The Center of Statesmanship, Law, and Liberty at RIT Presents:

7th Annual AP Day

Thursday March 14th & Friday March 15th 2024:

**“Principles and Practices of Leadership”**

**Section 1:**

**Dr. Joseph Fornieri “The First Amendment in the Educational Setting”**

* West Virginia v Barnette, 1943
* Tinker v. Des Moine
* Bethel School District v Fraser
* Morse v. Frederick
* Mahanoy v BL

**Section 2:**

**Dr. Sean Sutton "** **American Foreign Policy: Principle and Practice, 1790-2024"**

* Federalist 8
* George Washington, Farewell Address (1796)
* James Monroe, “Annual Message to Congress (1823)”: The Monroe Doctrine
* Woodrow Wilson, War Message (1917)
* Franklin D. Roosevelt, “Four Freedoms” Speech (1941)
* The Truman Doctrine
* John F. Kennedy, “Ich Bin Ein Berliner” (1963)
* President Bush Delivers Graduation Speech at West Point, June 1, 2002

**Section 3:**

**Dr. Elizabeth Amato "Progressivism and the Legacy of Herbert Croly"**

* The Promise of American Life
* Progressive Democracy

**Section 4:**

**Dr. Jeffery Scott "Strategies for Success on APUSH and APGOV”**

* Letter from Birmingham Jail Full and Abridged versions
* AP U.S. History: Madison's Federalist 1
* Washington's First Inaugural Address

Session 1

**West Virginia v Barnette**

**1943**

Justice Jackson writing for the majority:

It is also to be noted that the compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind. It is not clear whether the regulation contemplates that pupils forego any contrary convictions of their own and become unwilling converts to the prescribed ceremony, or whether it will be acceptable if they simulate assent by words without belief, and by a gesture barren of meaning. It is now a commonplace that censorship or sup­pression of expression of opinion is tolerated by our Constitution only when the expression presents a clear and present danger of action of a kind the state is empowered to prevent and punish.2 It would seem that involuntary affirmation could be commanded only on even more immediate and urgent grounds than silence. But here, the power of compulsion is invoked without any allegation that remaining passive during a flag salute ritual creates a clear and present danger that would justify an effort even to muffle expression. To sustain the compulsory flag salute, we are required to say that a Bill of Rights which guards the individual’s right to speak his own mind left it open to pub­lic authorities to compel him to utter what is not in his mind.

Whether the First Amendment to the Constitution will permit officials to order observance of ritual of this nature does not depend upon whether as a voluntary exercise we would think it to be good, bad or merely innocu­ous. Any credo of nationalism is likely to include what some disapprove or to omit what others think essential, and to give off different overtones as it takes on different accents or interpretations. If official power exists to coerce acceptance of any patriotic creed, what it shall contain cannot be decided by courts, but must be largely discretionary with the ordaining authority, whose power to prescribe would no doubt include power to amend. Hence, validity of the asserted power to force an American citizen publicly to profess any statement of belief, or to engage in any ceremony of assent to one, presents \*\*\*

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nation­alism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein.

Tinker v. Des Moines Independent

Community School District

February 24, 1969

After attending a protest on the Vietnam War with their parents in 1965, a group of students decided to express their views in school by wearing black armbands emblazoned with a peace symbol. The school board heard about the protest and, before it took place, banned the wearing of the armbands. When they defied this policy, Marybeth Tinker, her brother John, and their friend John Eckhardt were suspended. The Tinkers sued, claiming that the ban amounted to an unconstitutional “prior restraint,” and were represented by the local ACLU affiliate. Tinker is an important precedent that extended symbolic speech to the educational setting. Justice Fortas reasoned: “It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. . . . In our system, state-operated schools may not be enclaves of totalitarianism.” Fortas’ opinion hinged on the salient fact that the Tinkers’ symbolic speech involved a peaceful and passive demonstration. Citing the precedent of Burnside v. Byars, he found that the armbands did not “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school.” In a stinging dissent, Justice Hugo Black (1886–1971) characterized the facts quite differently. He noted that a math teacher’s lesson was “practically ‘wrecked’ ” because of the disruption caused by Marybeth’s armband protest. Moreover, Black argued that the Court’s judicial activism in Tinker usurped the authority of local school boards and undermined school discipline. Although Tinker is still on the books, it has been narrowed by subsequent opinions involving speech in the educational setting such as Bethel v. Fraser (1986) and Morse v. Frederick (2007) It is worth noting that although Justice Black was renowned as a First Amendment absolutist who opposed any restriction on speech, he interpreted “speech” quite literally as spoken or written words. He was therefore unwilling to extend the same kind of absolute protection to “symbolic” expression that did not involve written or spoken words. He also regarded the education setting as inappropriate for the same First Amendment protection as other public settings.

MR. JUSTICE FORTAS delivered the opinion of the Court. The district court recognized that the wearing of an armband for the purpose of expressing certain views is the type of symbolic act that is within the free speech clause of the First Amendment. See West Virginia v. Barnette (1943), Stromberg v. California (1931), Thornhill v. Alabama (1940), Edwards v. South Carolina (1963), Brown v. Louisiana (1966). As we shall discuss, the wearing of armbands in the circumstances of this case was entirely divorced from actually or potentially disruptive conduct by those participating in it. It was closely akin to “pure speech” which, we have repeatedly held, is entitled to comprehensive protection under the First Amendment (Cox v. Louisiana, 1965); Adderley v. Florida, 1966). First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. . . . In West Virginia v. Barnette, this Court held that, under the First Amendment, the student in public school may not be compelled to salute the flag. Speaking through Mr. Justice Jackson, the Court said: The Fourteenth Amendment, as now applied to the states, protects the citizen against the state itself and all of its creatures—boards of education not excepted. These have, of course, important, delicate, and highly discretionary functions, but none that they may not perform within the limits of the Bill of Rights. That they are educating the young for citizenship is reason for scrupulous protection of constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes. On the other hand, the Court has repeatedly emphasized the need for affirming the comprehensive authority of the states and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools. Our problem lies in the area where students in the exercise of First Amendment rights collide with the rules of the school authorities. . . . [In this case,] the school officials banned and sought to punish petitioners for a silent, passive expression of opinion, unaccompanied by any disorder or disturbance on the part of petitioners. There is here no evidence whatever of petitioners’ interference, actual or nascent, with the schools’ work or of collision with the rights of other students to be secure and to be let alone. Accordingly, this case does not concern speech or action that intrudes upon the work of the schools or the rights of other students. Only a few of the 18,000 students in the school system wore the black armbands. Only five students were suspended for wearing them. There is no indication that the work of the schools or any class was disrupted. Outside the classrooms, a few students made hostile remarks to the children wearing armbands, but there were no threats or acts of violence on school premises. The district court concluded that the action of the school authorities was reasonable because it was based upon their fear of a disturbance from the wearing of the armbands. But, in our system, undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression. Any departure from absolute regimentation may cause trouble. Any variation from the majority’s opinion may inspire fear. Any word spoken, in class, in the lunchroom, or on the campus, that deviates from the views of another person may start an argument or cause a disturbance. But our Constitution says we must take this risk (Terminiello v. Chicago, 1949), and our history says that it is this sort of hazardous freedom—this kind of openness—that is the basis of our national strength and of the independence and vigor of Americans who grow up and live in this relatively permissive, often disputatious, society. In order for the state in the person of school officials to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint. Certainly where there is no finding and no showing that engaging in the forbidden conduct would “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school,” the prohibition cannot be sustained (Burnside v. Byars, 1966). In the present case, the District Court made no such finding, and our independent examination of the record fails to yield evidence that the school authorities had reason to anticipate that the wearing of the armbands would substantially interfere with the work of the school or impinge upon the rights of other students. Even an official memorandum prepared after the suspension that listed the reasons for the ban on wearing the armbands made no reference to the anticipation of such disruption. On the contrary, the action of the school authorities appears to have been based upon an urgent wish to avoid the controversy which might result from the expression, even by the silent symbol of armbands, of opposition to this nation’s part in the conflagration in Vietnam. It is revealing, in this respect, that the meeting at which the school principals decided to issue the contested regulation was called in response to a student’s statement to the journalism teacher in one of the schools that he wanted to write an article on Vietnam and have it published in the school paper. It is also relevant that the school authorities did not purport to prohibit the wearing of all symbols of political or controversial significance. The record shows that students in some of the schools wore buttons relating to national political campaigns, and some even wore the Iron Cross, traditionally a symbol of Nazism. The order prohibiting the wearing of armbands did not extend to these. Instead, a particular symbol—black armbands worn to exhibit opposition to this nation’s involvement in Vietnam—was singled out for prohibition. Clearly, the prohibition of expression of one particular opinion, at least without evidence that it is necessary to avoid material and substantial interference with schoolwork or discipline, is not constitutionally permissible. In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in school, as well as out of school, are “persons” under our Constitution. They are possessed of fundamental rights which the state must respect, just as they themselves must respect their obligations to the state. In our system, students may not be regarded as closed-circuit recipients of only that which the state chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views. . . . In Meyer v. Nebraska, Mr. Justice McReynolds expressed this nation’s repudiation of the principle that a state might so conduct its schools as to “foster a homogeneous people.” He said:

In order to submerge the individual and develop ideal citizens, Sparta assembled the males at seven into barracks and entrusted their subsequent education and training to official guardians. Although such measures have been deliberately approved by men of great genius, their ideas touching the relation between individual and state were wholly different from those upon which our institutions rest; and it hardly will be affirmed that any legislature could impose such restrictions upon the people of a state without doing violence to both letter and spirit of the Constitution. . .

The principle of these cases is not confined to the supervised and ordained discussion which takes place in the classroom. The principal use to which the schools are dedicated is to accommodate students during prescribed hours for the purpose of certain types of activities. Among those activities is personal intercommunication among the students. This is not only an inevitable part of the process of attending school; it is also an important part of the educational process. A student’s rights, therefore, do not embrace merely the classroom hours. When he is in the cafeteria, or on the playing field, or on the campus during the authorized hours, he may express his opinions, even on controversial subjects like the conflict in Vietnam, if he does so without “materially and substantially interfer[ing] with the requirements of appropriate discipline in the operation of the school” and without colliding with the rights of others (Burnside v. Byars). But conduct by the student, in class or out of it, which for any reason—whether it stems from time, place, or type of behavior—materially disrupts classwork or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guarantee of freedom of speech. Under our Constitution, free speech is not a right that is given only to be so circumscribed that it exists in principle, but not in fact. Freedom of expression would not truly exist if the right could be exercised only in an area that a benevolent government has provided as a safe haven for crackpots. The Constitution says that Congress (and the states) may not abridge the right to free speech. This provision means what it says. We properly read it to permit reasonable regulation of speech-connected activities in carefully restricted circumstances. But we do not confine the permissible exercise of First Amendment rights to a telephone booth or the four corners of a pamphlet, or to supervised and ordained discussion in a school classroom. . . . As we have discussed, the record does not demonstrate any facts which might reasonably have led school authorities to forecast substantial disruption of or material interference with school activities, and no disturbances or disorders on the school premises in fact occurred. These petitioners merely went about their ordained rounds in school. Their deviation consisted only in wearing on their sleeve a band of black cloth, not more than two inches wide. They wore it to exhibit their disapproval of the Vietnam hostilities and their advocacy of a truce, to make their views known, and, by their example, to influence others to adopt them. They neither interrupted school activities nor sought to intrude in the school affairs or the lives of others. They caused discussion outside of the classrooms, but no interference with work and no disorder. In the circumstances, our Constitution does not permit officials of the state to deny their form of expression. We express no opinion as to the form of relief which should be granted, this being a matter for the lower courts to determine. We reverse and remand for further proceedings consistent with this opinion.

Reversed and remanded.

Bethel School District v. Fraser

July 7, 1986

In the spring of 1983, at an official school event, Matthew Fraser delivered a speech nominating a friend as an officer for study body government. The speech, which was laced with sexual innuendo and double entendre, was presented to an auditorium of about six hundred students, ages fourteen years old and older. Fraser had discussed the speech with several teachers before the assembly. Two of them found it “inappropriate” and advised against it. He disregarded a warning that it could have “severe consequences.” After giving the speech, he was notified that he had broken the school’s “disruptive rule of conduct” policy, which stated: “Conduct which materially and substantially interferes with the educational process is prohibited, including the use of obscene, profane language or gestures.” Fraser then admitted that he had intentionally used sexual innuendo. The school suspended him for two days and banned him from speaking at the forthcoming graduation. He sued, and the district court decided in his favor, ruling that the school’s code of conduct was unduly vague and overly broad. This decision was affirmed by the Ninth Circuit Court.

The Supreme Court then reversed by a vote of 7–2. In his opinion for the Court, Chief Justice Warren Burger (1907–1995) distinguished between the passive political expression of the armbands in Tinker v. Des Moines (Document 11) and Fraser’s lewd and sexually charged message. Though Tinker was not overturned in Bethel, it was narrowed by tilting the scale in favor of state authorities. The decision granted local school boards wider latitude in maintaining appropriate discipline and civil discourse in the classroom setting. Not surprisingly, Burger cited Justice Black’s caustic dissent in Tinker. In addition to Burger’s opinion, excerpts from the dissenting opinions of Justice John Harlan Marshall (1889–1971) and Justice John Paul Stevens (1920–2019) are included.

