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# BLACK-WHITE CONFRONTATION: THE LAW AND THE LAWYER

BY STERLING TUCKER\*

*A guest speaker to the Conference from the National Urban League, Mr. Tucker demonstrates how the emotional use of the term "law and order" is often nothing more than a call for society to return to the status quo which perpetuates the concept of separate and unequal communities for blacks and whites. He warns that a continuation of this attitude will provoke further rebellion, making all previous rioting seem minor in comparison.*

THE problems of our cities are grave indeed — more grave than most people realize. Even those whom we entrust to deal with the problems of cities don't really understand them. Thus, they deal only in symptoms, or they deal only with reactions to the crises which our society faces.

As I think of these problems, I recall a session with the Republican Club of the House of Representatives in the early days when the Poor People's Campaign was in its planning stages, when Dr. Martin Luther King was still alive. I said then that the Congress is obligated to provide a new kind of leadership. The kinds of sounds coming from Congress with reference to the Poor People's Campaign were very negative and were not promising. It seemed to me that the Congress ought to be making an effort to show the nation that it supported the Poor People's Campaign and that it supported the leadership of persons like Dr. Martin Luther King. During the discussion period that followed, however, many Congressmen said, "We can't offer support. The mail we get from home tells us not to reward people who are aggressive, not to reward the militants, and foremost, not to reward those who riot."

I responded by saying, first of all, that rioters don't want to be rewarded. The first stage of a revolution is to create chaos, and the concern of revolutionists is to tear down the signs of their oppression; their concern is to destroy that which enslaves them. What happens after that is another stage, and today they don't necessarily consider a later stage their business. Furthermore, one must understand that writing is a middle-class habit. The people who write to their representatives in Congress are mainly middle-class people — principally middle-class whites.

I reminded them of a story of two Indians who were watching

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an atomic explosion for the first time. As the smoke billowed to the sky, one Indian remarked, "I wish I had said that." We must understand that the smoke rising to fill the skies in our cities is a form of communication. We must begin to understand that this new form of communication, finding expression through what we regard as negative actions, is as clear an indication of a people's voice as are the letters and the telegrams that find their way to the desks of Congressmen.

If we are going to deal with the urban problems we face today, we must first recognize the real problems of black ghettos in America. It is inaccurate to characterize riots as produced by a certain group of people who can be dealt with or controlled. We must recognize these people as a dimension of the power structure.

An old man, a worker, in a large city said not long ago that he felt kind of foolish sitting around a conference table talking about ways to produce change. He had been trying to get money for summer jobs for young people, and he needed about a quarter of a million dollars, but he was unable to find any means to have this amount squeezed from the city budget. Then a 17-year-old threw a brick through a window, threatened to set something on fire, and discovered the power of a match. By throwing the brick through the window, the teenager was able to get about three times as much money for summer programs as the old man was able to get through all his conferencing and negotiating.

We have to understand that in the hands of this 17-year-old is a great deal of power. This is power by default, because society has failed to accept its responsibility, because society has failed to exercise its power in a responsible way and, instead, has exercised it in the limited and frightening ways that many shortsighted persons see as the only proper action to be taken.

The problem is indeed chaotic. Back in my college days, a fellow student, who was on the debate team and who is not a great lawyer, began all of his arguments with the same line: "The world is full of chaos and perpetual unrest." After several debates, he was asked why, no matter what the argument, he always began with the same line. He answered: "when I rise to speak, I want to say the most profound truth I know, and that most profound truth is that the world, indeed, is always full of chaos and perpetual unrest."

As we look at our nation, we know how true this is today. To better understand some of the dimensions of urban problems it is well to think about a few of the delusions we harbor, some of the solutions proposed for curing and controlling the urban unrest we face, and perhaps to offer an independent suggestion or two for consideration. A problem that concerns everyone these days is crime

in the streets. Yet there are those who try to minimize this problem by arguing that the majority of ghetto crimes are committed by blacks against blacks. They attempt to pacify white America by saying, "Don't be alarmed, because the problem doesn't really affect you. These people are merely killing off each other; they are robbing only each other and knocking each other in the head. The solution is to contain these crimes in the black communities, for it is not your problem, and you don't have to be concerned about it."

