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BY

THE HONORABLE EDWARD H. LEVI
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE INAUGURATION CEREMONY

OF

BARD COLLEGE

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BARD COLLEGE
BARD, NEW YORK

I do not know whether Leon Botstein is still the youngest college president. With luck -- both the luck of the college and of President Botstein -- he will remain president until he is no longer the youngest. Then his distinction will be, as it is now, for his youthfulness of spirit and of mind-qualities happily not measured in years.

But I must reveal, in accordance with the candor which should rule us all, that not so long ago I thought I was helping to launch a lengthy presidential tenure at another place of higher education. I spoke at the inaugural formalities. The president, thus given my special help, resigned nine months later to become the head of a rather large bank. I spoke at another such occasion soon after, however, and as far as I can tell, that new president, like Mr. Botstein, an alumnus of the University of Chicago, with unlimited possibilities for new directions in his career, has remained with distinction in his post. In this world of statistics, where cause is miraculously confused with coincidence, I assume that President Botstein and the Trustees of Bard have weighed the risks in inviting me.

Statistics rarely tell us all we ask of them, and this is not a day for probabilities. Rather it is an improbability we now celebrate--the uncommon gift of leadership. Finding

it in one who is young is not itself surprising; finding it at all is a cause for rejoicing. That is why it is important that when it is discovered, it be honored as we honor it today.

It has become commonplace to complain that good leaders do not exist in the abundance we would like, and that our society has few heroes. These observations should perhaps compel us to look at what we ask of leaders and what we regard as heroism.

Rather than asking how closely an individual approximates the wisdom, energy and persuasiveness of a fine leader, we usually ask what his new program will be. The continuous striving for the more material values for a better life, for more material goods, for a greater ease is part of the human condition. But we have come to think, with a conceit of which we should not be proud, that these desires can be satisfied only by newness. So, to take as one example, foundations which rule the academic world, and government programs which do some ruling on their own, always look for the innovative. The word is so misused it has become a principal barrier to honesty and to thought. It has preempted the more genuine and significant appreciation of excellence. It makes light of the strivings of the past, and it is flippant about the purpose of our mission.

The expectation and demand for change lead to a view of the world as a continuous round of dizzying cycles in which the new becomes quickly old and must be replaced by something new which not long before was the old that had been rejected.

If we erred yesterday on the side of order, then we think we must counteract that with an equal and opposite error on the side of that kind of liberty which is sometimes called, to avoid argument, license. If our ideals of justice in the world overcame our humility, and we engaged in an undeclared war now covered with skepticism and doubt, and with the tragedy of all wars, then we think we must reject those ideals with a fervor equal to that with which we held them before. Indeed we seem to welcome these reactions, believing them to be entirely natural and necessary. Both the awareness of history and the understanding of current problems are lost in the energetic process of getting even. We are distorting the process through which tradition and change, each tempering the other, must be accommodated in the good society. We are doing so without realizing that the persistent warning about democratic governments, a warning which the founders of our republic well understood, is that this must be the temptation to be guarded against. The process which satisfies the need for change, while protecting fundamental values and ideals, is of course extremely difficult. It may indeed, as Alexander Bickel described it, be a fragmented and complicated affair. This was the reason the founders of our nation sought to moderate the process by creating a government of competing institutions. The founders thought about the problem. We seem to have put it out of our mind.

The cyclical process of choices and new endeavors is often called pragmatic, meaning it is experimental and tentative -- that it favors ideas having consequences in fact. If this experimental quality is taken as the whole of the system, then the continuous swing of affairs from one error to its opposite might seem inevitable. After all, we are trained to believe that when an experiment produces consequences which do not verify the hypothesis, the hypothesis is quickly discarded and another experiment begins. That would justify our quest for newness. But it would be a misunderstanding of the system. It is much too kind in its acceptance of a justification. It misunderstands the system, because pragmatism is a process of testing, which assumes some set of values by which the consequences of choices are to be measured. The appeal of the new has not only been an appeal for better devices better suited to the ends we seek but also for a shifting of the goals themselves. It is this combination which helps produce the damaging cycle. It is this which threatens the delicate balance between stability and change.

