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THE JUDGE EDWARD D. RE DISTINGUISHED LECTURE SERIES

A NEGOTIATOR LOOKS AT THE WINDS OF CHANGE AND THE RULE OF LAW*

AMBASSADOR MAX M. KAMPELMAN**

I would like to introduce this lecture by paraphrasing one of our immortal masters of English rhetoric, Mr. Samuel Goldwyn, who once said he would like to begin by saying a few words before

* This address was delivered as part of the Edward D. Re Lecture Series, at Fromkes Hall, St. John's University, March 24, 1992.

** Ambassador Max Kampelman, a lawyer, diplomat and educator, was Counselor of the Department of State and Ambassador and Head of the United States Delegation to the Negotiations on Nuclear and Space Arms in Geneva before returning in January 1989, as partner in the law firm of Fried Frank, Harris, Shriver & Jacobson. He serves today as Chairman of Freedom House, Chairman of the Board of Governors of the United Nations Association and Chairman of the Jerusalem Foundation. He also serves on the Board of the International Media Fund and is a member of the Executive Committee of the American Bar Association Special Committee on the Central and Eastern European Law Initiative.

On January 18, 1989, President Reagan awarded the Ambassador the Presidential Citizens Medal. He has also been the recipient of the Knight Commander's Cross of the Order of Merit of the Federal Republic of Germany.

Ambassador Kampelman was appointed by President Carter and reappointed by President Reagan to serve as Ambassador and Head of the U.S. delegation to the Conference on Security and Cooperation in Europe, which took place in Madrid from 1980 to 1983. He has served, by Presidential appointment, as Head of the U.S. Delegation to the CSCE Copenhagen Conference on the Human Dimension in June 1990; as Ambassador and Head of the United States Delegation to the CSCE Geneva Conference on National Minorities in July

he began to talk. I, too, would like to begin by saying a few words about Judge/Professor/Secretary/Commissioner/Chairman/Author/Lecturer Ed Re, whose name graces this distinguished event. During our long friendship, he has at one time or another served in all of these honorable roles of public service. And, to all of this must be added the fact that he is the father of twelve children, which makes his many distinctions incomparable and probably unmatchable.

Why was he successful in all those roles? It is because he has the good fortune to have been chosen as a husband by his extraordinary wife, Peggy, a most capable lawyer in her own right. I am proud of and cherish our friendship.

I also appreciate the opportunity to meet with and address a group of young men and women who are about to enter and be a part of the most exciting and challenging era of the human race. It is about that new world that I want to talk to you this afternoon.

A few weeks ago, I was at Glassboro State College, New Jersey, to speak at the twenty-fifth Anniversary of the summit meeting between President Lyndon B. Johnson and Soviet Premier Alexsey Kosygin. The prevailing view of the time was that we were destined to live in a world permeated with the ideological and power conflict between the United States and the Soviet Union, each of which had the capacity to destroy the other.

Like a great many political predictions, that one also proved to be inaccurate in the face of great and unpredictable changes in human affairs. Indeed, in the most recent summit between Presidents Yeltsin and Bush, a joint declaration was issued based on the premise that our two countries were now friends and allies and partners in the search for peace, liberty and human dignity for all peoples. The most destructive ideological system and massive mili-

1991; and in September 1991 as Head of the United States Delegation to the CSCE Moscow Conference on the Human Dimension. Ambassador Kampelman previously was a senior advisor to the United Nations and served as Legislative Counsel to U.S. Senator Hubert H. Humphrey.

An educator, Ambassador Kampelman received his J.D. from New York University and his Ph.D. in Political Science from the University of Minnesota, where he taught from 1946 to 1948. He has also served on the faculties of Bennington College, Claremont College, the University of Wisconsin and Howard University. He has served on the governing boards of a number of universities and has received nine honorary Doctorate degrees.

Ambassador Kampelman was the founder and moderator of the public affairs program on public television, "Washington Week in Review." He was chairman of the Washington public broadcasting radio and television stations from 1963 to 1970. He and his wife, Marjorie, are the parents of five children and live in Washington, D.C.

tary machine of the 20th century has crumbled.

My theme this afternoon is to help you analyze and understand how and why our world is changing so fast and so dramatically.

Let me illustrate the change. During my early childhood, there were no vitamin tablets; no antibiotics; no television; no refrigerators; no transcontinental telephone communications; no FM radio; no synthetic fibers; no dishwashers; no electric blankets; no airmail; no transatlantic airlines; no instant coffee; no Xerox; no air conditioning; no frozen foods; no contact lenses; no birth control pill; no ballpoint pens; no transistors. We could go on endlessly. Yet, today, we take these tangible products for granted, as ours by birthright and as an indispensable part of living.

