



ADVANCE SHEET – September 27, 2024

President's Letter

We here present, as an aid to assessing the conduct of the current Attorney General and Department of Justice, a speech delivered in 1940 by Attorney General Robert H. Jackson. Readers interested in more of the same can consult the Robert H. Jackson Center website.

George W. Liebmann

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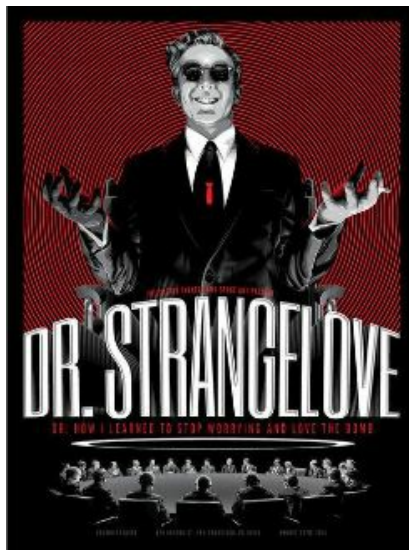


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The Bar Library Film Series Presents

Dr. Strangelove

Dr. Strangelove or: How I Learned to Stop Worrying and Love the Bomb (known simply and more commonly as *Dr. Strangelove*) is a 1964 political satire co-written, produced, and directed by Stanley Kubrick and starring Peter Sellers in three roles, including the title character. The film, which satirizes Cold War fears of a nuclear conflict between the Soviet Union and the United States, also stars George C. Scott, Sterling Hayden, Keenan Wynn, Slim Pickens, and Tracy Reed and is loosely based on the novel *Red Alert* (1958) by Peter George, who co-wrote the screenplay with Kubrick and Terry Southern.

A first test screening of the film was scheduled for November 22, 1963, the day of the assassination of President John F. Kennedy. The film was just weeks from its scheduled premiere, but because of the assassination, the release was delayed until late January 1964.

Dr. Strangelove is Kubrick's highest-rated film on Rotten Tomatoes, holding a 98% approval rating based on 96 reviews, with an average rating of 9.1/10. The site's summary states that "Stanley Kubrick's brilliant Cold War satire remains as funny and razor-sharp today as it was in 1964." The film also holds a score of 97 out of 100 on Metacritic, based on 32 reviews, indicating "universal acclaim". The film is ranked number 7 in the All-Time High Scores chart of Metacritic's Video/DVD section. It was selected for preservation in the United States National Film Registry. *Dr. Strangelove* is on Roger Ebert's list of *The Great Movies*, and he described it as "arguably the best political satire of the century".

WHEN: Friday, September 27, 2024 - 5:30 P.M

WHERE: The Clarence M. Mitchell, Jr. Courthouse (100 North Calvert Street)

Main Reading Room of the Baltimore Bar Library (Room 618)

COST: Free – Soft Drinks & Snacks will be served.

RESERVATIONS: May be made at the Library, by telephone or e-mail. In

THE FEDERAL PROSECUTOR

BY ROBERT H. JACKSON

Publication Date

December 1, 1940

Citation

24 J. Am. Jud. Soc'y 18 (1940), 31 J. Crim. L. 3 (1940) (address at Conference of United States Attorneys, Washington, D.C., April 1, 1940).



Justice Robert H. Jackson

“The qualities of a good prosecutor are as elusive and as impossible to define as those which mark a gentleman. And those who need to be told would not understand it anyway.”

It would probably be within the range of that exaggeration permitted in Washington to say that assembled in this room is one of the most powerful peace-time forces known to our country. The prosecutor has more control over life, liberty, and reputation than any other person in America. His discretion is tremendous. He can have citizens investigated and, if he is that kind of person, he can have this done to the tune of public statements and veiled or unveiled intimations. Or the prosecutor may choose a more subtle course and simply have a citizen's friends interviewed. The prosecutor can order arrests, present cases to the grand jury in secret session, and on the basis of his one-sided presentation of the facts, can cause the citizen to be indicted and held for trial.

He may dismiss the case before trial, in which case the defense never has a chance to be heard. Or he may go on with a public trial. If he obtains a conviction, the prosecutor can still make recommendations as to sentence, as to whether the prisoner should get probation or a suspended sentence, and after he is put away, as to whether he is a fit subject for parole. While the prosecutor at his best is one of the most beneficent forces in our society, when he acts from malice or other base motives, he is one of the worst.

These powers have been granted to our law-enforcement agencies because it seems necessary that such a power to prosecute be lodged somewhere. This authority has been granted by people who really wanted the right thing done-wanted crime eliminated-but also wanted the best in our American traditions preserved.

Because of this immense power to strike at citizens, not with mere individual strength, but with all the force of government itself, the post of federal district attorney from the very beginning has been safeguarded by presidential appointment, requiring confirmation of the senate of the United States. You are thus required to win an expression of confidence in your character by both the legislative and the executive branches of the government before assuming the responsibilities of a federal prosecutor.