The pervasive sexual innuendo in Fraser’s speech was plainly offensive to both teachers and students—indeed, to any mature person. By glorifying male sexuality, and in its verbal content, the speech was acutely insulting to teenage girl students. The speech could well be seriously damaging to its less mature audience, many of whom were only fourteen years old and on the threshold of awareness of human sexuality. Some students were reported as bewildered by the speech and the reaction of mimicry it provoked.

This Court’s First Amendment jurisprudence has acknowledged limitations on the otherwise absolute interest of the speaker in reaching an unlimited audience where the speech is sexually explicit and the audience may include children. In Ginsberg v. New York (1968), this Court upheld a New York statute banning the sale of sexually oriented material to minors, even though the material in question was entitled to First Amendment protection with respect to adults. And in addressing the question whether the First Amendment places any limit on the authority of public schools to remove books from a public school library, all members of the Court, otherwise sharply divided, acknowledged that the school board has the authority to remove books that are vulgar (Board of Education v. Pico, 1982; plurality opinion). These cases recognize the obvious concern on the part of parents, and school authorities acting in loco parentis, to protect children especially in a captive audience—from exposure to sexually explicit, indecent, or lewd speech.

We have also recognized an interest in protecting minors from exposure to vulgar and offensive spoken language. In FCC v. Pacifica Foundation (1978),4 we dealt with the power of the Federal Communications Commission to regulate a radio broadcast described as “indecent but not obscene.” There the Court reviewed an administrative condemnation of the radio broadcast of a self-styled “humorist” who described his own performance as being in “the words you couldn’t say on the public, ah, airwaves, um, the ones you definitely wouldn’t say ever.” The Commission concluded that “certain words depicted sexual and excretory activities in a patently offensive manner, [and] noted that they ‘were broadcast at a time when children were undoubtedly in the audience.’ ”. . .The plurality opinion went on to reject the radio station’s assertion of a First Amendment right to broadcast vulgarity: “These words offend for the same reasons that obscenity offends. Their place in the hierarchy of First Amendment values was aptly sketched by Mr. Justice Murphy when he said: ‘[S]uch utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality’ (Chaplinsky v. New Hampshire).”

We hold that petitioner6 School District acted entirely within its permissible authority in imposing sanctions upon Fraser in response to his offensively lewd and indecent speech. Unlike the sanctions imposed on the students wearing armbands in Tinker, the penalties imposed in this case were unrelated to any political viewpoint. The First Amendment does not prevent the school officials from determining that to permit a vulgar and lewd speech such as respondent’s would undermine the school’s basic educational mission. A high school assembly or classroom is no place for a sexually explicit monologue directed toward an unsuspecting audience of teenage students. Accordingly, it was perfectly appropriate for the school to disassociate itself to make the point to the pupils that vulgar speech and lewd conduct is wholly inconsistent with the “fundamental values” of public school education. Justice Black, dissenting in Tinker, made a point that is especially relevant in this case: “I wish therefore, . . . to disclaim any purpose . . . to hold that the federal Constitution compels the teachers, parents, and elected school officials to surrender control of the American public school system to public school students.”

Respondent contends that the circumstances of his suspension violated due process because he had no way of knowing that the delivery of the speech in question would subject him to disciplinary sanctions. This argument is wholly without merit. We have recognized that “maintaining security and order in the schools requires a certain degree of flexibility in school disciplinary procedures, and we have respected the value of preserving the informality of the student-teacher relationship” (New Jersey v. T.L.O). Given the school’s need to be able to impose disciplinary sanctions for a wide range of unanticipated conduct disruptive of the educational process, the school disciplinary rules need not be as detailed as a criminal code, which imposes criminal sanctions.

Morse v. Frederick

June 25, 2007

Principal Deborah Morse arranged for her students at Juneau Douglas High School in Alaska to watch the passing of the Olympic Torch Relay that was bound for the Winter Games in Salt Lake City. Although the event took place off school property on a nearby street, it was officially sponsored and supervised by the school. On January 24, 2002, when the torchbearer and camera crew went by, Joseph Frederick, a senior, along with some of his friends, unfolded a fourteen-foot banner that read: “BONG HiTS 4 JESUS.” Principal Morse ran across the street and directed them to take the banner down. Frederick alone refused. He was suspended for ten days for violating the school drug policy. In response to this action, Frederick sued for damages in a federal court, claiming that Morse had infringed upon his right to free speech. He lost, but upon appeal, the Ninth Circuit Court reversed and ruled in his favor. Morse v. Frederick provides the most recent, controlling precedent on free speech in the educational setting. Chief Justice John Roberts (1955– ), writing for a 5–4 majority (Justice Stephen Breyer [1938– ] concurred and dissented in part), reversed the Ninth Circuit Court’s ruling, thereby affirming the school’s authority to restrict a pro-drug message. While Roberts claimed that his reasoning in Morse v. Frederick was consistent with the precedents of Tinker v. Des Moines (1969, Document 11), Bethel v. Fraser (1986), and Hazelwood v. Kuhlmeier (1988), Justice Clarence Thomas (1948– ) disagreed. In his concurring opinion, Thomas argued that Tinker should be overturned. Taken together, Bethel, Hazelwood, and Morse have narrowed Tinker, thereby providing greater discretion for local school boards to restrict speech in the secondary-school educational setting.

As Morse later explained in a declaration, when she saw the sign, she thought that “the reference to a ‘bong hit’ would be widely understood by high school students and others as referring to smoking marijuana.” She further believed that “display of the banner would be construed by students, district personnel, parents, and others witnessing the display of the banner, as advocating or promoting illegal drug use”—in violation of school policy. ... (“I told Frederick and the other members of his group to put the banner down because I felt that it violated the [school] policy against displaying . . . material that advertises or promotes use of illegal drugs”).

We agree with Morse. . . .

The question thus becomes whether a principal may, consistent with the First Amendment, restrict student speech at a school event, when that speech is reasonably viewed as promoting illegal drug use. We hold that she may.

In *Tinker*, this Court made clear that “First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students.” Tinker involved a group of high school students who decided to wear black armbands to protest the Vietnam War. School officials learned of the plan and then adopted a policy prohibiting students from wearing armbands. When several students nonetheless wore armbands to school, they were suspended. The students sued, claiming that their First Amendment rights had been violated, and this Court agreed.

*Tinker* held that student expression may not be suppressed unless school officials reasonably conclude that it will “materially and substantially disrupt the work and discipline of the school.” The essential facts of Tinker are quite stark, implicating concerns at the heart of the First Amendment. The students sought to engage in political speech, using the armbands to express their “disapproval of the Vietnam hostilities and their advocacy of a truce, to make their views known, and, by their example, to influence others to adopt them.” Political speech, of course, is “at the core of what the First Amendment is designed to protect” (Virginia v. Black, 2003).4 The only interest the Court discerned underlying the school’s actions was the “mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular view point,” or “an urgent wish to avoid the controversy which might result from the expression” (Tinker). That interest was not enough to justify banning “a silent, passive expression of opinion, unaccompanied by any disorder or disturbance.”

This Court’s next student speech case was Fraser. Matthew Fraser was suspended for delivering a speech before a high school assembly in which he employed what this Court called “an elaborate, graphic, and explicit sexual metaphor.” Analyzing the case under Tinker, the district court and Court of Appeals found no disruption, and therefore no basis for disciplining Fraser. This Court reversed, holding that the “School District acted entirely within its permissible authority in imposing sanctions upon Fraser in response to his offensively lewd and indecent speech.”. . . . . .

For present purposes, it is enough to distill from Fraser two basic principles. First, Fraser’s holding demonstrates that “the constitutional rights of students in public school are not automatically coextensive with the rights of adults in other settings.” Had Fraser delivered the same speech in a public forum outside the school context, it would have been protected. See Cohen v. California (1971).5 In school, however, Fraser’s First Amendment rights were circumscribed “in light of the special characteristics of the school environment.” Second, Fraser established that the mode of analysis set forth in Tinker is not absolute. Whatever approach Fraser employed, it certainly did not conduct the “substantial disruption” analysis prescribed by Tinker.

Our most recent student speech case, Kuhlmeier, concerned “expressive activities that students, parents, and members of the public might reasonably perceive to bear the imprimatur of the school.” Staff members of a high school newspaper sued their school when it chose not to publish two of their articles. The Court of Appeals analyzed the case under Tinker, ruling in favor of the students because it found no evidence of material disruption to classwork or school discipline. This Court reversed, holding that “educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns.”

Kuhlmeier does not control this case because no one would reasonably believe that Frederick’s banner bore the school’s imprimatur. The case is nevertheless instructive because it confirms both principles cited above. Kuhlmeier acknowledged that schools may regulate some speech “even though the government could not censor similar speech outside the school.”

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Congress has declared that part of a school’s job is educating students about the dangers of illegal drug use. It has provided billions of dollars to support state and local drug-prevention programs, and required that schools receiving federal funds under the Safe and Drug-Free Schools and Communities Act of 1994 certify that their drug prevention programs “convey a clear and consistent message that . . . the illegal use of drugs [is] wrong and harmful.”

Thousands of school boards throughout the country—including JDHS— have adopted policies aimed at effectuating this message. Those school boards know that peer pressure is perhaps “the single most important factor leading schoolchildren to take drugs,” and that students are more likely to use drugs when the norms in school appear to tolerate such behavior. Student speech celebrating illegal drug use at a school event, in the presence of school administrators and teachers, thus poses a particular challenge for school officials working to protect those entrusted to their care from the dangers of drug abuse.

The “special characteristics of the school environment” (Tinker), and the governmental interest in stopping student drug abuse—reflected in the policies of Congress and myriad school boards, including JDHS—allow schools to restrict student expression that they reasonably regard as promoting illegal drug use. Tinker warned that schools may not prohibit student speech because of “undifferentiated fear or apprehension of disturbance” or “a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.” The danger here is far more serious and palpable. The particular concern to prevent student drug abuse at issue here, embodied in established school policy, extends well beyond an abstract desire to avoid controversy.

Petitioners urge us to adopt the broader rule that Frederick’s speech is proscribable because it is plainly “offensive” as that term is used in Fraser. We think this stretches Fraser too far; that case should not be read to encompass any speech that could fit under some definition of “offensive.” After all, much political and religious speech might be perceived as offensive to some. The concern here is not that Frederick’s speech was offensive, but that it was reasonably viewed as promoting illegal drug use.

Although accusing this decision of doing “serious violence to the First Amendment” by authorizing “viewpoint discrimination,” the dissent concludes that “it might well be appropriate to tolerate some targeted viewpoint discrimination in this unique setting.” Nor do we understand the dissent to take the position that schools are required to tolerate student advocacy of illegal drug use at school events, even if that advocacy falls short of inviting “imminent” lawless action (“it is possible that our rigid imminence requirement ought to be relaxed at schools”). And even the dissent recognizes that the issues here are close enough that the principal should not be held liable in damages, but should instead enjoy qualified immunity for her actions. Stripped of rhetorical flourishes, then, the debate between the dissent and this opinion is less about constitutional first principles than about whether Frederick’s banner constitutes promotion of illegal drug use. We have explained our view that it does. The dissent’s contrary view on that relatively narrow question hardly justifies sounding the First Amendment bugle.

School principals have a difficult job, and a vitally important one. When Frederick suddenly and unexpectedly unfurled his banner, Morse had to decide to act—or not act—on the spot. It was reasonable for her to conclude that the banner promoted illegal drug use—in violation of established school policy—and that failing to act would send a powerful message to the students in her charge, including Frederick, about how serious the school was about the dangers of illegal drug use. The First Amendment does not require schools to tolerate at school events student expression that contributes to those dangers. The judgment of the United States Court of Appeals for the Ninth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion. It is so ordered.

**Mahanoy v. BL**

**June 23, 2021**

JUSTICE BREYER delivered the opinion of the Court.

A public high school student used, and transmitted to her Snapchat friends, vulgar language and gestures criticizing both the school and the school’s cheerleading team. The student’s speech took place outside of school hours and away from the school’s campus. In response, the school suspended the student for a year from the cheerleading team. We must decide whether the Court of Appeals for the Third Circuit correctly held that the school’s decision violated the First Amendment. Although we do not agree with the reasoning of the Third Circuit panel’s majority, we do agree with its conclusion that the school’s disciplinary action violated the First Amendment.

