

ACS Conference

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Evening Plenary Remarks by Eric Holder, Jr.

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Eric Holder, Jr.

Former United States Deputy Attorney General

Josh REED, Introduction:

Good evening, my name is Josh Reed and I'm the co-director of the University of Oregon chapter of the ACS (American Constitution Society). It is my privilege tonight to introduce former Deputy Attorney General and current ACS Board of Directors member, Eric Holder. Mr. Holder is currently a partner with Covington and Burlington in Washington, D.C.

His distinguished career in public service began shortly after his graduation from Columbia Law School in 1976, when he joined the Department of Justice as part of the Attorney General's Honors Program. While at Justice he served in the, at the, in the Public Integrity Section, which was tasked with investigating and prosecuting official corruption on the local, state, and federal levels.

In 1988, President Reagan nominated him to become an Associate Judge of the Superior Court of the District of Columbia. He served in that role until 1993, when President Clinton nominated him to become the United States Attorney for the District of Columbia. He went on to serve as head of the largest United States Attorney's office in the nation for nearly four years.

In 1997, President Clinton appointed him to serve as Deputy Attorney General, the number two position in the United States Department of Justice. He was the first African-American to serve as Deputy Attorney General. Under his guidance, the Department developed and issued guidelines for criminal prosecutions of corporations, and the existing federal regulations concerning the appointment of Special Counsels.

He also began the department's Children's Exposed to Violence Initiative and successfully worked to fund and expand nationwide a concept of community prosecution, which seeks to connect prosecutors more directly with the citizens they serve. At the request of President Clinton, Mr. Holder began and directed Lawyers for One America, a multi-agency, public-private partnership designed to diversify the legal profession, and to increase the amount of pro-bono work done by the nation's attorneys. As Deputy Attorney General, Mr. Holder was, at that time, the highest-ranking African-American in law enforcement in the history of the United States.

He continues to be active in public service, most notably through his longtime membership in the organization, Concerned Black Men, a group that seeks to help the youth of the District of Columbia. Tonight marks the second time that Mr. Holder has graciously agreed to address the ACS National Convention.

While speaking at last years convention, he eloquently stated, the promise of the ACS, by declaring that "there is an alternative to the fear, the mistrust that seems to drive so much of our conservative brethren's agenda. That alternative, that other path is rooted in our Constitution, and found in the work of progressive men and women throughout history." That other path runs right through the American Constitution Society. Please join me in welcoming Eric Holder.

Applause

Eric HOLDER, Former Deputy Attorney General of the United States:

Thank you. Good evening. Good evening.

All:

Good evening.

Eric HOLDER:

These are on, wrong, right? Ok. I have some business I'm supposed to, talk about before I get into my, my speech. The dance party is at 9:00. Last year's dance party was covered extensively by the Style section here in the Washington Post so if...

Laughter

...if you want to see people, and if you want to be seen in Washington, D.C., I would urge you to get to the dance party. It is the place to be in Washington, D.C., tonight. Forget about all the other clubs, the discos, the whatever else, the dance party of the ACS Saturday night is the place to be. I'm not sure exactly where it is, but its right next door. Alright, so hot music. I won't go any farther than that.

Laughter

It'll be a fun, wholesome time for everybody.

Laughter

It's a real honor and, a great joy to be here at the annual convention of the American Constitution Society. I think that now, more than ever, the need for ACS is quite evident. The choices that are being made by those conservatives, those neo-conservatives, who control all three branches of our government, threaten to undermine the real progress that this nation has made in so many areas over so many years. With all due respect to President Reagan, the problem is not government. The problem is with those who run the government. In the struggle against terrorism, these people have made a mockery of the rule of law.

On the domestic side, they struggle to find ways to restrict a woman's right to choose, to put the environment at risk for the sake of unproven economic theories, to play to the fears of our citizens, and not to their hopes, and to return the nation to a time that in fact never existed.

With all due respect to President Clinton, though the era of big government may be over, the need for good government endures. Now there is nothing inherently wrong with government, with well-intentioned, progressive people seeking to use the power of government for the good of the majority, and not the privilege. Government has been the primary force for positive social change in our country's history. It can be again.

I've had the privilege of serving in a number of government positions in my career, and understand better than most the great difficulty, the enormous challenges, the consequential choices that many who serve today are facing. I respect the vast majority of them for their sacrifice and also for their service. But, too many have made too many decisions that instead of strengthening the nation, have put it at risk.

The notion that the Department of Justice would in essence sanction the use of torture as part of the President's plenary power over military operations is as wrong as it is shortsighted. This position flies in the face of the entire history of American law, helping to create a climate in which unnecessarily abusive conduct can somehow be considered legitimate.

