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**Remarks of J. L. Robertson
Vice Chairman of the Board of Governors
of the
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before the
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of the
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They Labor in Vain

What a pleasure it is to be here today in such charming company. I must confess that I had not fully realized that women were entering the ranks of the banking profession in such numbers, but I am delighted to make this discovery. You will not only help improve the image of the profession, but I am sure that women will bring new ideas, new approaches that will improve the quality of the service that banks provide the public. Certainly in a field that requires shrewd judgment of character, there is room for that well known tool, "women's intuition" - which I suspect is in many cases a modest cover-up for keener perception than men possess.

I am reminded of an incident that occurred many years ago in my home town, Broken Bow, Nebraska. A widow, who was in dire straits, was trying to get a loan from a local bank to save her farm. Her story was a sad one, but the hardhearted banker was unmoved by all her pleadings. He insisted that on the basis of the figures she had shown him, there was simply nothing he could do for her. Finally, she broke down and cried. The banker, embarrassed by this turn of events, wavered a bit. He said: "Mrs. McLean, I really should not do this, but I am going to make you a proposition. Several years ago I lost one of my eyes, and I had an artificial eye made by the finest expert in the world. If you can tell which of my eyes is real and which is glass, I will approve the loan." The widow looked intently into his eyes and then said firmly: "The right eye is artificial." The banker gasped, "By George, you're right! How could you tell?" "It was just woman's intuition," she said. "Come, come," the banker replied, "before I make the loan, you must tell me what that intuition was based on." "Well," she said, "if you must know, I thought I could detect in that right eye a tiny gleam of the milk of human kindness."

An added pleasure which I derived from your invitation to speak here today is attributable to the fact that the only limitation it placed on my subject was that it be something of interest to a group such as yours. So when I pondered my possible subjects, I thought about many things:

(1) the need for bankers to reappraise the wisdom of pushing so far in borrowing short and lending long; (2) the iniquitous use of brokered funds in linked deposit-loan transactions which have recently caused bank failures; (3) the "give-away" race in which many financial institutions are seeking deposits by becoming gadget distributors, to the dismay of many bankers who think they should not participate but feel that in fairness to their shareholders they cannot stay out of the race; (4) the proposed one-bank holding company legislation, messed up as it is; and (5) the state of the economy and the role being played by monetary policy.

Somehow each of those subjects seemed unsatisfactory for this meeting. The market and the consequent liquidity squeeze was preaching my sermon with respect to "borrowing short and lending long" far better than I could, especially among those banks that are in the greatest need of such a sermon. The brokered funds and giveaways had been made the subjects of proposed legislation, which will focus attention where it belongs. With respect to the holding company problem - where my views are fairly well known - the hassling and lobbying going on in and out of Congress was being well covered by the press, and at this stage about all one can do is to sit back and watch to see what kind of legislation, if any, finally emerges. As for the state of the economy and the role of monetary policy, it seemed to me that more than enough voices were being heard - and you will likely hear more during this meeting. Consequently, I decided to bypass all of those subjects and change my objective.

I would like to approach that objective through the topic of physical attacks on banks, and how such attacks might be prevented. Indeed, it seems to me that this ought to be of especial interest to women bankers, since women are not only more observant than men, but they are also tidier. I am sure that they do not like to see the decor of their banks spoiled by fire bombs - especially if they happen to be inside at the time.

This is a serious subject, and I am sure it is one that the banking industry has thought about a great

deal. I do not pretend to know all the answers. I do not even know all of the suggestions that have been made. But I would like to offer to you some of my own thoughts on the subject.

Armed robbery is one serious form of attack on banking institutions. Bank robberies are far more common in the United States than in any country in the world. I recall a discussion of this matter with some visitors from Taiwan, and someone asked one of the Chinese if they had bank robberies in his country. He said they did not, and he was asked what the reason for this might be. "Why," he said, "robbing banks is against the law!"

That struck us as funny at the time, but there is food for thought in that reply. What our Chinese visitor was telling us was that he came from a culture where bank robberies were not only banned legally but were not tolerated socially. This is what being against the law ought to mean. When a society does not tolerate a certain form of conduct, it takes whatever measures are necessary to see that that form of conduct is rarely, if ever, seen. There was a time, for example, when American society did not tolerate the use of drugs save under the rare and regulated exception of prescription by a physician. Virtually every member of the society agreed that this was an evil that should not be tolerated. Drug users were severely punished, when caught. But their numbers were few, not because the punishment was severe, but because no one recommended, condoned, or defended the use of narcotics.