I A B. L. (who, together with her parents, is a respondent in this case) was a student at Mahanoy Area High School, a public school in Mahanoy City, Pennsylvania. At the end of her freshman year, B. L. tried out for a position on the 2 MAHANOY AREA SCHOOL DIST. v. B. L. Opinion of the Court school’s varsity cheerleading squad and for right fielder on a private softball team. She did not make the varsity cheerleading team or get her preferred softball position, but she was offered a spot on the cheerleading squad’s junior varsity team. B. L. did not accept the coach’s decision with good grace, particularly because the squad coaches had placed an entering freshman on the varsity team. That weekend, B. L. and a friend visited the Cocoa Hut, a local convenience store. There, B. L. used her smartphone to post two photos on Snapchat, a social media application that allows users to post photos and videos that disappear after a set period of time. B. L. posted the images to her Snapchat “story,” a feature of the application that allows any person in the user’s “friend” group (B. L. had about 250 “friends”) to view the images for a 24 hour period. The first image B. L. posted showed B. L. and a friend with middle fingers raised; it bore the caption: “Fuck school fuck softball fuck cheer fuck everything.” App. 20. The second image was blank but for a caption, which read: “Love how me and [another student] get told we need a year of JV before we make varsity but tha[t] doesn’t matter to anyone else?” The caption also contained an upside-down smileyface emoji. Id., at 21. B. L.’s Snapchat “friends” included other Mahanoy Area High School students, some of whom also belonged to the cheerleading squad. At least one of them, using a separate cellphone, took pictures of B. L.’s posts and shared them with other members of the cheerleading squad. One of the students who received these photos showed them to her mother (who was a cheerleading squad coach), and the images spread. That week, several cheerleaders and other students approached the cheerleading coaches “visibly upset” about B. L.’s posts. Id., at 83–84. Questions about the posts persisted during an Algebra class taught by one of the two coaches. Id., at 83. After discussing the matter with the school principal, the Cite as: 594 U. S. \_\_\_\_ (2021) 3 Opinion of the Court coaches decided that because the posts used profanity in connection with a school extracurricular activity, they violated team and school rules. As a result, the coaches suspended B. L. from the junior varsity cheerleading squad for the upcoming year. B. L.’s subsequent apologies did not move school officials. The school’s athletic director, principal, superintendent, and school board, all affirmed B. L.’s suspension from the team. In response, B. L., together with her parents, filed this lawsuit in Federal District Court…..

We have made clear that students do not “shed their constitutional rights to freedom of speech or expression,” even “at the school house gate.” Tinker, 393 U. S., at 506; see Cite as: 594 U. S. \_\_\_\_ (2021) 5 Opinion of the Court also Brown v. Entertainment Merchants Assn., 564 U. S. 786, 794 (2011) (“[M]inors are entitled to a significant measure of First Amendment protection” (alteration in original; internal quotation marks omitted)). But we have also made clear that courts must apply the First Amendment “in light of the special characteristics of the school environment.” Hazelwood School Dist. v. Kuhlmeier, 484 U. S. 260, 266 (1988) (internal quotation mark omitted). One such characteristic, which we have stressed, is the fact that schools at times stand in loco parentis, i.e., in the place of parents. See Bethel School Dist. No. 403 v. Fraser, 478 U. S. 675, 684 (1986). This Court has previously outlined three specific categories of student speech that schools may regulate in certain circumstances: (1) “indecent,” “lewd,” or “vulgar” speech uttered during a school assembly on school grounds, see id., at 685; (2) speech, uttered during a class trip, that promotes “illegal drug use,” see Morse v. Frederick, 551 U. S. 393, 409 (2007); and (3) speech that others may reasonably perceive as “bear[ing] the imprimatur of the school,” such as that appearing in a school-sponsored newspaper, see Kuhlmeier, 484 U. S., at 271.

Finally, in Tinker, we said schools have a special interest in regulating speech that “materially disrupts classwork or involves substantial disorder or invasion of the rights of others.” 393 U. S., at 513. These special characteristics call for special leeway when schools regulate speech that occurs under its supervision. Unlike the Third Circuit, we do not believe the special characteristics that give schools additional license to regulate student speech always disappear when a school regulates speech that takes place off campus. The school’s regulatory interests remain significant in some off-campus circumstances. The parties’ briefs, and those of amici, list several types of off-campus behavior that may call for school MAHANOY AREA SCHOOL DIST. v. B. L. Opinion of the Court regulation. These include serious or severe bullying or harassment targeting particular individuals; threats aimed at teachers or other students; the failure to follow rules concerning lessons, the writing of papers, the use of computers, or participation in other online school activities; and breaches of school security devices, including material maintained within school computers. Even B. L. herself and the amici supporting her would redefine the Third Circuit’s off-campus/on-campus distinction, treating as on campus: all times when the school is responsible for the student; the school’s immediate surroundings; travel en route to and from the school; all speech taking place over school laptops or on a school’s website; speech taking place during remote learning; activities taken for school credit; and communications to school email accounts or phones. Brief for Respondents 36–37. And it may be that speech related to extracurricular activities, such as team sports, would also receive special treatment under B. L.’s proposed rule. See Tr. of Oral Arg. 71, 85. We are uncertain as to the length or content of any such list of appropriate exceptions or carve outs to the Third Circuit majority’s rule. That rule, basically, if not entirely, would deny the off-campus applicability of Tinker’s highly general statement about the nature of a school’s special interests. Particularly given the advent of computer-based learning, we hesitate to determine precisely which of many school-related off-campus activities belong on such a list. Neither do we now know how such a list might vary, depending upon a student’s age, the nature of the school’s off campus activity, or the impact upon the school itself. Thus, we do not now set forth a broad, highly general First Amendment rule stating just what counts as “off campus” speech and whether or how ordinary First Amendment standards must give way off campus to a school’s special need to prevent, e.g., substantial disruption of learning-related activities or the protection of those who make up a Cite as: 594 U. S. \_\_\_\_ (2021)

Opinion of the Court school community. We can, however, mention three features of off-campus speech that often, even if not always, distinguish schools’ efforts to regulate that speech from their efforts to regulate on-campus speech. Those features diminish the strength of the unique educational characteristics that might call for special First Amendment leeway. First, a school, in relation to off-campus speech, will rarely stand in loco parentis. The doctrine of in loco parentis treats school administrators as standing in the place of students’ parents under circumstances where the children’s actual parents cannot protect, guide, and discipline them. Geographically speaking, off-campus speech will normally fall within the zone of parental, rather than school-related, responsibility. Second, from the student speaker’s perspective, regulations of off-campus speech, when coupled with regulations of on-campus speech, include all the speech a student utters during the full 24-hour day. That means courts must be more skeptical of a school’s efforts to regulate off-campus speech, for doing so may mean the student cannot engage in that kind of speech at all. When it comes to political or religious speech that occurs outside school or a school program or activity, the school will have a heavy burden to justify intervention. Third, the school itself has an interest in protecting a student’s unpopular expression, especially when the expression takes place off campus. America’s public schools are the nurseries of democracy. Our representative democracy only works if we protect the “marketplace of ideas.” This free exchange facilitates an informed public opinion, which, when transmitted to lawmakers, helps produce laws that reflect the People’s will. That protection must include the protection of unpopular ideas, for popular ideas have less need for protection. Thus, schools have a strong interest in ensuring that future generations understand the workings

MAHANOY AREA SCHOOL DIST. v. B. L. Opinion of the Court in practice of the well-known aphorism, “I disapprove of what you say, but I will defend to the death your right to say it.” (Although this quote is often attributed to Voltaire, it was likely coined by an English writer, Evelyn Beatrice Hall.) Given the many different kinds of off-campus speech, the different potential school-related and circumstance-specific justifications, and the differing extent to which those justifications may call for First Amendment leeway, we can, as a general matter, say little more than this: Taken together, these three features of much off-campus speech mean that the leeway the First Amendment grants to schools in light of their special characteristics is diminished. We leave for future cases to decide where, when, and how these features mean the speaker’s off-campus location will make the critical difference. This case can, however, provide one example.

SESSION 2:

Federalist No. 8

… This picture is not too highly wrought; though, I confess, it would not long remain a just one. Safety from external danger is the most powerful director of national conduct. Even the ardent love of liberty will, after a time, give way to its dictates. The violent destruction of life and property incident to war, the continual effort and alarm attendant on a state of continual danger, will compel nations the most attached to liberty to resort for repose and security to institutions which have a tendency to destroy their civil and political rights. To be more safe, they at length become willing to run the risk of being less free.

… They would, at the same time, be necessitated to strengthen the executive arm of government, in doing which their constitutions would acquire a progressive direction towards monarchy. It is of the nature of war to increase the executive at the expense of the legislative authority.

Source: <https://teachingamericanhistory.org/document/federalist-no-8/>

George Washington, Farewell Address

1796

… Observe good faith and justice toward all nations; cultivate peace and harmony with all. Religion and morality enjoin this conduct; and can it be, that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and at no distant period a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential than that permanent, inveterate antipathies against particular nations, and passionate attachments for others, should be excluded; and that, in place of them, just and amicable feelings toward all should be cultivated. The nation which indulges toward another a habitual hatred or a habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence, frequent collisions [and] obstinate, envenomed, and bloody contests. The nation, prompted by ill-will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times it makes the animosity of the nation subservient to projects of hostility instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty, of nations, has been the victim.

Source: <https://teachingamericanhistory.org/document/farewell-address-5/>

Annual Message to Congress

James Monroe

1823

The Monroe Doctrine

… In the discussions to which this interest has given rise and in the arrangements by which they may terminate the occasion has been judged proper for asserting, as a principle in

which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers. …

… It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness; nor can anyone believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition in any form with indifference. If we look to the comparative strength and resources of Spain and those new governments, and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in hope that other powers will pursue the same course. …

Source: https://teachingamericanhistory.org/document/seventh-annual-message-to-congress-1823/

War Message

Woodrow Wilson

1917

… The present German submarine warfare against commerce is a warfare against mankind.

It is a war against all nations. American ships have been sunk, American lives taken, in ways which it has stirred us very deeply to learn of, but the ships and people of other neutral and friendly nations have been sunk and overwhelmed in the waters in the same way. There has been no discrimination. The challenge is to all mankind. Each nation must decide for itself how it will meet it. …

With a profound sense of the solemn and even tragical character of the step I am taking and of the grave responsibilities which it involves, but in unhesitating obedience to what I deem my constitutional duty, I advise that the Congress declare the recent course of the Imperial German Government to be in fact nothing less than war against the government and people of the United States …

While we do these things, these deeply momentous things, let us be very clear, and make very clear to all the world what our motives and our objects are.… Our object now, as then, is to vindicate the principles of peace and justice in the life of the world as against selfish and autocratic power and to set up amongst the really free and self-governed peoples of the world such a concert of purpose and of action as will henceforth insure the observance of those principles Neutrality is no longer feasible or desirable where the peace of the world is involved and the freedom of its peoples, and the menace to that peace and freedom lies in the existence of autocratic governments backed by organized force which is controlled wholly by their will, not by the will of their people. …

… A steadfast concert for peace can never be maintained except by a partnership of democratic nations. No autocratic government could be trusted to keep faith within it or observe its covenants. It must be a league of honor, a partnership of opinion. Intrigue would eat its vitals away; the plottings of inner circles who could plan what they would and render account to no one would be a corruption seated at its very heart. Only free peoples can hold their purpose and their honor steady to a common end and prefer the interests of mankind to any narrow interest of their own.

… We desire no conquest, no dominion. We seek no indemnities for ourselves, no material compensation for the sacrifices we shall freely make. We are but one of the champions of the rights of mankind. We shall be satisfied when those rights have been made as secure as the faith and the freedom of nations can make them. …

… we shall fight for the things which we have always carried nearest our hearts,—for democracy, for the right of those who submit to authority to have a voice in their own Governments, for the rights and liberties of small nations, for a universal dominion of right by such a concert of free peoples as shall bring peace and safety to all nations and make the world itself at last free. To such a task we can dedicate our lives and our fortunes, every thing that we are and everything that we have, with the pride of those who know that the day has come when America is privileged to spend her blood and her might for the principles that gave her birth and happiness and the peace which she has treasured. God helping her, she can do no other.

Source: <https://teachingamericanhistory.org/document/war-message-to-congress/>

Four Freedoms Speech

Franklin D. Roosevelt

1941

… Armed defense of democratic existence is now being gallantly waged in four continents. If that defense fails, all the population and all the resources of Europe, Asia, Africa and Australasia will be dominated by the conquerors. Let us remember that the total of those populations and their resources in those four continents greatly exceeds the sum total of the population and the resources of the whole of the Western Hemisphere – many times over.

… The need of the moment is that our actions and our policy should be devoted primarily – almost exclusively – to meeting this foreign peril. For all our domestic problems are now a part of the great emergency.

Just as our national policy in internal affairs has been based upon a decent respect for the rights and the dignity of all our fellow men within our gates, so our national policy in foreign affairs has been based on a decent respect for the rights and dignity of all nations, large and small. And the justice of morality must and will win in the end. …

We know that enduring peace cannot be bought at the cost of other people’s freedom. …

… A part of the sacrifice means the payment of more money in taxes. In my Budget Message I shall recommend that a greater portion of this great defense program be paid for from taxation than we are paying today. No person should try, or be allowed, to get rich out of this program; and the principle of tax payments in accordance with ability to pay should be constantly before our eyes to guide our legislation.

