

6-1-1974

COMMENTARY: 'Erosion of Civil Liberties'

Barbara Jordan

Congressional Representative

Follow this and additional works at: <https://dh.howard.edu/newdirections>

Recommended Citation

Jordan, Barbara (1974) "COMMENTARY: 'Erosion of Civil Liberties'," *New Directions*: Vol. 1: Iss. 4, Article 7.
Available at: <https://dh.howard.edu/newdirections/vol1/iss4/7>

This Article is brought to you for free and open access by Digital Howard @ Howard University. It has been accepted for inclusion in New Directions by an authorized editor of Digital Howard @ Howard University. For more information, please contact digitalservices@howard.edu.

By Rep. Barbara Jordan
Member of the U. S. Congress
and the House Judiciary Committee

32

'Erosion of Civil Liberties'

The following was excerpted from Rep. Barbara Jordan's (D-Texas) address at the 106th Commencement of Howard University, May 11, 1974.

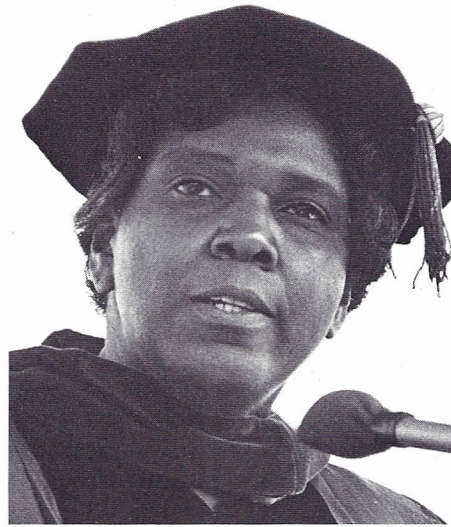
Civil Liberties: *inoperative? inaudible? illegible? expletive deleted?*

On the 30th of April, 1974, members of the House Judiciary Committee investigating the involvement of President Nixon in the Watergate affair received a document. That document purported to be the recorded conversations of the President of the United States. There are some omissions—1670 portions of conversations were marked either *inaudible* or *illegible*. One wonders what remains—what in the world remains—in terms of acts or in terms of deeds undiscovered because they could not be heard or understood.

Is it possible that individual liberties, civil liberties and individual freedoms are somehow masked behind these words: *inoperative, inaudible, unintelligible, expletive deleted*. If you answer these questions in the affirmative, I would say that there is some justification for doing it in light of past and present events. Your government has violated civil liberties. The government of the United States of America admitted that it wire-tapped its own employees 17 times. Newsmen, fearful that the First Amendment protections of freedom of the press are more rhetoric than fact, have come to Congress and sought the passage of a Newsman's Shield Law.

The politicization of the FBI has now become a matter of Congressional oversight. The President's right to suspend—or alleged right to suspend—the Fourth Amendment against unreasonable searches and seizures in the national security interests is somehow defended.

PHOTOGRAPHY BY JIM WELLS



been used rather "cavalierly" to disguise gross intrusions into the private life of the individual.

You, the graduates of 1974, will emerge from academia with the expectation, and the hope that you will be free to pursue your life as you define it, and you are going to hope that no one will interfere with your definition of your life. You have a basis for that presumption because there is something in the history of the United States which says freedom and liberty are a part of what we are about. That history started in 1776. Now, almost 200 years later, those freedoms which were painfully gained are threatened by erosion. The threat has become so serious as to make one wonder whether civil liberties is any longer an operative ideal in the United States of America.

It is the "stuff" of America that its citizens want to be free of government intrusions into their private lives and into their personal affairs. This concept of freedom in America is etched into the Constitution of the United States and the Bill of Rights. There are no gaps or inexplicable "hums" in the Constitution of the United States. The language of this document flows well.

The men who sought to get it passed and ratified fought for it because they felt they were constructing a nation, the touchstone of which would be liberty and freedom and justice. They felt they were building a new nation with a system of government with checks and balances and separation of powers which would forever protect the citizens of the United States from gross abuses of power by public officials and by gross excesses of power by the government.

The signers of the Constitution felt that we now had a government which would secure the blessings of liberty to ourselves and our posterity.

We know that liberty is shaky because modern technology now has invested the government with the tools to invade private affairs through certain kinds of electronic mechanisms. Thomas Jefferson has warned us, that the natural progress of things is for liberty to yield and government to gain ground.

In recent years, we have witnessed a willingness to accelerate the erosion of these guiding principles in American life. This erosion is very insidious because it didn't happen all at once but it happened one step at a time. It happened under the guise of Law and Order. This erosion of civil liberties happened under the guise of the maintenance of national security; it happened under the guise of the legalisms of Executive Privilege.

We know that an American President and his top assistants believed that the First and Fourth Amendments of the Constitution of the United States could be suspended. The Amendments which say: that a person has a right not to be searched or to be seized unreasonably. We know that there have been attempts by the government against political opponents to somehow prevent their exercise of free speech because what they had to say did not meet governmental approval.

The Constitution and Bill of Rights serve as a balance between the interests

of the government and the governed. The history of individual liberty, particularly that of the right of privacy, has been a history of resistance by the people of this country to governmental encroachments upon that which we hold private.

For example, in 1603 under the English Common Law, this principle was stated which became incorporated in the Fourth Amendment of the Constitution.

In all cases where the King is party, the Sheriff, if the doors be not open, may break in the party's house, either to arrest him or to do other execution of the King's process. If otherwise he cannot get in, but before he breaks in, he ought to signify the cause of his coming and make request to open the door.