It also puts our own soldiers, the young men and young women who fight bravely for the United States today, and will again tomorrow, at risk of similar abuse should they be captured by the enemy on a now unknown foreign battlefield. What will the United States say about their treatment then? How will an American President seek to credibly invoke the protections of the Geneva Convention in the future? This memorandum and other policies are reflective of a politicized Justice Department that is no longer tethered to its traditional moorings.

When government lawyers are asked how prisoners, how prisoners held by our government must be treated, it is inconceivable to me that they would fashion arguments to bolster the obviously false claim that torture and abuse are permissible tools of American policy.

And yet a disturbing pattern has emerged. Lawyers for this administration have attempted to sanction the wholesale roundup and extended detention of Middle Eastern men on routine immigration violations, and the indefinite detention of American citizens with minimal judicial supervision, and without access to legal counsel.

Now I understand that we live in difficult times, and that we face an extraordinary, unprecedented threat. We cannot be naïve in how we expect to conduct this struggle. This is not a time for the liberal community to see our enemy for anything other than what they are: murderers bent on the destruction of our way of life, which is superior to that which they seek to impose. We must be aggressive in the conduct of the war, and in the interrogation of prisoners taken in that war. But this Administration's view, that the President's authority as Commander-in-Chief can almost always overcome what it views as burdensome laws, restrictive International treaties, and tired old customs is extremely dangerous.

Our history is replete with scandals and miscues that are tied to the unrestricted exercise of Executive Branch power, in peace and in war. We must employ techniques in the current struggle that are consistent with the spirit of our founding documents, and that will also stand the test of time. We must feel comfortable, fifty years from now, looking back at our actions in a way that we do not when we examine for instance, the detention of American citizens during World War II.

Now let me be clear. This is not to equate American al-Qaeda sympathizers with law abiding Japanese-American citizens. But citizenship must mean something. The guarantees that come with it must be respected.

The war on terrorism can be won and our tradition of respect for civil liberties can be respected. The tension that this administration sees existing between the two simply is not correct.

Now when I spoke to you last year, I said that we were engaged in a battle for the soul of our nation. That battle continues today, and if anything, has become even more consequential. The arrogance of our conservative brethren in the exercise of the power that they temporarily hold is breathtaking. From redistricting schemes, to attacks on abortion rights, to energy policies that are as shortsighted as they are ineffective, to tax cuts that disproportionately favor those who are well off and perpetuate many of the inequities in our nation, the conservative movement has been unafraid to push the limits in advancing this agenda.

Now we need not be as arrogant as those on the right, but we must be mindful of their passion in achieving their goals. We must be equally passionate. We must be more committed, and we must be unexpectedly disciplined in our efforts.

Now the battle that I spoke of is not only about this year's elections, though they are a major part. The battle is also about what will happen over the next few years, irrespective of the election cycle. We are the eras of the progressive tradition that is responsible for virtually all of the significant movements and policies that have positively transformed this nation: the Civil Rights Movement, Social Security, women's rights, the movement toward true equality for the gay and lesbian communities, Medicare.

Throughout this nation's history, it has been liberals who have pushed the envelope, who have taken chances, who have made this nation better than it was. By contrast, and we see this especially today, conservatives have been defenders of the status quo, afraid of the future, and content to allow to continue to exist all but the most blatant inequalities.

Now the coming century will present this nation with many new and very significant challenges. Chief among them is the unprecedented diversity that will sweep our country. All of the demographic studies indicate that in less than fifty years people of color will be in the majority in the United States.

This is a profound change, and one that can either be a positive force with this nation as it seeks to compete with other more homogenous countries, or one that might lead to great domestic divisiveness. I see nothing in our history, or in the present, that leads me to conclude that conservatives are temperamentally or otherwise equipped to lead this nation through this great change.

In the year in which we celebrate the 50th anniversary of the *Brown* decision, it is fitting that we use this momentous case to consider the progress that we've made, and gauge the length of the journey still to go. Though *Brown* ended, in essence, an American apartheid, ours is still a nation that is, if not racist, then too race conscious. In too many ways, the color of one's skin is still a prime determinant.

The nation must adjust to the consequences of the coming demographic changes, and begin to come to grips with those changes right now. We, liberals and progressives, must remain guardians of our own heritage in the fight for racial equality, and must renew our commitment to creating a society that is not blind to race, but accepting of it.

The conservative's use of race as a wedge issue in national and local elections, and in other ways, must be confronted and identified for what it is. Whether the spokesman is George Wallace or Jesse Helms, we must not be timid in identifying, and ultimately defeating those who would use race in an inappropriate manner.