If the Congress maintains these principles, the voters, putting patriotism ahead of pocketbooks, will give you their applause.

In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms.

The first is freedom of speech and expression – everywhere in the world.

The second is freedom of every person to worship God in his own way – everywhere in the world.

The third is freedom from want – which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants – everywhere in the world.

The fourth is freedom from fear – which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor – anywhere in the world.

That is no vision of a distant millennium. It is a definite basis for a kind of world attainable in our own time and generation. That kind of world is the very antithesis of the so-called new order of tyranny which the dictators seek to create with the crash of a bomb.

To that new order we oppose the greater conception – the moral order. A good society is able to face schemes of world domination and foreign revolutions alike without fear.

… This nation has placed its destiny in the hands and heads and hearts of its millions of free men and women; and its faith in freedom under the guidance of God. Freedom means the supremacy of human rights everywhere. Our support goes to those who struggle to gain those rights or keep them. Our strength is our unity of purpose. To that high concept there can be no end save victory.

Source: https://teachingamericanhistory.org/document/the-four-freedoms/

The Truman Doctrine

… One of the primary objectives of the foreign policy of the United States is the creation of conditions in which we and other nations will be able to work out a way of life free from coercion. This was a fundamental issue in the war with Germany and Japan. Our victory was won over countries which sought to impose their will, and their way of life, upon other nations.

To ensure the peaceful development of nations, free from coercion, the United States has taken a leading part in establishing the United Nations, The United Nations is designed to make possible lasting freedom and independence for all its members. We shall not realize our objectives, however, unless we are willing to help free peoples to maintain their free institutions and their national integrity against aggressive movements that seek to impose upon them totalitarian regimes. This is no more than a frank recognition that totalitarian regimes imposed on free peoples, by direct or indirect aggression, undermine the foundations of international peace and hence the security of the United States.

… At the present moment in world history nearly every nation must choose between alternative ways of life. The choice is too often not a free one.

One way of life is based upon the will of the majority, and is distinguished by free institutions, representative government, free elections, guarantees of individual liberty, freedom of speech and religion, and freedom from political oppression.

The second way of life is based upon the will of a minority forcibly imposed upon the majority. It relies upon terror and oppression, a controlled press and radio; fixed elections, and the suppression of personal freedoms.

I believe that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures.

I believe that we must assist free peoples to work out their own destinies in their own way.

I believe that our help should be primarily through economic and financial aid which is essential to economic stability and orderly political processes.

The world is not static, and the status quo is not sacred. But we cannot allow changes in the status quo in violation of the Charter of the United Nations by such methods as coercion, or by such subterfuges as political infiltration. In helping free and independent nations to maintain their freedom, the United States will be giving effect to the principles of the Charter of the United Nations.

Source: https://teachingamericanhistory.org/document/the-truman-doctrine/

Ich Bin Ein Berliner

John F. Kennedy

1963

… There are many people in the world who really don’t understand, or say they don’t, what is the great issue between the free world and the Communist world. Let them come to Berlin. There are some who say that communism is the wave of the future. Let them come to Berlin. And there are some who say in Europe and elsewhere we can work with the Communists. Let them come to Berlin. And there are even a few who say that it is true that communism is an evil system, but it permits us to make economic progress. … Let them come to Berlin.

Freedom has many difficulties and democracy is not perfect, but we have never had to put a wall up to keep our people in, to prevent them from leaving us. … While the wall is the most obvious and vivid demonstration of the failures of the Communist system, for all the world to see, we take no satisfaction in it, for it is, as your Mayor has said, an offense not only against history but an offense against humanity, separating families, dividing husbands and wives and brothers and sisters, and dividing a people who wish to be joined together.

What is true of this city is true of Germany--real, lasting peace in Europe can never be assured as long as one German out of four is denied the elementary right of free men, and that is to make a free choice. …

Freedom is indivisible, and when one man is enslaved, all are not free. When all are free, then we can look forward to that day when this city will be joined as one and this country and this great Continent of Europe in a peaceful and hopeful globe. When that day finally comes, as it will, the people of West Berlin can take sober satisfaction in the fact that they were in the front lines for almost two decades.

All free men, wherever they may live, are citizens of Berlin, and, therefore, as a free man, I take pride in the words “Ich bin ein Berliner!”

Source: https://teachingamericanhistory.org/document/remarks-in-the-rudolph-wilde-platz-berlin/

President Bush Delivers Graduation Speech at West Point, June 1, 2002

... Our war on terror is only begun, but in Afghanistan it was begun well.

... We fight, as we always fight, for a just peace—a peace that favors human liberty. We will defend the peace against threats from terrorists and tyrants. We will preserve the peace by building good relations among the great powers. And we will extend the peace by encouraging free and open societies on every continent. …

In defending the peace, we face a threat with no precedent. Enemies in the past needed great armies and great industrial capabilities to endanger the American people and our nation. The attacks of September the 11th required a few hundred thousand dollars in the hands of a few dozen evil and deluded men. All of the chaos and suffering they causes came at much less than the cost of a single tank. The dangers have not passed. This government and the American people are on watch, we are ready, because we know the terrorists have more money and more men and more plans.

The gravest danger to freedom lies at the perilous crossroads of radicalism and technology. When the spread of chemical and biological and nuclear weapons, along with ballistic missile technology—when that occurs, even weak states and small groups could attain a catastrophic power to strike great nations. Our enemies have declared this very intention and have been caught seeking these terrible weapons. They want the capability to blackmail us, or to harm us, or to harm our friends—and we will oppose them with all our power.

For much of the last century, America’s defense relied on the Cold War doctrines of deterrence and containment. In some cases, those strategies still apply. But new threats also require new thinking. Deterrence—the promise of massive retaliation against nations—means nothing against shadowy terrorist networks with no nation or citizens to defend. Containment is not possible when unbalanced dictators with weapons of mass destruction can deliver those weapons on missiles or secretly provide them to terrorist allies.

We cannot defend America and our friends by hoping for the best. We cannot put our faith in the word of tyrants, who solemnly sign non-proliferation treaties, and then systemically break them. If we wait for threats to fully materialize, we will have waited too long.

Homeland defense and missile defense are part of stronger security, and they’re essential priorities for America. Yet the war on terror will not be won on the defensive. We must take the battle to the enemy, disrupt his plans, and confront the worst threats before they emerge. In the world we have entered, the only path to safety is the path of action. And this nation will act.

Our security will require the best intelligence, to reveal threats hidden in caves and growing in laboratories. Our security will require modernizing domestic agencies such as the FBI, so they're prepared to act, and act quickly, against danger. Our security will require transforming the military you will lead -- a military that must be ready to strike at a moment's notice in any dark corner of the world. And our security will require all Americans to be forward-looking and resolute, to be ready for preemptive action when necessary to defend our liberty and to defend our lives …

All nations that decide for aggression and terror will pay a price. We will not leave the safety of America and the peace of the planet at the mercy of a few mad terrorists and tyrants. We will lift this dark threat from our country and from the world.

Source: <http://www.whitehouse.gov/news/releases/2002/06/20020601-3.html>

Session 3

The Promise of American Life (excerpt)

Herbert Croly

1909

*Herbert Croly (1869-1930) was a prominent progressive public intellectual, journalist, editor, public intellectual, and founder of The New Republic. In Croly’s perhaps best known work, The Promise of American Life (1909), he argues that the United States has two strands of thought in tension with each other represented by founding political rivals, Alexander Hamilton and Thomas Jefferson. On the one hand, Hamilton favored strong, national government, but was distrustful of democracy. On the other hand, Jefferson had unbounded confidence in democracy, but favored limiting government to the protection of individual rights. Croly proposes his famous synthesis the “new nationalism” that would combine Hamiltonian strong, national government and Jeffersonian democracy. Croly’s vision would forge a strong, centralized government empowered to regulate and promote economic and social reform.*

All our histories recognize, of course, the existence from the very beginning of our national career of two different and, in some respects, antagonistic groups of political ideas—the ideas which were represented by Jefferson, and the ideas which were represented by Hamilton….

Underlying the several aspects of Hamilton’s policy can be discerned a definite theory of governmental functions. The central government is to be used, not merely to maintain the Constitution, but to promote the national interest and to consolidate the national organization. Hamilton saw clearly that the American Union was far from being achieved when the Constitution was accepted by the states and the machinery of the federal government set in motion. A good start had been made, but the way in which to keep what had been gained was to seek for more. Unionism must be converted into a positive policy which labored to strengthen the national interest and organization, discredit possible or actual disunionist ideas and forces, and increase the national spirit. All this implied an active interference with the natural course of American economic and political business and its regulation and guidance in the national direction. It implied a conscious and indefatigable attempt on the part of the national leaders to promote the national welfare. It implied the predominance in American political life of the men who had the energy and the insight to discriminate between those ideas and tendencies which promoted the national welfare, and those ideas and tendencies whereby it was imperiled. It implied, in fine, the perpetuation of the same kind of leadership which had guided the country safely through the dangers of the critical period, and the perpetuation of the purposes which inspired that leadership.

So far I, at least, have no fault to find with implications of Hamilton’s federalism, but unfortunately his policy was in certain other respects tainted with a more doubtful tendency. On the persistent vitality of Hamilton’s national principle depends the safety of the American republic and the fertility of the American idea, but he did not seek a sufficiently broad, popular basis for the realization of those ideas….During the Constitutional Convention he had failed to secure the adoption of certain institutions which in his opinion would have established as the guardian of the Constitution an aristocracy of ability; and he now insisted all the more upon the plan of attaching to the federal government the support of well-to-do people. . . .

It did not take Hamilton’s opponents long to discover that his ideas and plans were in some respects inimical to democracy….This opposition was led by Jefferson…Jefferson was filled with a sincere, indiscriminate, and unlimited faith in the American people. He was according to his own lights a radical and unqualified democrat, and as a democrat he fought most bitterly what he considered to be the aristocratic or even monarchic tendency of Hamilton’s policy….

Unfortunately Jefferson’s conception of democracy was meager, narrow, and self-contradictory….In Jefferson’s mind democracy was tantamount to extreme individualism. He conceived a democratic society to be composed of a collection of individuals, fundamentally alike in their abilities and deserts; and in organizing such a society, politically, the prime object was to provide for the greatest satisfaction of its individual members. The good things of life that had formerly been monopolized by the privileged few, were now to be distributed among all the people. It was unnecessary, moreover, to make any very artful arrangements, in order to effect an equitable distribution. Such distribution would take care of itself, provided nobody enjoyed any special privileges and everybody had equal opportunities. Once these conditions were secured, the motto of a democratic government should simply be “Hands Off.” There should be as little government as possible, because persistent governmental interference implied distrust in popular efficiency and goodwill; and what government there was, should be so far as possible confided to local authorities….

Thus Jefferson sought an essentially equalitarian and even socialistic result by means of an essentially individualistic machinery….

. . . The triumph of Jefferson and the defeat of Hamilton enabled the natural individualism of the American people free play. The democratic political system was considered tantamount in practice to a species of vigorous, licensed, and purified selfishness. The responsibilities of the government were negative; those of the individual were positive….These were merely crude ways of expressing the spirit of traditional American democracy—which was that of a rampant individualism, checked only by a system of legally constituted rights. The test of American national success was the comfort and prosperity of the individual; and the means to that end—a system of unrestricted individual aggrandizement and collective irresponsibility. . . .

The best that can be said on behalf of this traditional American system of political ideas is that it contained the germ of better things. The combination of federalism and republicanism which formed the substance of the system, did not constitute a progressive and formative political principle, but it pointed in the direction of a constructive formula….

Progressive Democracy

Herbert Croly

1914

*In Progressive Democracy, Herbert Croly claims that representative government established by the Constitution was the only practical way for democratic debate to take place when citizens lived far apart and could not assemble in person. Given changes in mass media, Croly makes the case that direct democracy is “not merely possible, but natural and appropriate.” Public deliberation and the formation of public opinion no longer must be mediated by representative bodies. Public debate and deliberation can take place informally outside of Congress and the public can directly express its will through mechanisms like referenda. Compare Croly’s praise of direct democracy to James Madison’s argument for the advantages of representation in Federalist #10.*

Some form of essentially representative government was at that time [late 18th century] apparently the only dependable kind of liberal political organization. It was imposed by the physical and technical conditions under which government had to be conducted. Direct government did not seem to be possible outside of city or tribal states, whose population and area was sufficiently small to permit the actual assemblage of the body politic at some particular place, either at regular intervals or in case of an emergency….