It is much too kind in its acceptance of a justification because it does not recognize the great emphasis placed upon public opinion, as it is understood to be, in our society. The emphasis is not a recent development. Tocqueville recognized it -- and its hazards -- in the early 19th Century. He wrote: "The nearer the people are drawn to the common

level of an equal and similar position, the less prone does each man become to place implicit faith in a certain man or a certain class of men. But his readiness to believe the multitude increases, and opinion is more than ever mistress of the world . . . At periods of equality, men have no faith in one another, by reason of their common resemblance; but this very resemblance gives them almost unbounded confidence in the judgment of the public; for it would seem probable that, as they are all endowed with equal means of judging, the greater truth should go with the greater number."

I am quite sure all of us would reject this as a necessary consequence. If it were inevitably true, it would cut uncomfortably close to the heart of our faith. The reason we reject it is because we believe in education, whether formal or otherwise, and the freedom and individuality which education can bring. If so, education has let us down or, perhaps, we have let education down, not perceiving the enormous obstacles it must overcome in the modern world. The strength of a thought-reducing conformity compelling public opinion has grown steadily. In part this results because we not only have public opinion, a mysterious and changeable force, but we have produced, through the uses of scholarship, a one-dimensional version of opinion so that we may more easily make of it the star to guide us. An opinion sample is like a photograph which captures the expression of uneasiness that sometimes occurs between laughter and a smile. The uneasiness is there, but only in passing. What is important is the humor.

I recall a moment -- all of us have experienced them -- in which opinion changed dramatically overnight. I was a member of a congressional staff. There was peace, but war in Korea threatened it. Had an opinion sampler visited that congressional committee that day, he would have learned the unanimous feeling was that only a fool would enter the conflict. That night the United States entered the conflict. If the pollster had visited us the next day, he would have discovered that the belief was now as firmly fixed as the day before. But it was the opposite conviction. He would have found the opinion was that there was no choice but to enter. I do not say it is not worthwhile taking these soundings, but rather that the shift of the compass may result from the course of the vessel. But of course I really mean more. There is a vast difference between a government by discussion and as a result of discussion, and a fixation on opinion. The oracles of old, even though they could be manipulated, at least had the advantage of speaking ambiguously. Nor do I wish to overemphasize the role of the pollster. The role of the scholarly footnote is often much the same.

The problem of the importance of opinion is not only governmental. It pervades all of our institutions, including our colleges. The assumption is that it is the right thing to go with the prevailing view, and so much easier to do it when the prevailing view is known. The source of the prevailing view is what we are told the prevailing view is. I recall being told by some entering students at the University of Chicago -- an institution which rightly has a reputation for independence --

what their views were on a variety of controversial subjects. When I pressed them as to whether these were really their own views, they assured me they were, and as a final irrefutable proof pointed out that Life magazine had already said so. There is an accepted syndrome which connects the told prevailing view with popularity, and accepts the desire for popularity, as a principal value. The syndrome is a problem for education. It is also a problem for representative government.

The growth of knowledge and the new methods of disseminating knowledge have heightened the problem. Powerful tools have been developed to tell us less about more, to simplify what is complex, to substitute immediate impressions for a deeper judgment. Students today are sure they know things which they do not know. Though this has always been the case -- and it most surely is a phenomenon not at all limited to students, and we all share in it -- it is more intense today. One side of an argument, one view of history, one theory of justice -- these become accepted because there is no real discussion. There is a loss of the wisdom that to understand one side of an argument, it is best to be able to state and to understand the other side. Discussion must overcome the statement of opinion and particularly the statement of opinion in the form of slogans.

The experts in advertising and public relations were not the first to discover slogans. They may have learned the value of the novelty of such epithets from the philosophers. The re-emergence of the slogan, "God is dead," a few years ago is

a reminder of this, as were the answering bumper stickers which replied, "God is alive and well and living in Hoboken." Much of scholarship develops and lives by slogans which expand until the concepts burst at their seams. The sovereignty of the disciplines as well as competition among and between them is at stake. This was the problem which worried Newman in his "The Idea of a University." It is a concern which every reflective institution of learning still has. It is sometimes hard for a scholar to realize that his discipline does not answer all the questions which are worthwhile answering, or that his way of answering, particularly as interpreted by disciples, may preempt more than was intended. The description, I regret to say, fairly well fits the course of theories about education.

There is a usefulness to the expansion of theories in the scholarly world. There is a sense in which discovery, knowledge and understanding must proceed through error. The magnifying glass distorts. The whole process of scholarly dialogue is to develop and then correct the distortion. The academic world recognizes that it is natural for each of us to wish to be medicine men or women with our own special nostrum. This recognition has not prevented frenetic desires to be first, or to claim to be first, or to place a personal stamp of a school on a whole train of thought. It has not prevented judgments to be made on what is at bottom a most partial view of things. But over time there is a discipline of correction which complements the process. For this reason the scholarly world has to cherish the opportunity of time, to see things not in the long run. but over the long run.

