

Our Job as Judges: AJA Awards Luncheon Address

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I would like to thank you for the opportunity to speak today because I want you to understand how important you are, as judges, to the well-being of our nation.

Sometimes, I am afraid that we overlook the obvious. Without doubt, we are living in the greatest civilization in the history of humankind. Education, art, and health care are flourishing. So are charitable activities. All of these are supported by a free market economy that can only exist within the certainty of law. Goods and services can be bought and sold, money can be exchanged, people can plan for the future with confidence, but only because the rule of law has been so firmly established that we often don't even think of it.

The extent to which we enjoy personal liberties is also at an all-time high. It has been said that a civilization can be judged by the extent of the individual freedom enjoyed by its citizens. No civilization in the history of the earth has protected the individual rights of its people by the rule of law as we have. Again, rights so commonly accepted that we often take them for granted.

It was no mistake when Judge Learned Hand said: "If we are to keep our democracy, there must be one commandment: Thou shalt not ration justice." And it was no mistake when they carved into our nation's Supreme Court building the words: "Justice the Guardian of Liberty."

Certainly, our nation faces problems of every kind, each calling for further progress. But at no time has any civilization done more than ours to advance the quality of life of its people; mostly, as a result of law; mostly, as a result of a responsible judiciary made up of dedicated and independent judges.

But continued advancement depends upon our upholding of the faith and support of the American people in our courts and in our system of law. That, in fact, justice is not merely available, but routine, to each individual, rich or poor, black or white, plaintiff or defendant, prosecutor or accused. It is our job, collectively and individually as judges, and despite all pressures to the contrary, to keep our focus on a system of law that seeks "justice first."

It is, after all, the idea of justice that separates us from all other businesses and occupations. We do not make something you can hold in your hand, that you can wear, or that you can eat. Justice is not a physical reality. Justice is an ideal that humankind has been seeking since the most ancient of times. Daniel Webster said it this way:

Justice . . . is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for . . . security, general happiness and the improvement and progress of our race.

Justice is relatively easy to define in theory. It has been said that justice is a "steady and enduring will to render unto everyone his due." It has also been said that justice is "honesty in action."

In the real world, however, it is difficult to measure the quality of justice. Often that measurement is shaped by the eye of the beholder, relative to his or her particular interest. Confidence by the people that there is justice in fact wavers from time to time and case to case, often with the loser, and sometimes even the winner whose victory wasn't full enough, blaming the judge or the judicial system.

What are we to do with such a complicated problem? What are we to do to preserve the faith of our people in a system that is bound to produce at least one loser for every winner? What are we to do in a system that is sworn to uphold the rights of any individual even against the will of the majority, and to still maintain the trust and confidence of the majority?

Although the problem is complicated, the answer is simple and timeless. As Socrates noted over 2,400 years ago: "Four things belong to a judge: to hear courteously, to answer wisely, to consider soberly, and to decide impartially."

continued on page 4