In the twentieth century, however, these practical conditions of political association have again changed, and have changed in a manner which enables the mass of the people to assume some immediate control of their political destinies. While it is more impossible than ever for the citizens of a modern industrial and agricultural state actually to assemble after the manner of a New England town-meeting, it is no longer necessary for them so to assemble. They have abundant opportunities of communication and consultation without any actual meeting at one time and place. They are kept in constant touch with one another by means of the complicated agencies of publicity and intercourse which are afforded by the magazines, the press, and the like. The active citizenship of the country meets every morning and evening and discusses the affairs of the nation with the newspaper as an impersonal interlocutor….Under such conditions the discussions which take place in a Congress or a Parliament no longer possess their former function. They no longer create and guide what public opinion there is. Their purpose rather is to provide a mirror for public opinion, to advertise and illuminate its constituent ideas and purposes, and to confront the advocates of those ideas with the discipline of effective resistance and, perhaps, with the responsibilities of power. Phases of public opinion form, develop, gather to a head, assert their power, and find their place chiefly by the activity of other more popular unofficial agencies. Thus the democracy has at its disposal a mechanism of developing and exchanging opinions, and of reaching decisions, which is independent of representative assemblies, and which is, or may become, superior to that which it formerly obtained by virtue of occasional popular assemblages.

The adoption of the machinery of direct government is a legitimate expression of this change….Pure democracy has again become not merely possible, but natural and appropriate. . . .

The salient reasons which make it necessary to associate the advent of direct democracy with the attempt to realize a positive social program have already been indicated. They are derived from the profound alterations in the balance of a political organization which is substituting a positive for a negative social policy. The abstract legalistic individualism of the Jeffersonian democracy had in theory no need of any machinery of direct popular control. The activity of government was restricted, and its organs were emasculated, in the interest of a specific formulation of individual rights. Government was considered to be merely a form of temporary police supervision. Such a political system was placed in irons by the Law and lacked the power to do any harm. It really needed to operate somewhat independently of public opinion. Fermentation of public opinion and active political and social experimentation could not accomplish anything of real social value. The essential popular needs were already safeguarded in the Law, which deserved vigilant protection and unquestioning obedience on the part of all good citizens. Effective popular control of such a government was unnecessary. Government was not intended to be the instrument of important popular social purposes….

In all three of the principal departments of government, there are essential functions to be performed which must be delegated by a democracy to selected men under conditions which make for technical efficiency and individual independence and self-respect. The Fathers of the Republic were fully justified both in keeping the powers distinguished, and in seeking to balance one against the other. Their mistake consisted in the methods adopted for preserving or readjusting the balance. The preservation of a balance depends upon the harmonious development of several elements which enter into it; and as in the course of nature harmonious development is rare, the preservation of any such balance must usually be contrived by human insistence and intelligence.

. . . From the beginning of civilization the people have been constantly imposed upon by moral or social or physical force in the real or supposed interest of their own welfare. The process will doubtless have to continue in some measure; but if democracy means anything, it means popular liberation in precisely this respect. It means that social reformers must present their arguments primarily to the electorate, and welcome every good opportunity of allowing the electorate to pass judgment upon their proposals.

Session 4

Letter from Birmingham Jail

Martin Luther King, Jr.

August 1963

*From the Birmingham jail, where he was imprisoned as a participant in nonviolent demonstrations against segregation, Dr. Martin Luther King, Jr., wrote in longhand the letter which follows. It was his response to a public statement of concern and caution issued by eight white religious leaders of the South. Dr. King, who was born in 1929, did his undergraduate work at Morehouse College; attended the integrated Crozer Theological Seminary in Chester, Pennsylvania, one of six black pupils among a hundred students, and the president of his class; and won a fellowship to Boston University for his Ph.D.*

WHILE confined here in the Birmingham city jail, I came across your recent statement calling our present activities "unwise and untimely." Seldom, if ever, do I pause to answer criticism of my work and ideas. If I sought to answer all of the criticisms that cross my desk, my secretaries would be engaged in little else in the course of the day, and I would have no time for constructive work. But since I feel that you are men of genuine good will and your criticisms are sincerely set forth, I would like to answer your statement in what I hope will be patient and reasonable terms.

I think I should give the reason for my being in Birmingham, since you have been influenced by the argument of "outsiders coming in." I have the honor of serving as president of the Southern Christian Leadership Conference, an organization operating in every Southern state, with headquarters in Atlanta, Georgia. We have some eighty-five affiliate organizations all across the South, one being the Alabama Christian Movement for Human Rights. Whenever necessary and possible, we share staff, educational and financial resources with our affiliates. Several months ago our local affiliate here in Birmingham invited us to be on call to engage in a nonviolent direct-action program if such were deemed necessary. We readily consented, and when the hour came we lived up to our promises. So I am here, along with several members of my staff, because we were invited here. I am here because I have basic organizational ties here.

Beyond this, I am in Birmingham because injustice is here. Just as the eighth-century prophets left their little villages and carried their "thus saith the Lord" far beyond the boundaries of their hometowns; and just as the Apostle Paul left his little village of Tarsus and carried the gospel of Jesus Christ to practically every hamlet and city of the Greco-Roman world, I too am compelled to carry the gospel of freedom beyond my particular hometown. Like Paul, I must constantly respond to the Macedonian call for aid.

Moreover, I am cognizant of the interrelatedness of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly. Never again can we afford to live with the narrow, provincial "outside agitator" idea. Anyone who lives inside the United States can never be considered an outsider.

You deplore the demonstrations that are presently taking place in Birmingham. But I am sorry that your statement did not express a similar concern for the conditions that brought the demonstrations into being. I am sure that each of you would want to go beyond the superficial social analyst who looks merely at effects and does not grapple with underlying causes. I would not hesitate to say that it is unfortunate that so-called demonstrations are taking place in Birmingham at this time, but I would say in more emphatic terms that it is even more unfortunate that the white power structure of this city left the Negro community with no other alternative.

IN ANY nonviolent campaign there are four basic steps: collection of the facts to determine whether injustices are alive, negotiation, self-purification, and direct action. We have gone through all of these steps in Birmingham. There can be no gainsaying of the fact that racial injustice engulfs this community. Birmingham is probably the most thoroughly segregated city in the United States. Its ugly record of police brutality is known in every section of this country. Its unjust treatment of Negroes in the courts is a notorious reality. There have been more unsolved bombings of Negro homes and churches in Birmingham than in any other city in this nation. These are the hard, brutal, and unbelievable facts. On the basis of them, Negro leaders sought to negotiate with the city fathers. But the political leaders consistently refused to engage in good-faith negotiation.

Then came the opportunity last September to talk with some of the leaders of the economic community. In these negotiating sessions certain promises were made by the merchants, such as the promise to remove the humiliating racial signs from the stores. On the basis of these promises, Reverend Shuttlesworth and the leaders of the Alabama Christian Movement for Human Rights agreed to call a moratorium on any type of demonstration. As the weeks and months unfolded, we realized that we were the victims of a broken promise. The signs remained. As in so many experiences of the past, we were confronted with blasted hopes, and the dark shadow of a deep disappointment settled upon us. So we had no alternative except that of preparing for direct action, whereby we would present our very bodies as a means of laying our case before the conscience of the local and national community. We were not unmindful of the difficulties involved. So we decided to go through a process of self-purification. We Letter From Birmingham Jail started having workshops on nonviolence and repeatedly asked ourselves the questions, "Are you able to accept blows without retaliating?" and "Are you able to endure the ordeals of jail?" We decided to set our direct-action program around the Easter season, realizing that, with exception of Christmas, this was the largest shopping period of the year. Knowing that a strong economic withdrawal program would be the by-product of direct action, we felt that this was the best time to bring pressure on the merchants for the needed changes. Then it occurred to us that the March election was ahead, and so we speedily decided to postpone action until after election day. When we discovered that Mr. Conner was in the runoff, we decided again to postpone action so that the demonstration could not be used to cloud the issues. At this time we agreed to begin our nonviolent witness the day after the runoff.

This reveals that we did not move irresponsibly into direct action. We, too, wanted to see Mr. Conner defeated, so we went through postponement after postponement to aid in this community need. After this we felt that direct action could be delayed no longer.

You may well ask, "Why direct action, why sit-ins, marches, and so forth? Isn't negotiation a better path?" You are exactly right in your call for negotiation. Indeed, this is the purpose of direct action. Nonviolent direct action seeks to create such a crisis and establish such creative tension that a community that has consistently refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored. I just referred to the creation of tension as a part of the work of the nonviolent resister. This may sound rather shocking. But I must confess that I am not afraid of the word "tension." I have earnestly worked and preached against violent tension, but there is a type of constructive nonviolent tension that is necessary for growth. Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half-truths to the unfettered realm of creative analysis and objective appraisal, we must see the need of having nonviolent gadflies to create the kind of tension in society that will help men to rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood. So, the purpose of direct action is to create a situation so crisis-packed that it will inevitably open the door to negotiation. We therefore concur with you in your call for negotiation. Too long has our beloved Southland been bogged down in the tragic attempt to live in monologue rather than dialogue.

One of the basic points in your statement is that our acts are untimely. Some have asked, "Why didn't you give the new administration time to act?" The only answer that I can give to this inquiry is that the new administration must be prodded about as much as the outgoing one before it acts. We will be sadly mistaken if we feel that the election of Mr. Boutwell will bring the millennium to Birmingham. While Mr. Boutwell is much more articulate and gentle than Mr. Conner, they are both segregationists, dedicated to the task of maintaining the status quo. The hope I see in Mr. Boutwell is that he will be reasonable enough to see the futility of massive resistance to desegregation. But he will not see this without pressure from the devotees of civil rights. My friends, I must say to you that we have not made a single gain in civil rights without determined legal and nonviolent pressure. History is the long and tragic story of the fact that privileged groups seldom give up their privileges voluntarily. Individuals may see the moral light and voluntarily give up their unjust posture; but, as Reinhold Niebuhr has reminded us, groups are more immoral than individuals.

We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed. Frankly, I have never yet engaged in a direct-action movement that was "well timed" according to the timetable of those who have not suffered unduly from the disease of segregation. For years now I have heard the word "wait." It rings in the ear of every Negro with a piercing familiarity. This "wait" has almost always meant "never." It has been a tranquilizing thalidomide, relieving the emotional stress for a moment, only to give birth to an ill-formed infant of frustration. We must come to see with the distinguished jurist of yesterday that "justice too long delayed is justice denied." We have waited for more than three hundred and forty years for our God-given and constitutional rights. The nations of Asia and Africa are moving with jetlike speed toward the goal of political independence, and we still creep at horse-and-buggy pace toward the gaining of a cup of coffee at a lunch counter. I guess it is easy for those who have never felt the stinging darts of segregation to say "wait." But when you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate-filled policemen curse, kick, brutalize, and even kill your black brothers and sisters with impunity; when you see the vast majority of your twenty million Negro brothers smothering in an airtight cage of poverty in the midst of an affluent society; when you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six-year-old daughter why she cannot go to the public amusement park that has just been advertised on television, and see tears welling up in her little eyes when she is told that Funtown is closed to colored children, and see the depressing clouds of inferiority begin to form in her little mental sky, and see her begin to distort her little personality by unconsciously developing a bitterness toward white people; when you have to concoct an answer for a five-year-old son asking in agonizing pathos, "Daddy, why do white people treat colored people so mean?"; when you take a cross-country drive and find it necessary to sleep night after night in the uncomfortable corners of your automobile because no motel will accept you; when you are humiliated day in and day out by nagging signs reading "white" and "colored"; when your first name becomes "nigger" and your middle name becomes "boy" (however old you are) and your last name becomes "John," and when your wife and mother are never given the respected title "Mrs."; when you are harried by day and haunted by night by the fact that you are a Negro, living constantly at tiptoe stance, never knowing what to expect next, and plagued with inner fears and outer resentments; when you are forever fighting a degenerating sense of "nobodyness" -- then you will understand why we find it difficult to wait. There comes a time when the cup of endurance runs over and men are no longer willing to be plunged into an abyss of injustice where they experience the bleakness of corroding despair. I hope, sirs, you can understand our legitimate and unavoidable impatience.

YOU express a great deal of anxiety over our willingness to break laws. This is certainly a legitimate concern. Since we so diligently urge people to obey the Supreme Court's decision of 1954 outlawing segregation in the public schools, it is rather strange and paradoxical to find us consciously breaking laws. One may well ask, "How can you advocate breaking some laws and obeying others?" The answer is found in the fact that there are two types of laws: there are just laws, and there are unjust laws. I would agree with St. Augustine that "An unjust law is no law at all."

Now, what is the difference between the two? How does one determine when a law is just or unjust? A just law is a man-made code that squares with the moral law, or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas, an unjust law is a human law that is not rooted in eternal and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority. To use the words of Martin Buber, the great Jewish philosopher, segregation substitutes an "I - it" relationship for the "I - thou" relationship and ends up relegating persons to the status of things. So segregation is not only politically, economically, and sociologically unsound, but it is morally wrong and sinful. Paul Tillich has said that sin is separation. Isn't segregation an existential expression of man's tragic separation, an expression of his awful estrangement, his terrible sinfulness? So I can urge men to obey the 1954 decision of the Supreme Court because it is morally right, and I can urge them to disobey segregation ordinances because they are morally wrong.