Today we have a serious narcotics problem in this country. The punishments have not changed. The diligence of the law enforcement agencies did not suddenly diminish. What did change, slowly but surely, was the extent to which society became tolerant of the use of narcotics. The punishment for actual use remained the same, but we began to see toleration of the advocacy of marijuana, LSD, and harder drugs in publicly expressed attitudes toward drug use. The notion that the use of narcotics was not bad, but perhaps even good, began to appear in various mediums of communication - newspapers, magazines,

books, motion pictures, and popular songs. The advocates of drug use acquired sufficient respectability that they were able to spread their message with relative ease and in many cases to their own substantial pecuniary profit. Although the laws punishing drug use remained unchanged, society permitted the spread of ideas which were bound to increase the number of people who used drugs illegally. And even the vocabulary has changed. We no longer speak of drug "use" - now the evil is spoken of as drug "abuse", an extraordinarily luminous semantic shift.

In narcotics control as in any other constraint, the rule of law depends on the maintenance of a climate in which the number of people who violate the law is minuscule. This means that a relatively small proportion of the resources of society has to be devoted to detecting, trying and punishing the lawbreakers. When the number of people who flout any particular law rises to a certain level, an open society that does not wish to enforce the law to the point of terrorism finds it impossible to enforce that law. This is true even though those who defy the law may actually comprise only a small minority of the total population. We learned this lesson in our efforts to enforce prohibition back in the 1920's. Prohibition was supported by a large enough majority of the population that it was possible to make it law through the extremely difficult process of constitutional amendment. However, the minority that opposed the law and refused to obey it was sufficiently large that in the end it was recognized that it was better to repeal the law because it was unenforceable.

This is all highly pertinent to the problem of security that faces the banking and business community today. If we want to diminish the attacks on banks and businesses, whether by armed robbers or by fire bombers, it is not enough to look only to the improvement of security systems and the strict enforcement of the laws now on the books. This approach will help. For example, the measures that banks have adopted in compliance with the Federal Reserve's Regulation "P", and similar regulations of other supervisory agencies, will prove to be of value in combating bank robberies.

But if we really want to stamp out these evils, it seems clear to me from all past experience that we have only one practical course that would be appropriate for our kind of society. We must cease to be tolerant not only of the crimes but of the factors in our society that produce the desire and willingness on the part of a small but excessive number of people to ignore and flout the law. We ought to aim at the creation of a climate where the commission of these crimes is virtually unthinkable, as it indeed is in many civilized countries, including, evidently, Taiwan.

This means that we must reach an understanding about the factors that lead people to commit these crimes of violence. We must understand the causes of the disease in order to deal with it effectively. For many years we were told that crime was the result of poverty and misery. We have tended to operate on the assumption that we could reduce the incidence of crime by increasing our prosperity, reducing unemployment, eliminating slum housing and generally raising incomes. These are all desirable objectives, and I think we have made commendable progress toward their achievement in the post-war period. But the sad fact is that all that we have accomplished in the economic sphere has not reduced the incidence of crime in the United States. On the contrary, crime rates have soared as our economic prosperity has increased. What is particularly ironic is the fact that in recent years when our prosperity has been at its peak, we have experienced not only the highest crime rates in history, but we have seen an increasing amount of violent crime committed by young people coming from the most affluent levels in our society. The phenomenon of bombings in our cities has in many cases been shown to be the work of young people coming from affluent and even wealthy families.

It is high time that we discarded once and for all the idea that crime is rooted in economic conditions. This was impressed upon me not long ago by a young man who wrote to me from Guatemala, where he had been living in an extremely impoverished Indian village. Crime, he said, was

virtually unknown there. Thievery was extremely rare. The people were impoverished, to be sure, but they had a moral code, and that code was firmly implanted in the children so that it was transmitted from one generation to the next. What made this a peaceful, crime-free village was not economic affluence, but the moral character of the people.