During my lifetime, medical knowledge available to physicians has increased conservatively more than ten-fold. More than 80% of all scientists who ever lived, it is said, are alive today. The average life span keeps steadily increasing. Advanced computers, new materials, new bio-technological processes are altering every phase of our lives, deaths, even reproduction. No generation since the beginning of the human race has experienced and absorbed so much change so rapidly—and it is only the beginning. As an indication of that, more than 100,000 scientific journals annually publish the flood of new knowledge that pours out of the world's laboratories.

We are living in a period of information power, with the telefax, electronic mail, the super computer, high definition television, the laser printer, the cellular telephone, the optical dish, imaging, video conferences, and the satellite dish. Combining these instruments produces near miracles.

These developments are stretching our minds and our grasp of reality to the outermost dimensions of our capacity to understand them. Moreover, as we look ahead, we must agree that we have only the minutest glimpse of what our universe really is. Our science is indeed a drop, our ignorance remains an ocean.

We are brought up to believe that necessity is the mother of invention. I suggest the corollary is also true: invention is the mother of necessity. Technology and communication are necessitating basic changes in our lives. The world is very much smaller. There is no escaping the fact that the sound of a whisper or a whimper in one part of the world can immediately be heard in all parts of the world.

But the world body politic has not kept pace with those scien-

tific and technological realities, and what we have been observing and experiencing in the dramatic political changes that have been absorbing our attention is a necessary effort by the body politic to catch up with the worlds of science and technology.

What we have also been observing is a fierce resistance to change in the form of an intense fractionalization, as large numbers of peoples have had their emotions inflamed by nationality and fundamentalist appeals. We certainly see this in the former Soviet Union and we see it in the Middle East. It is as if a part of us is saying: "Not so fast. Stop the world. We want to get off. We are not ready. We are not prepared for this new world we are being dragged into. We will resist the changes. We will hold on tight and with a determined frenzy to the familiar, the tribal, the traditional!" This phenomenon cannot, in the short run, be ignored as religion, nationalism, race, and ethnicity make themselves increasingly felt.

Simultaneously, however, we hear the stronger and more urgent sounds of impatient hope and expectation. The promises and realities of modern technology for better living cannot be hidden. The communication age has opened up the world for all to see. The less fortunate are now aware that they can live in societies, including their own, which respect their dignity as human beings. From radio and television they know such societies are only hours away. They want the better living for themselves and their children—and they do not wish to wait.

People across the world are standing for liberty. The striving for human dignity, furthermore, is universal because it is an integral part of our human character. These aspirations for human dignity come from different cultures, different parts of the world. A larger part of the world's population is today living in relative freedom than ever before in the history of the world.

The latest authoritative Freedom House annual survey shows that 1991 was the freest year since that fifty year old organization, which I have the honor to Chair, began its monitoring effort. We monitor all 171 nations. Of that number, eighty-nine are free and thirty-seven are partly free—126 out of 171.¹ With a world population of nearly 5.4 billion people, more than 3.7 billion people, or nearly seventy percent, live in free or partly free countries, the highest ever.

¹ See *Freedom House Survey*, 23 FREEDOM IN REVIEW 1, 16-24 (1992).

There is growing international awareness that the trend toward freedom and democracy is prompted not only by a deep inner drive for human dignity, which makes it real, but by the growing realization that democracy seems to work best. Governments and societies everywhere are discovering that keeping up with scientific and technological opportunities requires openness to information, new ideas, and the freedom which enables ingenuity to germinate and flourish. A closed, tightly-controlled society cannot compete in a world experiencing an information explosion that knows no national boundaries.

As national boundaries are buffeted by change, the nations of the world become ever more interdependent. We are clearly in a time when no society can isolate itself or its people from new ideas and new information anymore than one can escape the winds whose currents affect us all. National boundaries can keep out vaccines, but those boundaries cannot keep out germs, or thoughts, or broadcasts.

This suggests, among many other implications, the need to reappraise our traditional definitions of sovereignty. The Government of Bangladesh, for example, cannot prevent tragic floods without active cooperation from Nepal and India. Canada cannot protect itself from acid rain without collaborating with the United States. The Mediterranean is polluted by at least 18 different countries. The requirements of our evolving technology are increasingly turning national boundaries into patterns of lace through which flow ideas, money, people, crime, terrorism and ballistic missiles—all of which know no national boundaries.

One essential geopolitical consequence of this new reality is that there can be no true security for any one country in isolation. Unilateral security will not come for us from either withdrawing from the world or attempting national impregnability. We must learn to accept in each of our countries a mutual responsibility for the people in other countries.