This approach, of course, simply distorts the problem. First, it causes people who might otherwise be concerned about the elimination of crime to go back to sleep. It convinces them that the authorities will take care of it, that the police will keep *them* safely protected if they just stay in their own communities. Thus, they come to see crime not as an issue of concern for the entire community or for the entire nation but simply as a problem of concern to a part of society. They hide from themselves the fact that the crime rate is a warning to society as a whole. Second, the argument distorts the white community's view of black communities, for it perpetuates the illusion that all black people are alike.

Third, the argument is intended to enlist the support of blacks in the law and order campaigns, to obtain a blanket black endorsement for whatever tactics police employ in their work in the black ghettos. If Negroes want to have their city cleaned up and if they really want to join the side of law and order, they are urged to support all police practices in a common effort to clean up the city.

People wonder why there is reluctance on the part of black people to give such a blanket endorsement to police activities. What they don't know is that children in black communities see racketeering and extortion. They see prostitution pushed into their communities. They see numbers rackets and narcotics. They see all of this, and they also see something more: They see policemen winking at these illegal activities. They see a selective enforcement of the law. Is it any wonder that they do not have full confidence in a structure that doesn't appear to work in their interest? They know that law-enforcement officials, like much of the rest of the general community, are quick to support the notion that all black people are alike; that policemen, like others, often fail to understand that all people are individuals, that black people, too, are innocent until proven guilty.

The argument that most crimes are committed by blacks against blacks must be set aside. It doesn't serve the best interests of the black community and it doesn't serve the best interests of the white community. The argument of itself, and the planning that is built around it, do not deal with the substantive and critical issues.

What *is* the real problem? I have been referring to black communities and white communities and I wish this distinction were unnecessary; but the fact is that we are two separate societies. In any city, if there is a substantial black population, there will be a black community. No matter what the laws, there will always be some who use them to maintain black communities.

Citizen acceptance of dual societies is evident in a story related by Carl Rowan, a black syndicated columnist who recently served as the director of the United States Information Agency following a term as Ambassador to Finland. He had come to Washington as the Deputy Assistant to the Secretary of State for Public Affairs. Mr. Rowan bought a house in a white community in Washington, despite objections from many neighbors. One Saturday afternoon in spring, wearing his old clothes, he was out mowing his lawn. A chauffeur-driven limousine came by and stopped. A lady sitting in the back of the automobile motioned to Mr. Rowan and said, "Boy, will you come here?" Rowan tells that he shuffled over to the automobile and the lady added, "Boy, how much do you get for mowing lawns?"

Mr. Rowan scratched his head and said, "Well, Ma'am, I don't have a set price. As a matter of fact, I don't charge the lady in this house anything — she lets me sleep with her." The limousine drove off.

This incident is an indication of the kind of civilization we have allowed to develop. Carl Rowan is a statesman, but is seen as having no business in a white neighborhood except as a yard boy. Residential segregation is no accident in America. We worked hard to achieve separate societies, and we are working even harder to maintain them. The plain facts are that no black man in America has been fully assimilated into the mainstream of American life.

The average person, coming to these shores from Europe or other parts of the world, can, in the first or second generation, be assimilated once he learns the language, the culture, the traditions, and acquires a skill. He can then move with almost complete freedom into and across the American scene. Not so the black man. He's been here not a generation or two, but fourteen. He knows the language; he knows the folkways and the mores; and many black men have marketable skills. But still blacks are barred. Thus, the issue today is not one of better jobs or better housing or better education. The problem is one of black and white. Until we deal with this black-white issue, the black man will be handicapped no matter how much education and training he has. Until we deal with the black-white issue, there will continue to be separate black and white communities in America. And as long as there are black

and white communities in America, the problems of America are going to remain.