Let us turn to a more concrete example of just and unjust laws. An unjust law is a code that a majority inflicts on a minority that is not binding on itself. This is difference made legal. On the other hand, a just law is a code that a majority compels a minority to follow, and that it is willing to follow itself. This is sameness made legal.

Let me give another explanation. An unjust law is a code inflicted upon a minority which that minority had no part in enacting or creating because it did not have the unhampered right to vote. Who can say that the legislature of Alabama which set up the segregation laws was democratically elected? Throughout the state of Alabama all types of conniving methods are used to prevent Negroes from becoming registered voters, and there are some counties without a single Negro registered to vote, despite the fact that the Negroes constitute a majority of the population. Can any law set up in such a state be considered democratically structured?

These are just a few examples of unjust and just laws. There are some instances when a law is just on its face and unjust in its application. For instance, I was arrested Friday on a charge of parading without a permit. Now, there is nothing wrong with an ordinance which requires a permit for a parade, but when the ordinance is used to preserve segregation and to deny citizens the First Amendment privilege of peaceful assembly and peaceful protest, then it becomes unjust.

Of course, there is nothing new about this kind of civil disobedience. It was seen sublimely in the refusal of Shadrach, Meshach, and Abednego to obey the laws of Nebuchadnezzar because a higher moral law was involved. It was practiced superbly by the early Christians, who were willing to face hungry lions and the excruciating pain of chopping blocks before submitting to certain unjust laws of the Roman Empire. To a degree, academic freedom is a reality today because Socrates practiced civil disobedience.

We can never forget that everything Hitler did in Germany was "legal" and everything the Hungarian freedom fighters did in Hungary was "illegal." It was "illegal" to aid and comfort a Jew in Hitler's Germany. But I am sure that if I had lived in Germany during that time, I would have aided and comforted my Jewish brothers even though it was illegal. If I lived in a Communist country today where certain principles dear to the Christian faith are suppressed, I believe I would openly advocate disobeying these anti-religious laws.

I MUST make two honest confessions to you, my Christian and Jewish brothers. First, I must confess that over the last few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negro's great stumbling block in the stride toward freedom is not the White Citizens Councillor or the Ku Klux Klanner but the white moderate who is more devoted to order than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says, "I agree with you in the goal you seek, but I can't agree with your methods of direct action"; who paternalistically feels that he can set the timetable for another man's freedom; who lives by the myth of time; and who constantly advises the Negro to wait until a "more convenient season." Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection.

In your statement you asserted that our actions, even though peaceful, must be condemned because they precipitate violence. But can this assertion be logically made? Isn't this like condemning the robbed man because his possession of money precipitated the evil act of robbery? Isn't this like condemning Socrates because his unswerving commitment to truth and his philosophical delvings precipitated the misguided popular mind to make him drink the hemlock? Isn't this like condemning Jesus because His unique God-consciousness and never-ceasing devotion to His will precipitated the evil act of crucifixion? We must come to see, as federal courts have consistently affirmed, that it is immoral to urge an individual to withdraw his efforts to gain his basic constitutional rights because the quest precipitates violence. Society must protect the robbed and punish the robber.

I had also hoped that the white moderate would reject the myth of time. I received a letter this morning from a white brother in Texas which said, "All Christians know that the colored people will receive equal rights eventually, but is it possible that you are in too great of a religious hurry? It has taken Christianity almost 2000 years to accomplish what it has. The teachings of Christ take time to come to earth." All that is said here grows out of a tragic misconception of time. It is the strangely irrational notion that there is something in the very flow of time that will inevitably cure all ills. Actually, time is neutral. It can be used either destructively or constructively. I am coming to feel that the people of ill will have used time much more effectively than the people of good will. We will have to repent in this generation not merely for the vitriolic words and actions of the bad people but for the appalling silence of the good people. We must come to see that human progress never rolls in on wheels of inevitability. It comes through the tireless efforts and persistent work of men willing to be coworkers with God, and without this hard work time itself becomes an ally of the forces of social stagnation.

YOU spoke of our activity in Birmingham as extreme. At first I was rather disappointed that fellow clergymen would see my nonviolent efforts as those of an extremist. I started thinking about the fact that I stand in the middle of two opposing forces in the Negro community. One is a force of complacency made up of Negroes who, as a result of long years of oppression, have been so completely drained of self-respect and a sense of "somebodyness" that they have adjusted to segregation, and, on the other hand, of a few Negroes in the middle class who, because of a degree of academic and economic security and because at points they profit by segregation, have unconsciously become insensitive to the problems of the masses. The other force is one of bitterness and hatred and comes perilously close to advocating violence. It is expressed in the various black nationalist groups that are springing up over the nation, the largest and best known being Elijah Muhammad's Muslim movement. This movement is nourished by the contemporary frustration over the continued existence of racial discrimination. It is made up of people who have lost faith in America, who have absolutely repudiated Christianity, and who have concluded that the white man is an incurable devil. I have tried to stand between these two forces, saying that we need not follow the do-nothingism of the complacent or the hatred and despair of the black nationalist. There is a more excellent way, of love and nonviolent protest. I'm grateful to God that, through the Negro church, the dimension of nonviolence entered our struggle. If this philosophy had not emerged, I am convinced that by now many streets of the South would be flowing with floods of blood. And I am further convinced that if our white brothers dismiss as "rabble-rousers" and "outside agitators" those of us who are working through the channels of nonviolent direct action and refuse to support our nonviolent efforts, millions of Negroes, out of frustration and despair, will seek solace and security in black nationalist ideologies, a development that will lead inevitably to a frightening racial nightmare.

Oppressed people cannot remain oppressed forever. The urge for freedom will eventually come. This is what has happened to the American Negro. Something within has reminded him of his birthright of freedom; something without has reminded him that he can gain it. Consciously and unconsciously, he has been swept in by what the Germans call the Zeitgeist, and with his black brothers of Africa and his brown and yellow brothers of Asia, South America, and the Caribbean, he is moving with a sense of cosmic urgency toward the promised land of racial justice. Recognizing this vital urge that has engulfed the Negro community, one should readily understand public demonstrations. The Negro has many pent-up resentments and latent frustrations. He has to get them out. So let him march sometime; let him have his prayer pilgrimages to the city hall; understand why he must have sitins and freedom rides. If his repressed emotions do not come out in these nonviolent ways, they will come out in ominous expressions of violence. This is not a threat; it is a fact of history. So I have not said to my people, "Get rid of your discontent." But I have tried to say that this normal and healthy discontent can be channeled through the creative outlet of nonviolent direct action. Now this approach is being dismissed as extremist. I must admit that I was initially disappointed in being so categorized.

But as I continued to think about the matter, I gradually gained a bit of satisfaction from being considered an extremist. Was not Jesus an extremist in love? -- "Love your enemies, bless them that curse you, pray for them that despitefully use you." Was not Amos an extremist for justice? -- "Let justice roll down like waters and righteousness like a mighty stream." Was not Paul an extremist for the gospel of Jesus Christ? -- "I bear in my body the marks of the Lord Jesus." Was not Martin Luther an extremist? -- "Here I stand; I can do no other so help me God." Was not John Bunyan an extremist? -- "I will stay in jail to the end of my days before I make a mockery of my conscience." Was not Abraham Lincoln an extremist? -- "This nation cannot survive half slave and half free." Was not Thomas Jefferson an extremist? -- "We hold these truths to be self-evident, that all men are created equal." So the question is not whether we will be extremist, but what kind of extremists we will be. Will we be extremists for hate, or will we be extremists for love? Will we be extremists for the preservation of injustice, or will we be extremists for the cause of justice?

I had hoped that the white moderate would see this. Maybe I was too optimistic. Maybe I expected too much. I guess I should have realized that few members of a race that has oppressed another race can understand or appreciate the deep groans and passionate yearnings of those that have been oppressed, and still fewer have the vision to see that injustice must be rooted out by strong, persistent, and determined action. I am thankful, however, that some of our white brothers have grasped the meaning of this social revolution and committed themselves to it. They are still all too small in quantity, but they are big in quality. Some, like Ralph McGill, Lillian Smith, Harry Golden, and James Dabbs, have written about our struggle in eloquent, prophetic, and understanding terms. Others have marched with us down nameless streets of the South. They sat in with us at lunch counters and rode in with us on the freedom rides. They have languished in filthy roach-infested jails, suffering the abuse and brutality of angry policemen who see them as "dirty nigger lovers." They, unlike many of their moderate brothers, have recognized the urgency of the moment and sensed the need for powerful "action" antidotes to combat the disease of segregation.

LET me rush on to mention my other disappointment. I have been disappointed with the white church and its leadership. Of course, there are some notable exceptions. I am not unmindful of the fact that each of you has taken some significant stands on this issue. I commend you, Reverend Stallings, for your Christian stand this past Sunday in welcoming Negroes to your Baptist Church worship service on a nonsegregated basis. I commend the Catholic leaders of this state for integrating Springhill College several years ago.

But despite these notable exceptions, I must honestly reiterate that I have been disappointed with the church. I do not say that as one of those negative critics who can always find something wrong with the church. I say it as a minister of the gospel who loves the church, who was nurtured in its bosom, who has been sustained by its Spiritual blessings, and who will remain true to it as long as the cord of life shall lengthen.

I had the strange feeling when I was suddenly catapulted into the leadership of the bus protest in Montgomery several years ago that we would have the support of the white church. I felt that the white ministers, priests, and rabbis of the South would be some of our strongest allies. Instead, some few have been outright opponents, refusing to understand the freedom movement and misrepresenting its leaders; all too many others have been more cautious than courageous and have remained silent behind the anesthetizing security of stained-glass windows.

In spite of my shattered dreams of the past, I came to Birmingham with the hope that the white religious leadership of this community would see the justice of our cause and with deep moral concern serve as the channel through which our just grievances could get to the power structure. I had hoped that each of you would understand. But again I have been disappointed.

I have heard numerous religious leaders of the South call upon their worshipers to comply with a desegregation decision because it is the law, but I have longed to hear white ministers say, follow this decree because integration is morally right and the Negro is your brother. In the midst of blatant injustices inflicted upon the Negro, I have watched white churches stand on the sidelines and merely mouth pious irrelevancies and sanctimonious trivialities. In the midst of a mighty struggle to rid our nation of racial and economic injustice, I have heard so many ministers say, "Those are social issues which the gospel has nothing to do with," and I have watched so many churches commit themselves to a completely otherworldly religion which made a strange distinction between bodies and souls, the sacred and the secular.

There was a time when the church was very powerful. It was during that period that the early Christians rejoiced when they were deemed worthy to suffer for what they believed. In those days the church was not merely a thermometer that recorded the ideas and principles of popular opinion; it was the thermostat that transformed the mores of society. Wherever the early Christians entered a town the power structure got disturbed and immediately sought to convict them for being "disturbers of the peace" and "outside agitators." But they went on with the conviction that they were "a colony of heaven" and had to obey God rather than man. They were small in number but big in commitment. They were too God-intoxicated to be "astronomically intimidated." They brought an end to such ancient evils as infanticide and gladiatorial contest.

Things are different now. The contemporary church is so often a weak, ineffectual voice with an uncertain sound. It is so often the arch supporter of the status quo. Far from being disturbed by the presence of the church, the power structure of the average community is consoled by the church's often vocal sanction of things as they are.

But the judgment of God is upon the church as never before. If the church of today does not recapture the sacrificial spirit of the early church, it will lose its authentic ring, forfeit the loyalty of millions, and be dismissed as an irrelevant social club with no meaning for the twentieth century. I meet young people every day whose disappointment with the church has risen to outright disgust.

I hope the church as a whole will meet the challenge of this decisive hour. But even if the church does not come to the aid of justice, I have no despair about the future. I have no fear about the outcome of our struggle in Birmingham, even if our motives are presently misunderstood. We will reach the goal of freedom in Birmingham and all over the nation, because the goal of America is freedom. Abused and scorned though we may be, our destiny is tied up with the destiny of America. Before the Pilgrims landed at Plymouth, we were here. Before the pen of Jefferson scratched across the pages of history the majestic word of the Declaration of Independence, we were here. For more than two centuries our foreparents labored here without wages; they made cotton king; and they built the homes of their masters in the midst of brutal injustice and shameful humiliation -- and yet out of a bottomless vitality our people continue to thrive and develop. If the inexpressible cruelties of slavery could not stop us, the opposition we now face will surely fail. We will win our freedom because the sacred heritage of our nation and the eternal will of God are embodied in our echoing demands.

I must close now. But before closing I am impelled to mention one other point in your statement that troubled me profoundly. You warmly commended the Birmingham police force for keeping "order" and "preventing violence." I don't believe you would have so warmly commended the police force if you had seen its angry violent dogs literally biting six unarmed, nonviolent Negroes. I don't believe you would so quickly commend the policemen if you would observe their ugly and inhuman treatment of Negroes here in the city jail; if you would watch them push and curse old Negro women and young Negro girls; if you would see them slap and kick old Negro men and young boys, if you would observe them, as they did on two occasions, refusing to give us food because we wanted to sing our grace together. I'm sorry that I can't join you in your praise for the police department

It is true that they have been rather disciplined in their public handling of the demonstrators. In this sense they have been publicly "nonviolent." But for what purpose? To preserve the evil system of segregation. Over the last few years I have consistently preached that nonviolence demands that the means we use must be as pure as the ends we seek. So I have tried to make it clear that it is wrong to use immoral means to attain moral ends. But now I must affirm that it is just as wrong, or even more, to use moral means to preserve immoral ends.