This happy view of the academic community to which I subscribe contains a dilemma. The dilemma is that scholars must have the freedom to be wrong so that they may be right. Indeed there is nothing that can be done about this because it is in the nature of discovery, or rediscovery, or understanding. And there is necessarily a protected long-run aspect to this. But it is nevertheless also true that there is an immediate and short-run aspect. Colleges do carry, along with other institutions in our society, and more than most, the responsibility for the training of the citizen and for the training -- one might use the inept phrase -- the basic training of the professions. If we are unduly ruled by swings of opinion, a demand for novelty, an acceptance of the idea that an error in the past justifies an opposite error in the present, that says something about the education of the citizen. If the expert advice our society receives is carelessly or determinedly partial, ignoring the scope of the problem, that says something about the training, and particularly the liberal arts component of the training, of the advising professions. For various reasons, including the comfort of ignorance, as well as the belief that I think there are many ways, my thought is not to tell you how to avoid this. It is rather to assure you that the matter is important.

Two problems in our society of major importance are examples of where there have been recurrent swings in approach with which the academic community has been involved. Both of them have been approached through the use of slogans. Both of them are enormously complicated. The first is the problem

of crime. It is a national tragedy. It threatens the civility upon which a democratic society depends. One has to wonder how long the tolerance of it will continue and what measures intolerance of it might lead our society to adopt. The problem of dealing with crime has involved a variety of issues which taken together have made a solution almost impossible. But this certainly cannot be an acceptable result, The issues are only too familiar. Some of them are these: There is a fear that strict enforcement will treat unfairly those who are disadvantaged. But the chief victims of crime are the disadvantaged. There has been a belief that the growth of knowledge would lead us to the causes of crime and the eradication of the causes. But discoveries in this area, beyond common sense observations, have been disappointing. The treatment of the criminal has been analogized to the treatment of the ill. Individualized treatment was therefore indicated. This both had a special and unintended harshness in some cases and generally weakened the certainty, and therefore the effectiveness, of punishment. Competing schools developed around the concept of deterrence as the purpose of imprisonment, on the one hand, and rehabilitation as the more humane and constructive goal, on the other. Recent analyses of some of the inadequate statistics we now have show that rehabilitation does not so frequently occur. As a consequence many who favored rehabilitation as the sole or main objective, now disillusioned, would do away with prisons altogether, and would fail to upgrade into decency those which we now have. Others shrink from deterrence because it seems to hold out no hope to the unfortunate.

What is involved, I suppose, is the nature of humankind, as to which there cannot be expected to be startling new, even innovative, knowledge each decade. It must be recognized that the whole area of criminology has been a prime target of sociological and psychological research for many years. The discoveries have not come as quickly as an older day predicted. To recognize this may be itself a contribution of some wisdom. A long humanistic tradition would suggest that both deterrence and decency are important to the victim, the miscreant and the society as a whole.

The second is the problem of the use of resources. Just how this could have happened, I will never know, but those of us fortunate enough to be in universities during the sixties were assured from almost all quarters that this was the age of affluence where unbounded demands could be met with unbounded supply. It was hardly a question of choice; rather a matter of will. The notion of scarcity was gone; choice, other than that which might be involved in the avoidance of gluttony, because the individual could only take so much without individual harm, was regarded as irrelevant. For a while in this picture of the abounding universe, the problem posed to the colleges and the universities was how they could possibly strain themselves sufficiently to turn out all the Ph.Ds which the social scientists in that sector of expertness confidently predicted would be required.

The only thing which helped some of us preserve our sanity during that period was our knowledge that with one exception all such studies had been uniformly wrong in the past. Today, of course, the picture is quite the opposite. The dismal science has once again come into its own. The bottom line, as it unfortunately has come to be called, is very important.

I have the uneasy feeling I am calling for wisdom. I apologize for that, but what better place is there to make this plea. We need a wisdom which is possible when issues can be confronted with an awareness that the values at stake are old values or only partly new and that the ways of solution are old solutions or only partly new; when tradition and change will be recognized for the continuity they represent; when public opinion will be important because, of course, support is required, but education will enlighten opinion and give it leadership. It is indeed a grand opportunity, President Botstein, to be a leader in education.