the law by bargaining away its equal application to a Vice President, fully intending to use that same law to crush the powerless and unpopular tomorrow.

Ramsey Clark was Attorney General in the Johnson Administration.