I wish you had commended the Negro demonstrators of Birmingham for their sublime courage, their willingness to suffer, and their amazing discipline in the midst of the most inhuman provocation. One day the South will recognize its real heroes. They will be the James Merediths, courageously and with a majestic sense of purpose facing jeering and hostile mobs and the agonizing loneliness that characterizes the life of the pioneer. They will be old, oppressed, battered Negro women, symbolized in a seventy-two-year-old woman of Montgomery, Alabama, who rose up with a sense of dignity and with her people decided not to ride the segregated buses, and responded to one who inquired about her tiredness with ungrammatical profundity, "My feets is tired, but my soul is rested." They will be young high school and college students, young ministers of the gospel and a host of their elders courageously and nonviolently sitting in at lunch counters and willingly going to jail for conscience's sake. One day the South will know that when these disinherited children of God sat down at lunch counters they were in reality standing up for the best in the American dream and the most sacred values in our Judeo-Christian heritage.

Never before have I written a letter this long -- or should I say a book? I'm afraid that it is much too long to take your precious time. I can assure you that it would have been much shorter if I had been writing from a comfortable desk, but what else is there to do when you are alone for days in the dull monotony of a narrow jail cell other than write long letters, think strange thoughts, and pray long prayers? If I have said anything in this letter that is an understatement of the truth and is indicative of an unreasonable impatience, I beg you to forgive me. If I have said anything in this letter that is an overstatement of the truth and is indicative of my having a patience that makes me patient with anything less than brotherhood, I beg God to forgive me.

*Yours for the cause of Peace and Brotherhood*,

MARTIN LUTHER KING, JR.

Letter from Birmingham Jail

Martin Luther King

April 16, 1963

Abridged

My Dear Fellow Clergymen,

While confined here in the Birmingham City Jail, I came across your recent statement calling our present activities “unwise and untimely.” Seldom, if ever, do I pause to answer criticism of my work and ideas … But since I feel that you are men of genuine good will and your criticisms are sincerely set forth, I would like to answer your statement in what I hope will be patient and reasonable terms.

I think I should give the reason for my being in Birmingham, since you have been influenced by the argument of “outsiders coming in.” I have the honor of serving as president of the Southern Christian Leadership Conference, an organization operating in every Southern state with headquarters in Atlanta, Georgia. We have some 85 affiliate organizations all across the South … Several months ago our local affiliate here in Birmingham invited us to be on call to engage in a nonviolent direct action program if such were deemed necessary. We readily consented…

But more basically, I am in Birmingham because injustice is here. Just as the prophets of the eighth century B.C. left their villages and carried their “thus saith the Lord” far beyond the boundaries of their home towns, and just as the Apostle Paul left his village of Tarsus and carried the gospel of Jesus Christ to the far corners of the Greco-Roman world, so am I. compelled to carry the gospel of freedom beyond my own home town. Like Paul, I must constantly respond to the Macedonian call for aid.

Moreover, I am cognizant of the interrelatedness of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly. Never again can we afford to live with the narrow, provincial “outside agitator” idea. Anyone who lives inside the United States can never be considered an outsider anywhere within its bounds…

In any nonviolent campaign there are four basic steps: 1) collection of the facts to determine whether injustices are alive; 2) negotiation; 3) self-purification; and 4) direct action. We have gone through all of these steps in Birmingham … Birmingham is probably the most thoroughly segregated city in the United States. Its ugly record of police brutality is known in every section of the country. Its unjust treatment of Negroes in the courts is a notorious reality. There have been more unsolved bombings of Negro homes and churches in Birmingham than in any city in this nation. These are the hard, brutal, and unbelievable facts. On the basis of these conditions Negro leaders sought to negotiate with the city fathers. But the political leaders consistently refused to engage in good faith negotiation.

Then came the opportunity last September to talk with some of the leaders of the economic community. In these negotiating sessions certain promises were made by the merchants—such as the promise to remove the humiliating racial signs from the stores. On the basis of these promises Reverend Shuttlesworth and the leaders of the Alabama Christian Movement for Human Rights agreed to call a moratorium on any type of demonstrations. As the weeks and months unfolded we realized that we were the victims of a broken promise. The signs remained. As in so many experiences in the past, we were confronted with blasted hopes, and the dark shadow of a deep disappointment settled upon us. So we had no alternative except that of preparing for direct action, whereby we would present our very bodies as a means of laying our case before the conscience of the local and national community. We were not unmindful of the difficulties involved. So we decided to go through the process of self-purification. We started having workshops on nonviolence and repeatedly asked ourselves the questions, “are you able to accept the blows without retaliating?” “Are you able to endure the ordeals of jail?” …

You may well ask, “Why direct action? Why sit-ins, marches, etc.? Isn’t negotiation a better path?” You are exactly right in your call for negotiation. Indeed, this is the purpose of direct action. Nonviolent direct action seeks to create such a crisis and establish such creative tension that a community that has constantly refused to negotiate is forced to confront the issue. … Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half-truths to the unfettered realm of creative analysis and objective appraisal, we must we see the need for nonviolent gadflies to create the kind of tension in society that will help men rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood. …

My friends, I must say to you that we have not made a single gain in civil rights without legal and nonviolent pressure. History is the long and tragic story of the fact that privileged groups seldom give up their privileges voluntarily. Individuals may see the moral light and give up their unjust posture; but as Reinhold Niebuhr has reminded us, groups are more immoral than individuals.

We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed. Frankly I have never yet engaged in a direct action movement that was “well timed,” according to the timetable of those who have not suffered unduly from the disease of segregation. For years now I have heard the word “Wait!” It rings in the ear of every Negro with a piercing familiarity. This “wait” has almost always meant “never.” It has been a tranquilizing Thalidomide, relieving the emotional stress for a moment, only to give birth to an illformed infant of frustration. We must come to see with the distinguished jurist of yesterday that “justice too long delayed is justice denied.” We have waited for more than 340 years for our constitutional and God-given rights. The nations of Asia and Africa are moving with jetlike speed toward the goal of political independence, and we still creep at horse and buggy pace toward the gaining of a cup of coffee at a lunch counter.

Perhaps it is easy for those who have never felt the stinging darts of segregation to say wait. But when you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate-filled policemen curse, kick, brutalize, and even kill your black brothers and sisters with impunity; when you see the vast majority of your 20 million 3 Negro brothers smothering in an airtight cage of poverty in the midst of an affluent society; when you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six-year-old daughter why she can’t go to the public amusement park that has just been advertised on television, and see the tears welling up in her little eyes when she is told that Funtown is closed to colored children, and see the depressing clouds of inferiority begin to form in her little mental sky, and see her begin to distort her little personality by unconsciously developing a bitterness toward white people; when you have to concoct an answer for a five-year-old son who is asking in agonizing pathos: “Daddy, why do white people treat colored people so mean?” when you take a cross country drive and find it necessary to sleep night after night in the uncomfortable corners of your automobile because no motel will accept you; when you are humiliated day in and day out by nagging signs reading “white” men and “colored” when your first name becomes “nigger” and your middle name becomes “boy” (however old you are) and your last name becomes “John,” and when your wife and mother are never given the respected title of “Mrs.” when you are harried by day and haunted by night by the fact that you are a Negro, living constantly at tip-toe stance, never quite knowing what to expect next, and plagued with inner fears and outer resentments; when you are forever fighting a degenerating sense of “nobodiness”—then you will understand why we find it difficult to wait. There comes a time when the cup of endurance runs over, and men are no longer willing to be plunged into an abyss of injustice where they experience the bleakness of corroding despair. I hope, sirs, you can understand our legitimate and unavoidable impatience.

You express a great deal of anxiety over our willingness to break laws. This is certainly a legitimate concern. Since we so diligently urge people to obey the Supreme Court’s decision of 1954 outlawing segregation in the public schools, at first glance it may seem rather paradoxical for us consciously to break laws. One may won ask: “How can you advocate breaking some laws and obeying others?” The answer lies in the fact that there fire two types of laws: just and unjust. I would be the Brat to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that “an unjust law is no law at all.”

Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distort the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority. Segregation, to use the terminology of the Jewish philosopher Martin Buber, substitutes an “I-it” relationship for an “I-thou” relationship and ends up relegating persons to the status of things. Hence segregation is not only politically, economically and sociologically unsound, it is morally wrong and awful…

I hope you are able to ace the distinction I am trying to point out. In no sense do I advocate evading or defying the law, as would the rabid segregationist. That would lead to anarchy. One who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty. I submit that 4 an individual who breaks a law that conscience tells him is unjust and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law.

Of course, there is nothing new about this kind of civil disobedience. It was evidenced sublimely in the refusal of Shadrach, Meshach and Abednego to obey the laws of Nebuchadnezzar, on the ground that a higher moral law was at stake. It was practiced superbly by the early Christians, who were willing to face hungry lions and the excruciating pain of chopping blocks rather than submit to certain unjust laws of the Roman Empire. To a degree, academic freedom is a reality today because Socrates practiced civil disobedience. In our own nation, the Boston Tea Party represented a massive act of civil disobedience.

We should never forget that everything Adolf Hitler did in Germany was “legal” and everything the Hungarian freedom fighters did in Hungary was “illegal.” It was “illegal” to aid and comfort a Jew in Hitler’s Germany. Even so, I am sure that, had I lived in German at the time, I would have aided and comforted my Jewish brothers. If today I lived in a Communist country where certain principles dear to the Christian faith are suppressed, I would openly advocate disobeying that country’s antireligious laws.

I must make two honest confessions to you, my Christian and Jewish brothers. First, I must confess that over the last few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negro’s great stumbling block in the stride toward freedom is not the White citizens’ “Councilor” or the Ku Klux Klanner, but the white moderate who is more devoted to “order” than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says “I agree with you in the goal you seek, but I can’t agree with your methods of direst action” who paternistically feels that he can set the timetable for another man’s freedom; who lives by the myth of time and who constantly advises the Negro to wait until a “more convenient season.” Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection. …

You spoke of our activity in Birmingham as extreme. At first I was rather disappointed that fellow clergymen would see my nonviolent efforts as those of an extremist. I started thinking about the fact that I stand in the middle of two opposing forces in the Negro community. One is a force of complacency made up of Negroes who, as a result of long years of oppression, have been so completely drained of self-respect and a sense of “somebodiness” that they have adjusted to segregation, and a few Negroes in the middle class who, because of a degree of academic and economic security, and at points they profit from segregation, have unconsciously become insensitive to the problems of the masses. The other force is one of bitterness and hatred and comes perilously close to advocating violence. It is expressed in the various black nationalist groups that are springing up over the nation, the largest and best known being Elijah Muhammad’s Muslim movement. This movement is nourished by the contemporary frustration over the continued existence of racial discrimination. It is made up of people who have lost faith in America, who have absolutely repudiated Christianity, and who have concluded that the white man in an incurable “devil.” …

The Negro has many pent-up resentments and latent frustrations. He has to get them out. So let him march sometime; let him have his prayer pilgrimages to the city hall; understand why he must have sit-ins and freedom rides. If his repressed emotions do not come out in these nonviolent ways, they will come out in ominous expressions of violence. This is not a threat; it is a fact of history. So I have not said to my people, “Get rid of your discontent.” But I have tried to say that this normal and healthy discontent can be channeled through the creative outlet of nonviolent direct action. …

In spite of my shattered dreams of the past, I came to Birmingham with the hope that the white religious leadership in the community would see the justice of our cause and, with deep moral concern, serve as the channel through which our just grievances could get to the power structure. I had hoped that each of you would understand. But again I have been disappointed.

I have heard numerous religious leaders of the South call upon their worshippers to comply with a desegregation decision because it is the law, but I have longed to hear white ministers declare: “Follow this decree because integration is morally right and the Negro is your brother.” In the midst of blatant injustices inflicted upon the Negro, I have watched white churchmen stand on the sideline and merely mouth pious irrelevancies and sanctimonious trivialities. In the midst of a mighty struggle to rid our nation of racial and economic injustice, I have heard so many ministers say, “Those are social issues with which the Gospel has no real concern,” and I have watched so many churches commit themselves to a completely other-worldly religion which made a strange distinction between body and soul, the sacred and the secular. …

I hope this letter finds you strong in the faith. I also hope that circumstances will soon make it possible for me to meet each of you, not as an integrationist or a civil rights leader, but as a fellow clergyman and a Christian brother. Let us all hope that the dark clouds of racial prejudice will soon pass away and the deep fog of misunderstanding will be lifted from our fear-drenched communities and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all of their scintillating beauty.