There is another glib solution offered to solve the problems of the cities and it, too, is disturbing — the emotion-packed appeal to what is called “law and order.” This phrase has become to many a white racist a battle cry, one which will continue to ring hard until it is coupled with an equally vigorous call for justice and equality. Sadly, those who call the loudest for law and order are often the keepers of the keys to the cities. They are the city administrators, members of Congress, people sitting in the courts and in the police departments, people running the schools, people controlling housing, and people controlling the jobs. They are the ones who make the laws, and they are the ones who are responsible for executing them. They hold the keys to the black ghettos, they control the black ghettos, and they make their profits in the black ghettos. Their actions and their inactions suggest that there is a twin battle plan — to seal off the ghettos even further from the rest of society and to chain and enslave ghetto people.

Those who call most for “law and order” are those who are in the best positions to do something about the injustices of our society. They deal with the symptoms of the monster they’ve created. Their plan of greater control of the ghettos, of seeing ghetto people enslaved to a greater extent is doomed to failure. The explosions that this plan will surely generate will so rock this nation in fear and destruction that all society could become immobilized; whatever moral and spiritual fiber is left in us will be so torn to shreds that we may not be able to get ourselves together again.

I fear very greatly for our future. I see nothing on the immediate horizon which would suggest that anyone is about to come to grips with the ugliness of the urban problem. The riots in our cities are costly and they are agonizing. The response to them is frightening. Until this response becomes more enlightened, we are not going to be able to deal with the problem.

Social custom in America becomes social morality. To gain acceptance, we need not necessarily do what is right so long as we do what is customary. Yet it is our customs that are destroying this country. The social code practiced by many Americans has tended to smother America, and it has frustrated the men and forces of democracy. The social code says that black is different and inferior; that social code says that if you are black, you can live better for less, and that, therefore, you don’t deserve and don’t need as much. This social code is what has entrapped the black child in the ghetto schools, and social code is what makes white America sleep well at night, feeling that it is offering opportunity

when, in fact, it is denying opportunity. Somehow we must get white America to understand that its social code is all wrong.

This places a great responsibility on the legal fraternity, that of helping to depolarize America and of altering its basic thinking and behavioral patterns. If we are going to have law and order coupled with justice, we must begin in the halls of justice. Those of us who have been close to the courts of justice have seen a great deal of injustice. It is not surprising that in large numbers, people of the black ghettos feel that because they are poor and because they are black, they are automatically wrong, automatically guilty in the eyes of those responsible for administering justice.

I would hope that in the legal fraternity we don't become so much a part of the system and so acceptive of those portions that are unjust that we, in effect, also become the keepers of the status quo rather than producers of the kind of massive change that is essential. The *Kerner Commission Report* pointed out many areas that the legal profession itself can deal with, and it must come to grips with them.

Urban League Director, Whitney Young relates a discussion he had with a participant of a conference he attended.

"Mr. Young, I used to be one of those who was sympathetic toward the cause of the Negro. I used to have great sympathy for him, but now I'm confused, and I don't know how I feel anymore."

Mr. Young replied, "I want you to tell me now — and I'm going to take out my pencil and I want you to say it slowly — What did you do about the problem when you *were* sympathetic? I want you to list the things you did."

The man said, "Well, I must admit that I was never involved."

Mr. Young answered, "Well, nothing from nothing leaves nothing. You didn't do anything when you were sympathetic, you're not doing anything now, so you're right where you started."

This interchange points to the real problem: Most people think it someone else's job to deal with the crises of our inner cities, whereas in reality there is a role for everyone, and lawyers in particular have a large responsibility.

What do we have to do?

As I have stated in a book, *Beyond the Burning*,<sup>1</sup> the ghettos are going to be homes for the people who live there for some time to come. No matter what we do, we cannot eliminate the ghettos tomorrow. But there are some things we can do now which will help us move in that direction. Ghettos today, for most of the people who live there, are like occupied territory. The people who

<sup>1</sup> S. TUCKER, *BEYOND THE BURNING: LIFE AND DEATH OF THE GHETTO* (1968).

police them, the people who teach in them, the people who own the businesses, the people who run the ghettos and make the decisions — very few of them live in the ghetto. This makes the ghetto an occupied territory, and people don't like to live in occupied territory unless they derive some benefit therefrom. This has been true of all of civilization and in all parts of the world. No one likes slavery, especially in America in the middle of the 20th century. What we've got to do is to get some real power of decision and responsibility to the people who live in our inner cities. We've got to give them a piece of the action, a stake in the future right where they are. This is what the National Urban League's New Thrust program is designed to do in the 90 cities with which we are dealing.