This is a battle for the soul of our nation as it exists today, and as it transforms in the near future. We must lead and we must win this battle. If we do not commit ourselves in this effort, or if we mistakenly assume that we can forever take for granted the support of

minority communities, we will lose a significant part of our base of support, and a significant part of our own movement's soul. It is simply not enough for those of us in, those of us in the progressive community to bemoan the actions of the ruling conservative movement. We must act.

Through organizations like ACS, we must come together to plan for and effectuate a liberal, progressive renaissance. The American people hunger for the kind of dynamic, progressive leadership found in Roosevelt, Truman, Kennedy, Humphrey, and King. Support for the conservative agenda, if the polls are to be believed, is a mile wide and about an inch thick.

When polled on individual issues, and not in a political context, on every major concern, this nation's populace leans our way. People in significant numbers are not comfortable with abortion, but fundamentally support a woman's right to choose. When confronted with the consequences of our go-it-alone foreign policy, Americans support the concept of strong international alliances that are a part of the progressive tradition. When given the choice between ruinous, inequitable tax cuts, and a sound fiscal policy that prepares us for the future of an aging America, the nation's people apply their common sense.

The conservative agenda of social division, mindless tax cutting, and a defense posture that does not really make us safer, is there for the taking. It will not, however, fall of its own weight. We will have to offer an alternative to this nation that is based both on today's realities and the historical tradition that is the foundation of progressive thought.

The nation must be reminded that the word liberal is more than a conservative slur. The nation must be reminded that it was the progressive, liberal tradition that brought about the social and economic changes that were necessary many years ago. The nation must be convinced that it is a progressive future that holds the greatest promise for equality and the continuation of those policies that serve to support the greatest number of our people.

In the short term this will not be an easy task. With the mainstream media somewhat cowered by conservative critics, and the conservative media disseminating the news in anything but a fair and balanced manner, and you know what I mean there, the means to reach the greatest number of people is not easily accessible.

Again, that is why organizations like ACS are so important. They can serve as the incubators of progressive thought and leaders, and also serve as the means by which the movement can communicate and grow. This is not a five-year project. It's probably not even a ten-year project. I am confident, however, that if we remain steadfast in our support of our principles, if we remain committed to the organizations like this, and others, and if we seek to engage the American people in a meaningful way, we will regain our place as the dominant philosophy.

At the beginning of the 21st century, this nation faces problems that are old and that are new: racial, sexual orientation, and gender inequality all remain. We must struggle to maintain our immigrant heritage in the face of new violent threats from outside our

borders, and prepare for the demographic changes that are inevitable. Our nation must craft effective anti-terrorism and anti-crime measures all respecting the civil liberties that have distinguished this country. We must find ways to meet our energy needs, and also to protect for, and care for our environment. We must find ways to value all of the nation's children.

I believe that we have the capacity as a nation to meet all of these challenges. But the answers to these problems are not to be found in the conservative agenda that relies on what are already old proposals and tired rhetoric.

The solutions are contained within a new, dynamic, progressive movement that has the ability to inspire and motivate the people of this nation in the way that progressives have in the past. That ability exists in this room, and in the law schools, and in the courtrooms, and in the law offices around this country. It is our task to unlock, to unleash the creative energy needed to give life to this renewed movement. It is not enough for us to gather at annual meetings, to participate in panels, and to return to our communities, and be content to observe, or to passively criticize, the now dominant governing philosophy.

Quite simply, it is time to act. It is time to organize. It is time to retake the levers of government and to use them for the common good. It is time, finally, to be true to our ideological heritage. And so my challenge to you tonight is to leave this convention renewed in your convictions, and committed to using your abundant talents for the good of the citizens of this country.

At the end of every week, I want you to ask yourselves, what have I done in the past seven days to advance the cause? How have I made more likely this liberal renaissance? In doing so, you will help to solve the national problems, old and new, that are at issue.

From writing checks and doing the other things to support progressive candidates, to working with young law students imbued with idealism and hungry for mature partners, to direct involvement with programs that are working to improve the lives of our neediest citizens, we must do all of this and more.

Now we all lead busy lives, and we can all find reasons, excuses really, not to do that which we know is needed. The struggle is larger than any of these excuses, and is ultimately dependent on individual sacrifices large and small. I urge you to find your own way in this new effort. I implore you to create relationships with other members of the progressive community to bring to bear your combined talents.

This can be - this must be - our time. We must seize this opportunity. For the good of the nation we love, we must make this new century our own. Thank you.

Applause