If a society permits its young people to be taught, by one means or another, that it is exciting to rob banks and noble to blow them up, no one should be surprised if some of those young people decide to engage in those activities. I know that it is contended that no harm is done by mere advocacy of illegal deeds. There are some very respectable people, including some eminent jurists, who contend that a truly free society must permit the advocacy of anything and everything, no matter how repugnant it may be. The idea is a very noble one, in theory. We are all very much attracted to the idea for two reasons. The first is that our thoughts and the expression of those thoughts should not be subject to the control of anyone else, including the government, or perhaps I should say especially the government. The second is that thoughts have their consequences in the real world and hence the course of the open society is advanced by a free market in ideas. Yet the latter proposition confronts us with a dilemma. Experience and logic both show that human conduct is strongly influenced by suggestion. Our multi-billion dollar advertising industry is based on the idea that people can be induced to buy this or that product, save or spend their money, by reiterated suggestion, by repeated advocacy.

More than two decades ago, one of the wisest men of this century, Judge Learned Hand, in his famous essay on "The Spirit of Liberty", said:

"The hand that rules the press, the radio, the screen and the far-spread magazine, rules the country; whether we like it or not, we must learn to accept it. And yet it is the power of reiterated suggestion and consecrated platitude that at this moment has brought our entire civilization to imminent peril of destruction.

The individual is as helpless against it as the child is helpless against the formulas with which he is indoctrinated. Not only is it possible by these means to shape his tastes, his feelings, his desires and his hopes; but it is possible to convert him into a fanatical zealot, ready to torture and destroy and to suffer mutilation and death for an obscene faith, baseless in fact and morally monstrous."

There is no doubt that advocacy does influence conduct, for good or ill. If it does not, then the banks and all the other big businesses in this country are spending a great deal of money needlessly on advertising. Advocacy of certain conduct can lead men to devote their lives to highly desirable activities. It can also lead some men to engage in conduct that is odious and illegal.

A society that tolerates advocacy of illegal conduct will inevitably be faced with a higher crime rate than a society that clamps down on the advocacy of criminal conduct as well as on the conduct itself. It will be obliged to put a greater amount of its resources into policing the criminals, trying them, and incarcerating them. The cost of this, as we are discovering, is very great not only to society as a whole, but to those individuals who are unfortunately led into the commission of criminal acts. Their lives are almost invariably ruined and wasted.

Hence, we have the seeming choice between two undesirable alternatives. On the one hand, as members of a free society, we want ideas to be generated and circulated without censorship or fear. On the other hand, we must be free of the terrible plague of criminality, which can snuff out not only the rights of freedom and security that civilized men are entitled to enjoy, but even life itself. But that choice is really illusory for - as the late Justice Robert Jackson warned us - the choice is not between liberty and order, but between liberty with order and anarchy without either. And until very recently, virtually all societies have agreed. They have opted for some

restraints on what could be advocated for the sake of preventing odious criminal conduct by that small part of the population that might unhappily prove susceptible to suggestion that they engage in criminal acts.

Abraham Lincoln was one who recognized that this was not only essential for the preservation of the kind of society that most people want, but that it also avoided a glaring injustice. In responding to criticism of the arrest of a famous Copperhead, Clarence Vallandigham, during the Civil War, Lincoln said: "...he who dissuades one man from volunteering or induces one soldier to desert weakens the Union cause as much as he who kills one Union soldier in battle." He went on to say: "Must I shoot a...soldier boy who deserts, while I must not touch a hair of a wily agitator who induces him to desert? ...I think that in such a case, to silence the agitator, and save the boy, is not only constitutional, but, withal, a great mercy." (Collected Works of Abraham Lincoln, Vol. VI, pp. 264, 266-67).

Lincoln recognized the great injustice of doing nothing about those who inspired criminal action by their speech or writings while visiting severe punishment upon those whom they led down the garden path.

Lincoln was devoted to the American Constitution. However, he did not believe that the First Amendment conferred on every American an absolute right to say or publish anything that he wished, even if it were clearly a potential incitement to illegal conduct. This was a view that was supported by our most eminent official interpreters of the Constitution, including Justice Oliver Wendell Holmes, up until fairly recent times. It was Justice Holmes, you will recall, who struggled with this problem and formulated the so-called test of "clear and present danger". This distinguished between advocacy of illegal acts which might clearly involve the danger that it would lead someone to break the law and advocacy that did not appear to involve that risk. Holmes felt that society could safely tolerate the latter, but it had every right, even the duty, to suppress the other.