We must find ways to put ghetto people into the system. In the schools, for example, there are teacher aides, but many professionals are still calling for them to be college-trained people. But a ghetto mother can be an excellent teacher aide. My wife, for instance, used to teach kindergarten. She had a morning class and one in the afternoon. In the winter, she spent about three-quarters of the day putting on children's galoshes and taking off their coats. Some mother in the ghetto community could be doing this type of job and thus be brought into the system.

Again, some of our playgrounds are staffed with uniformed policemen. Why not take some ghetto residents who don't have jobs and make them playground attendants and hall guards. Why not bring them into the system, make them part of it?

We must do more than equalize opportunity. Equalizing life opportunities will only prevent the gap between whites and blacks from growing wider. If we are going to close the gap, we must be concerned not about equalizing opportunity but about equalizing *results*. It's not enough to put the same share of the tax dollar into the ghetto schools as we put into the schools in the suburbs. If we are going to equalize the results, we must put more of our tax dollars into the ghetto school. A child who comes to school in the ghetto on that first day is looking for a great educational experience — a great adventure — in the same way that any nonghetto child does. When he gets to that school with its inferior conditions and its inferior facilities, his excitement and his motivation are soon gone. The child begins to believe that he is "nobody," and it's hard to convince him otherwise. That is one of the problems, complicating and aggravating all the others.

Every lawyer, each in his own community, must help to shape a new tomorrow, must help to shape a new direction and new planning which will solve the problems of our schools and the problems of our cities. Lawyers, as an important part of the leadership struc-



ture, must take the lead. The job just cannot be accomplished by black community leaders going to the ghetto to say "cool it." That doesn't get results. The results will come from "main street" where lawyers and other professional people work, and where the decisions are made.

Some progress is being made. In the Urban League's New Thrust program, we hope to have the help of a legal committee from the bar associations to work on problems of credit and other sharp practices that plague ghetto communities. We hope lawyers will share with us their experiences with these problems, their resources, and their knowledge.

There is a tough job ahead, but alternatives are available. If we love our country and if we believe in democracy, then we must believe democracy can work for all people. Indeed, we must *make* it work for all people. Someone asked once, "And when will peace come to Athens?" The response was that peace would come to Athens when the uninjured are as indignant as the injured.

There will be many discouragements along the way, as there were on a day when the weather was awfully bad. It was snowing and sleeting and raining. A train came to a steep hill, and the townspeople stopped it and told the engineer he might not be able to make it to the top. The train might come sliding back into the town and some of the townspeople might be killed, they reasoned. The engineer said, "I carry goods and supplies. On the other side of the hill, there has been a great disaster, and they need what I have. I must go, but I will go carefully." Seeing his determination, the people let him pass. The train started up the hill, but it couldn't get up any momentum. The train began to slip, but at the bottom of the hill, the engineer gained control again and finally dragged the train up over the top. When he got to the top, he mopped his brow and said to the brakeman, "I can't understand why we had so much trouble getting up this hill. Even though the weather's bad, we should have been able to get up more momentum. I was afraid for awhile that we wouldn't make it." The brakeman said, "I too was afraid we weren't going to make it. As a matter of fact, I was so afraid that I had the brakes on all the way."

We face the same problem today. People believe that there is no solution, and some believe it so completely that they are not only unwilling to do anything themselves, but they keep others from trying as well. The time is much shorter than many of us would like to believe. The revolution has not yet come. What we have thus far witnessed has been a mild rebellion, a regurgitation of

what has been forced into ghetto communities. The change that has come as a result of this rebellion has only been marginal.

We still face a great challenge. The hill *is* high. There *are* dangers enroute; but let's try to make the trip.