In 1766 the sanctity of the individual's right to privacy in his home was again stated with great clarity by William Pitt. The Parliament of Great Britain was trying to impose a tax on cider, and people were resistant to paying the tax, and so the Parliament talked about passing a law that would allow the government to enter into a man's home, a man's cottage, and get the tax. This is what William Pitt said:

The poorest man, the poorest man may, in his cottage, bid defiance to all the forces of the Crown. It, the cottage, may be frail, the roof may shake, the wind may blow through it, the storm may enter, the rain may enter, but the King of England cannot enter.

Two hundred and eight years after that stirring declaration by William Pitt, we are faced with state, federal and local authorities breaking into a man's home in a mistaken frenzy because they have uncorroborated tips that he is a suspect the government needs.

Last summer when John Ehrlichman testified before the Senate Watergate Committee, Senator Herman Talmadge of Georgia, being familiar with the English Common Law principle as enunciated and affirmed by William Pitt, asked Mr. Ehrlichman about that principle derived <https://dh.howard.edu/newdirections/vol1/iss4/7>

from the Common Law—that the King of England may not enter a man's home without his consent. How did Mr. Ehrlichman reply? He said, "I am afraid that has been considerably eroded over the years." Eroded? Or inoperative, or inaudible, or illegible—any word you apply to it— which one is it? In addition to the continuing reality of smashed doors and actual physical invasion of private homes, we know that the government has more sophisticated and more invidious tools— electronic tools. We also know that at least 50 federal agencies have substantial, investigative and enforcement functions providing a core of some 20,000 investigators, working for such agencies as the FBI, the narcotics unit of the Justice Department, the Securities and Exchange Commission, the Internal Revenue Service, the Food and Drug Administration, the State Department, and the Civil Service Commission.

The events of the past several years have revealed to us a shocking pattern of disregard for Constitutional principles and for due process of law. It is apparent that the powerful tools of government— tools used for spying on private citizens in pursuit of their lawful activities—have not kept within the legitimate bounds of self-restraint and self-discipline.

The late Supreme Court Associate Justice Louis Brandeis enunciated the principle more clearly when he said:

In a government of laws, existence of the government will be imperiled if the government fails to comply with the law.

Our government is the potent, omnipresent teacher for good or for ill. It teaches the whole people by example. If the government becomes a law-breaker, it breeds contempt for law and invites Man to become law unto himself.

If one thing is clear about the erosion of civil liberties, it is that there is no clear line between freedom and repression. Freedom is the fluid, intangible condition of our society. It thrives in some periods and it is beset in other periods. The events

of the past few years and even the past few days have convinced us that it is possible for this country to stand on the edge of repression and tyranny and never know it.

If the faith in the future is to be restored, if that which is good about the history of this country is to be regained, you must restore it; you must regain it. It would appear that this country is adrift right now; that the Ship of State is bobbing and weaving, and the words of Seneca come to mind:

If a man does not know to what port he sails, no wind is favorable.

You ought to know where you are going; you ought to know to what port you sail, and perhaps the winds will favor your direction. *You must know* that. It is the confidence of your knowledge; it is the sureness of your knowledge which may perchance nudge this country in the right direction.

Daniel Webster said something which is etched on the walls of the United States House of Representatives. It reads:

Let us develop the resources of our land. Call forth its powers, build up its institutions, promote all its great interests, and see whether we also in our day and generation may not perform something worthy to be remembered.

Remember how we began! Civil Liberties: inoperative? inaudible? illegible? expletive deleted? Answer these questions in the negative. Affirm to everybody who will hear you that civil liberties are operative and legible; that *no* expletive is intended or necessary when discussing the freedoms, justice, liberty and foundation of this country. □

34 Listening to debate: **Aboud Jumbe**, (left) first vice president of Tanzania who chaired the Congress in behalf of President Nyerere, and **Courtland Cox**, Howard alumnus who served as international secretary general of the Congress.



Pan African Congress Resolutions

Continued from page 31

African countries should be encouraged in investment and banking, and consideration be given to the financial reserves of African states being withdrawn from international currencies, and pooled in an African Reserve Bank.

VI. Drought and Famine in Africa

RECOGNISING the disaster and human suffering afflicted on the Sahelian Zone and other African Countries as a result of the drought and famine;

CONSIDERING that the drought and famine exemplifies the economic development problems facing Africans everywhere;

NOTING That the Sahelian drought and famine is in part due to the fragile ecological balance and temporary or permanent climatic changes;

STRESSING the other aspects of the causes responsible for the famines in the area, namely the breakdown of indigenous social and economic institutions due to colonisation, colonial division labour, production and distribution and exploitative patterns of development;

RECOMMENDS that the following problems be studied as a prelude to solving them in the short and long runs;

(1) A study of natural causes of drought inducing climatic changes in the area and ways to control them.

(2) A study of ecological patterns of production and how coordination between states can complement and supplement economic organisation in the drought afflicted areas.

(3) A study of economic cooperation in the fields of sharing natural resources to alleviate impediments to economic development arising from lesser endowment of natural resources and access to the sea.

(4) Analysis of disorganisation of indigenous trading patterns; suffocation and disruption of internal economies resulting from colonialism, and also arising specifically from the drought and famine.

(5) A study of the effectiveness of relief operations primarily by the O.A.U. and by other international agencies.

(6) A study of the problem for which indigenous solutions may be sought to alleviate the present and other African development problems. □