This seemed to be the obvious resolution of the essentially spurious dilemma. However, a more recent school of jurisprudence has discarded it in favor of the theory, an incredible theory - unsanctioned by history, untenable in logic, and repudiated by experience - that freedom of speech is indeed an absolute, which should under no circumstances be subjected to any restraint. The acceptance of this theory in recent years has opened the way for uninhibited advocacy of criminal conduct in a wide variety of ways. Not only has it become possible in song and drama to suggest the glories of the use of narcotics to impressionable young people, but it has become possible for wily agitators, to use Lincoln's term, to harangue emotional crowds with recommendations that they burn or bomb banks and other institutions.

I was shocked to read a few months ago that a senior official in the Department of Justice had stated that he did not believe that the government could prosecute for a radio or television broadcast advocating blowing up police stations unless the broadcast said which police station and when. He based this on his interpretation of a Supreme Court decision. Yet, to return to the late Justice Jackson, this is the type of logic which reduces the Bill of Rights to a suicide pact.

We should not be surprised to discover that the bombing of banks, police stations, and other buildings has become a frequent occurrence. Nor should we be surprised that in this climate of unlimited advocacy, the use of narcotics has grown to the point where it has been suggested that the City of New York consider itself to be suffering from an epidemic, an epidemic of narcotic use - or to use the current euphemism, narcotic abuse. What were unthinkable crimes two decades ago have become commonplace under this new attitude toward freedom of expression.

We are now told that the proper remedy for the evils that we have caused to be visited upon our society is intensified education. It is said that we must step up our efforts to persuade young people that it is not

in their best interests to ruin their lives with drug addiction or to take up bombing as a hobby. I would certainly agree that education along these lines would be highly desirable. However, I wonder how much sense it really makes to redouble our efforts in this direction when at the same time we do nothing to halt the countereducation which is in progress - the advocacy of these evils by means that seem to impress many of our young people more than do the lectures that they receive in school or at home. The popular music that popularizes drug use is something that even a highly skilled teacher might have difficulty overcoming. A salacious underground newspaper, spiced with titillating pornography, that carries articles on how to make and use bombs to "overthrow the establishment" may be far more exciting to some young minds than Bible lessons.

This approach reminds me a little of the Washingtonian who came home one warm day to find that his wife had turned on the air conditioning but had not turned off the furnace. The thermostat on the air conditioner was set at 70 degrees and the thermostat on the furnace was set at 75 degrees, and the two were battling it out. This is what we are doing with the minds of our young people. Common sense and our long historical and legal tradition tell us that we can and should protect them against the corrupting influence of those vicious elements in society who would lead them down the path to self-destructive criminal conduct. We should do this by applying the reasonable restraints on freedom of expression that were applied with eminently satisfactory results during the first 160 years or so of our Constitution.

I will not pretend that a return to the Constitutional insights of Mr. Justice Holmes will immediately solve the problem of spiraling crime in general and the attacks on our banks in particular. That return, however, affords us the necessary beginning, which is to understand what the problem really is - namely, that crime is essentially a consequence of intellectual and moral forces, not economic ones, and more specifically

it is the fruit of ideas which circulate in society and influence the behavior of a susceptible minority.

From this beginning we must go on to counterattack the evil; and, in my view, obvious ingredients to any such plan of battle must be some restriction on the assertion of those ideas which can be shown to involve the clear and present danger of producing criminal conduct, plus - and it is a big plus - intensified moral education in our homes, churches and schools for many years to come. Indeed, we must have it just to recover the ground that has been lost in the last two decades. It will be a long hard pull, for these problems are not amenable to overnight solutions. Character, like Rome, can be lost in a day, but it cannot be built in one. But since the solution of the problem will take time, it is all the more important that we not delay in making a beginning, for the problem is vital to the future of this nation; it is a problem alongside which our difficulties of inflation and unemployment are as nothing.

To make that beginning and carry through to the end, we need leadership of the highest order. Here I think that the task falls with special incidence upon women like you, who have made their way over great obstacles and risen to positions of leadership and responsibility in what was once the man's world of banking. And I think I can say, with complete consistency to both my oath of office and my personal commitment to full equality of opportunity, that men may construct civilizations but it is women who create cultures. For I do believe that it is given to women to be the bearers and defenders of our moral values and that women comprehend in a very special way the Psalmist's warning - that they labor in vain to build the house who ignore the ethical foundations upon which the visible structure must truly rest.