Alexis De Tocqueville, in his profound book, *Democracy in America*, wrote that the most dangerous time for an authoritarian regime—and he specifically used Russia for his illustration—is when it is undergoing change or reform.² At about the same time that De Tocqueville wrote, another distinguished French scholar,

² See generally ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* (Henry Reeve trans., 2d ed. 1900).

the Marquis de Custine, writing about Russia, reportedly said: "Whenever the right of speech shall be restored to this muzzled people, the astonished world will hear so many disputes arise that it will believe the confusion of Babel again returned."³

We are witnessing these dangers, this confusion, this uncertainty, every day. We see growing evidence of social upheaval, political dissatisfaction, and economic disaster combining with strong feelings of nationalism and tribalism thereby undermining stability and threatening violence. We are profoundly impressed with the fact that the violence is not greater, that the movement toward greater freedom and democracy continues. We must acknowledge the heroic efforts being made by those who today lead and those who recently have led the Soviet Union and its former republics. Our task is to help influence the constructive energies of those societies so that they might be channeled into the full peaceful realization of their aspirations. It is in our interest to fulfill that task with determination. We have begun. We are not doing enough and we must do more. Our response to date, in the words of our Librarian of Congress, Dr. James Billington, has "been hesitant in tone, trivial in content, and very nearly humiliating in its effects."⁴ This must change.

The emerging democracies of Europe, including the former republics of the Soviet Union, are urgently also seeking to develop free market economic systems along with their political democracy. They believe this combination will work for them. But the temporary dislocations and abrupt adjustments are and will continue to be painful. They urgently need our help, a jump-start, just as we provided for Europe at the end of World War II. That help worked for them and for us then. Its appropriate equivalent can again in this period of obvious opportunity help to shape our future. If we fail to fulfill our historic responsibility we will be condemned by our children and grandchildren who will pay the price for our failure to assure the peace and human dignity that is at hand.

I had the privilege in 1990 and 1991 of returning to government service to head three American delegations in negotiations which resulted in a set of principles unanimously adopted by all countries of Europe asserting that political democracy and the "rule of law" were essential if stability, security, and peace were to

³ See MARQUIS DE CUSTINE, *EMPIRE OF THE CSAR* (1989).

⁴ 138 CONG. REC. S2602-01 (daily ed. Feb. 27, 1992).

prevail in Europe. A democratic process has begun whose dynamic is gaining immense support.

Let me say a word about these three meetings in Copenhagen, Geneva and Moscow, all of which were part of the international process established in 1975 by the Helsinki Final Act⁵ and little of which is followed or observed or understood by the American public, press or legal profession. That word can best be expressed by quoting from a study of the Copenhagen meeting results by Professor Thomas Buergenthal of the George Washington University School of Law:

The emergence of this European public order is probably as important for the future of a democratic Europe as the Peace of Westphalia was for religious tolerance. The latter did not with one stroke achieve its objective, and neither will the Copenhagen document, but it had a lasting impact on the history of Europe.⁶

Within every age the drive for human dignity has been dominant, but the struggle is a continuing one. Our political effort is well underway. Our economic effort has barely begun. Aristotle taught us that all forms of government are transitional and vulnerable to the corrosion of time, new problems, and missed opportunities. The human race has the capacity to shoot itself in the foot. We are at risk if we who believe in liberty remain smug and content about our present strengths and the weakness of our adversaries.

Will we in the United States be able to play our part? Will we take heed lest future generations condemn us for having missed a decisive opportunity? Will we be wise enough to know how to assist the historic developments now underway? It is on the basis of these criteria that history will judge us.

Our task is to achieve the firm sense of purpose, readiness, steadiness, and strength that is indispensable for effective and timely foreign policy decision-making. Our political community must resist the temptation of partisan politics and institutional rivalry as we develop the consensus adequate to meet the challenge. Our country is today the oldest continuing democracy in the world. Our political values and our character traits have helped us build

⁵ Conference on Security and Cooperation in Europe: Final Act, DEP'T ST. BULL., Aug. 1, 1975, at 323-48.

⁶ Thomas Buergenthal, *Copenhagen: A Democratic Manifesto*, 153 WORLD AFFAIRS 5, 7 (1990).

the most dynamic and open society in recorded history, a source of inspiration to most of the world. It should be a source of inspiration for the emerging generation as well. We cannot take it for granted. We must realize what the American Dream means to the world and the burden that puts on us.

It is not arrogant for us to proclaim the virtues of our own system because it casts no credit on us. We are not the ones who created American democracy. We are merely its beneficiaries with an opportunity to strengthen it for succeeding generations and for those in other parts of the world who do not enjoy that blessing. The changes stimulated by modern technology may well assist us in forging a future based on liberty, human dignity, and democracy—if we permit our democratic values to provide the guidelines for that journey.

When we are growing up, we are taught not to be afraid of the dark. As our world evolves, we must not be afraid of the light and where it can take us.

Thank you.