*Yours for the cause of Peace and Brotherhood,*

M. L. King, Jr.

**The Federalist No. 1**

**October 27, 1787**

To the People of the State of New York.

AFTER an unequivocal experience of the inefficacy of the subsisting Federal Government, you are called upon to deliberate on a new Constitution for the United States of America. The subject speaks its own importance; comprehending in its consequences, nothing less than the existence of the UNION, the safety and welfare of the parts of which it is composed, the fate of an empire, in many respects, the most interesting the world. It has been frequently remarked, that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not, of establishing good government from ref[l]ection and choice, or whether they are forever destined to depend, for their political constitutions, on accident and force. If there be any truth in the remark, the crisis, at which we are arrived, may with propriety be regarded as the æra in which that decision is to be made; and a wrong election of the part we shall act, may, in this view, deserve to be considered as the general misfortune of mankind.

This idea will add the inducements of philanthropy to those of patriotism to heighten the sollicitude, which all considerate and good men must feel for the event. Happy will it be if our choice should be directed by a judicous estimate of our true interests, unperplexed and unbiassed by considerations not connected with the public good. But this is a thing more ardently to be wished, than seriously to be expected. The plan offered to our deliberations, affects too many particular interests, innovates upon too many local institutions, not to involve in its discussion a variety of objects foreign to its merits, and of views, passions and prejudices little favourable to the discovery of truth.

Among the most formidable of the obstacles which the new Constitution will have to encounter, may readily be distinguished the obvious interest of a certain class of men in every State to resist all changes which may hazard a diminution of the power, emolument and consequence of the offices they hold under the State-establishments—and the perverted ambition of another class of men, who will either hope to aggrandise themselves by the confusions of their country, or will flatter themselves with fairer prospects of elevation from the subdivision of the empire into several partial confederacies, than from its union under one government.

It is not, however, my design to dwell upon observations of this nature. I am well aware that it would be disingenuous to resolve indiscriminately the opposition of any set of men (merely because their situations might subject them to suspicion) into interested or ambitious views: Candour will oblige us to admit, that even such men may be actuated by upright intentions; and it cannot be doubted, that much of the opposition which has made its appearance, or may hereafter make its appearance, will spring from sources, blameless at least, if not respectable, the honest errors of minds led astray by preconceived jealousies and fears. So numerous indeed and so powerful are the causes, which serve to give a false bias to the judgment, that we upon many occasions, see wise and good men on the wrong as well as on the right side of questions, of the first magnitude to society. This circumstance, if duly attended to, would furnish a lesson of moderation of those, who are ever so much persuaded of their being in the right, in any controversy. And a further reason for caution, in this respect, might be drawn from the reflection, that we are not always sure, that those who advocate the truth are influenced by purer principles than their antagonists. Ambition, avarice, personal animosity, party opposition, and many other motives, not more laudable than these, are apt to operate as well upon those who support as upon those who oppose the right side of a question. Were there not even these inducements to moderation, nothing could be more illjudged than that intolerant spirit, which has, at all times, characterised political parties. For, in politics as in religion, it is equally absurd to aim at making proselytes by fire and sword. Heresies in either can rarely be cured by persecution.

And yet however just these sentiments will be allowed to be, we have already sufficient indications, that it will happen in this as in all former cases of great national discussion. A torrent of angry and malignant passions will be let loose. To judge from the conduct of the opposite parties, we shall be led to conclude, that they will mutually hope to evince the justness of their opinions, and to increase the number of their converts by the loudness of their declamations, and by the bitterness of their invectives. An enlightened zeal for the energy and efficiency of government will be stigmatised, as the off-spring of a temper fond of despotic power and hostile to the principles of liberty. An overscrupulous jealousy of danger to the rights of the people, which is more commonly the fault of the head than of the heart, will be represented as mere pretence and artifice; the bait for popularity at the expence of public good. It will be forgotten, on the one hand, that jealousy is the usual concomitant of violent love, and that the noble enthusiasm of liberty is too apt to be infected with a spirit of narrow and illiberal distrust. On the other hand, it will be equally forgotten, that the vigour of government is essential to the security of liberty; that, in the contemplation of a sound and well informed judgment, their interest can never be separated; and that a dangerous ambition more often lurks behind the specious mask of zeal for the rights of the people, than under the forbidding appearance of zeal for the firmness and efficiency of government. History will teach us, that the former has been found a much more certain road to the introduction of despotism, than the latter, and that of those men who have overturned the liberties of republics the greatest number have begun their carreer, by paying an obsequious court to the people, commencing Demagogues and ending Tyrants.

In the course of the preceeding observations I have had an eye, my Fellow Citizens, to putting you upon your guard against all attempts, from whatever quarter, to influence your decision in a matter of the utmost moment to your welfare by any impressions other than those which may result from the evidence of truth. You will, no doubt, at the same time, have collected from the general scope of them that they proceed from a source not unfriendly to the new Constitution. Yes, my Countrymen, I own to you, that, after having given it an attentive consideration, I am clearly of opinion, it is your interest to adopt it. I am convinced, that this is the safest course for your liberty, your dignity, and your happiness. I effect not reserves, which I do not feel. I will not amuse you with an appearance of deliberation, when I have decided. I frankly acknowledge to you my convictions, and I will freely lay before you the reasons on which they are founded. The consciousness of good intentions disdains ambiguity. I shall not however multiply professions on this head. My motives must remain in the depository of my own breast: My arguments will be open to all, and may be judged of by all. They shall at least be offered in a spirit, which will not disgrace the cause of truth.

I propose in a series of papers to discuss the following interesting particulars—*The utility of the UNION to your political prosperity—The insufficiency of the present Confederation to preserve that Union—The necessity of a government at least equally energetic with the one proposed to the attainment of this object—The conformity of the proposed constitution to the true principles of republican government—Its analogy to your own state constitution—and lastly, The additional security, which its adoption will afford to the preservation of that species of government, to liberty and to property*.

In the progress of this discussion I shall endeavour to give a satisfactory answer to all the objections which shall have made their appearance that may seem to have any claim to your attention.

It may perhaps be thought superfluous to offer arguments to prove the utility of the UNION, a point, no doubt, deeply engraved on the hearts of the great body of the people in every state, and one, which it may be imagined has no adversaries. But the fact is, that we already hear it whispered in the private circles of those who oppose the new constitution, that the Thirteen States are of too great extent for any general system, and that we must of necessity resort to separate confederacies of distinct portions of the whole.\* This doctrine will, in all probability, be gradually propagated, till it has votaries enough to countenance an open avowal of it. For nothing can be more evident, to those who are able to take an enlarged view of the subject than the alternative of an adoption of the new Constitution, or a dismemberment of the Union. It will therefore be of use to begin by examining the advantages of that Union, the certain evils and the probable dangers, to which every State will be exposed from its dissolution. This shall accordingly constitute the subject of my next address. PUBLIUS.

First Inaugural Address

George Washington

April 30, 1789

*President Washington delivered this first inaugural address at Federal Hall, formerly the City Hall of New York. He took the oath of office on the balcony before a crowd of spectators and then returned inside to the Senate chamber where he delivered this address. When he was finished, he and the members of Congress walked to St. Paul's Church for a service. In the speech, Washington reflected on the magnitude of the honor and the challenge ahead of him. He also sought to define, at this critical moment, the humility and democratic spirit he thought proper for the leader of a republic.*

Fellow-Citizens of the Senate and of the House of Representatives:

Among the vicissitudes incident to life no event could have filled me with greater anxieties than that of which the notification was transmitted by your order, and received on the 14th day of the present month. On the one hand, I was summoned by my Country, whose voice I can never hear but with veneration and love, from a retreat which I had chosen with the fondest predilection, and, in my flattering hopes, with an immutable decision, as the asylum of my declining years--a retreat which was rendered every day more necessary as well as more dear to me by the addition of habit to inclination, and of frequent interruptions in my health to the gradual waste committed on it by time. On the other hand, the magnitude and difficulty of the trust to which the voice of my country called me, being sufficient to awaken in the wisest and most experienced of her citizens a distrustful scrutiny into his qualifications, could not but overwhelm with despondence one who (inheriting inferior endowments from nature and unpracticed in the duties of civil administration) ought to be peculiarly conscious of his own deficiencies. In this conflict of emotions all I dare aver is that it has been my faithful study to collect my duty from a just appreciation of every circumstance by which it might be affected. All I dare hope is that if, in executing this task, I have been too much swayed by a grateful remembrance of former instances, or by an affectionate sensibility to this transcendent proof of the confidence of my fellow-citizens, and have thence too little consulted my incapacity as well as disinclination for the weighty and untried cares before me, my error will be palliated by the motives which mislead me, and its consequences be judged by my country with some share of the partiality in which they originated.

Such being the impressions under which I have, in obedience to the public summons, repaired to the present station, it would be peculiarly improper to omit in this first official act my fervent supplications to that Almighty Being who rules over the universe, who presides in the councils of nations, and whose providential aids can supply every human defect, that His benediction may consecrate to the liberties and happiness of the people of the United States a Government instituted by themselves for these essential purposes, and may enable every instrument employed in its administration to execute with success the functions allotted to his charge. In tendering this homage to the Great Author of every public and private good, I assure myself that it expresses your sentiments not less than my own, nor those of my fellow- citizens at large less than either. No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of men more than those of the United States. Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency; and in the important revolution just accomplished in the system of their united government the tranquil deliberations and voluntary consent of so many distinct communities from which the event has resulted can not be compared with the means by which most governments have been established without some return of pious gratitude, along with an humble anticipation of the future blessings which the past seem to presage. These reflections, arising out of the present crisis, have forced themselves too strongly on my mind to be suppressed. You will join with me, I trust, in thinking that there are none under the influence of which the proceedings of a new and free government can more auspiciously commence.

By the article establishing the executive department it is made the duty of the President "to recommend to your consideration such measures as he shall judge necessary and expedient." The circumstances under which I now meet you will acquit me from entering into that subject further than to refer to the great constitutional charter under which you are assembled, and which, in defining your powers, designates the objects to which your attention is to be given. It will be more consistent with those circumstances, and far more congenial with the feelings which actuate me, to substitute, in place of a recommendation of particular measures, the tribute that is due to the talents, the rectitude, and the patriotism which adorn the characters selected to devise and adopt them. In these honorable qualifications I behold the surest pledges that as on one side no local prejudices or attachments, no separate views nor party animosities, will misdirect the comprehensive and equal eye which ought to watch over this great assemblage of communities and interests, so, on another, that the foundation of our national policy will be laid in the pure and immutable principles of private morality, and the preeminence of free government be exemplified by all the attributes which can win the affections of its citizens and command the respect of the world. I dwell on this prospect with every satisfaction which an ardent love for my country can inspire, since there is no truth more thoroughly established than that there exists in the economy and course of nature an indissoluble union between virtue and happiness; between duty and advantage; between the genuine maxims of an honest and magnanimous policy and the solid rewards of public prosperity and felicity; since we ought to be no less persuaded that the propitious smiles of Heaven can never be expected on a nation that disregards the eternal rules of order and right which Heaven itself has ordained; and since the preservation of the sacred fire of liberty and the destiny of the republican model of government are justly considered, perhaps, as deeply, as finally, staked on the experiment entrusted to the hands of the American people.

Besides the ordinary objects submitted to your care, it will remain with your judgment to decide how far an exercise of the occasional power delegated by the fifth article of the Constitution is rendered expedient at the present juncture by the nature of objections which have been urged against the system, or by the degree of inquietude which has given birth to them. Instead of undertaking particular recommendations on this subject, in which I could be guided by no lights derived from official opportunities, I shall again give way to my entire confidence in your discernment and pursuit of the public good; for I assure myself that whilst you carefully avoid every alteration which might endanger the benefits of an united and effective government, or which ought to await the future lessons of experience, a reverence for the characteristic rights of freemen and a regard for the public harmony will sufficiently influence your deliberations on the question how far the former can be impregnably fortified or the latter be safely and advantageously promoted.

To the foregoing observations I have one to add, which will be most properly addressed to the House of Representatives. It concerns myself, and will therefore be as brief as possible. When I was first honored with a call into the service of my country, then on the eve of an arduous struggle for its liberties, the light in which I contemplated my duty required that I should renounce every pecuniary compensation. From this resolution I have in no instance departed; and being still under the impressions which produced it, I must decline as inapplicable to myself any share in the personal emoluments which may be indispensably included in a permanent provision for the executive department, and must accordingly pray that the pecuniary estimates for the station in which I am placed may during my continuance in it be limited to such actual expenditures as the public good may be thought to require.

Having thus imparted to you my sentiments as they have been awakened by the occasion which brings us together, I shall take my present leave; but not without resorting once more to the benign Parent of the Human Race in humble supplication that, since He has been pleased to favor the American people with opportunities for deliberating in perfect tranquility, and dispositions for deciding with unparalleled unanimity on a form of government for the security of their union and the advancement of their happiness, so His divine blessing may be equally conspicuous in the enlarged views, the temperate consultations, and the wise measures on which the success of this Government must depend.