Your responsibility in your several districts for law enforcement and for its methods cannot be wholly surrendered to Washington, and ought not to be assumed by a centralized department of justice. It is an unusual and rare instance in which the local district attorney should be superseded in the handling of litigation, except where he requests help of Washington. It is also clear that with his knowledge of local sentiment and opinion, his contact with and intimate knowledge of the views of the court, and his acquaintance with the feelings of the group from which jurors are drawn, it is an unusual case in which his judgment should be overruled.

Experience, however, has demonstrated that some measure of centralized control is necessary. In the absence of it different district attorneys were striving for different interpretations or applications of an act, or were pursuing different conceptions of policy. Also, to put it mildly, there were differences in the degree of diligence and zeal in different districts. To promote uniformity of policy and action, to establish some standards of performance, and to make available specialized help, some degree of centralized administration was found necessary.

Our problem, of course, is to balance these opposing considerations. I desire to avoid any lessening of the prestige and influence of the district attorneys in their districts. At the same time we must proceed in all districts with that uniformity of policy which is necessary to the prestige of federal law.

Nothing better can come out of this meeting of law enforcement officers than a rededication to the spirit of fair play and decency that should animate the federal prosecutor. Your positions are of such independence and importance that while you are being diligent, strict, and vigorous in law enforcement you can also afford to be just. Although the government technically loses its case, it has really won if justice has been done. The lawyer in public office is justified in seeking to leave behind him a good record. But he must remember that his most alert and severe, but just, judges will be the members of his own profession, and that lawyers rest their good opinion of each other not merely

on results accomplished but on the quality of the performance. Reputation has been called "the shadow cast by one's daily life." Any prosecutor who risks his day-to-day professional name for fair dealing to build up statistics of success has a perverted sense of practical values, as well as defects of character. Whether one seeks promotion to a judgeship, as many prosecutors rightly do, or whether he returns to private practice, he can have no better asset than to have his profession recognize that his attitude toward those who feel his power has been dispassionate, reasonable and just.

The federal prosecutor has now been prohibited from engaging in political activities. I am convinced that a good-faith acceptance of the spirit and letter of that doctrine will relieve many district attorneys from the embarrassment of what have heretofore been regarded as legitimate expectations of political service. There can also be no doubt that to be closely identified with the intrigue, the money raising, and the machinery of a particular party or faction may present a prosecuting officer with embarrassing alignments and associations. I think the Hatch Act should be utilized by federal prosecutors as a protection against demands on their time and their prestige to participate in the operation of the machinery of practical politics.

There is a most important reason why the prosecutor should have, as nearly as possible, a detached and impartial view of all groups in his community. Law enforcement is not automatic. It isn't blind. One of the greatest difficulties of the position of prosecutor is that he must pick his cases, because no prosecutor can even investigate all of the cases in which he receives complaints. If the department of justice were to make even a pretense of reaching every probable violation of federal law, ten times its present staff would be inadequate. We know that no local police force can strictly enforce the traffic laws, or it would arrest half the driving population on any given morning. What every prosecutor is practically required to do is to select the cases for prosecution and to select those in which the offense is the most flagrant, the public harm the greatest, and the proof the most certain.

If the prosecutor is obliged to choose his cases, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor: that he will pick people that he thinks he should get, rather than pick cases that need to be prosecuted. With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him. It is in this realm-in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies. It is here that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself.

In times of fear or hysteria- political, racial, religious, social, and economic groups, often from the best of motives, cry for the scalps of individuals or groups because they do not like their views. Particularly do we need to be dispassionate and courageous in those cases which deal with so called "subversive activities." They are dangerous to civil liberty because the

prosecutor has no definite standards to determine what constitutes a "subversive activity," such as we have for murder or larceny. Activities which seem benevolent and helpful to wage earners, persons on relief, or those who are disadvantaged in the struggle for existence may be regarded as "subversive" by those whose property interests might be burdened or affected thereby. Those who are in office are apt to regard as "subversive" the activities of any of those who would bring about a change of administration. Some of our soundest constitutional doctrines were once punished as subversive. We must not forget that it was not so long ago that both the term "Republican" and the term "Democrat" were epithets with sinister meaning to denote persons of radical tendencies that were "subversive" of the order of things then dominant.

In the enforcement of laws that protect our national integrity and existence, we should prosecute any and every act of violation, but only overt acts, not the expression of opinion, or activities such as the holding of meetings, petitioning of congress, or dissemination of news or opinions. Only by extreme care can we protect the spirit as well as the letter of our civil liberties, and to do so is a responsibility of the federal prosecutor.

Another delicate task is to distinguish between the federal and the local in law-enforcement activities. We must bear in mind that we are concerned only with the prosecution of acts which the congress has made federal offenses. Those acts we should prosecute regardless of local sentiment, regardless of whether it exposes lax local enforcement, regardless of whether it makes or breaks local politicians.

But outside of federal law each locality has the right under our system of government to fix its own standards of law enforcement and of morals. And the moral climate of the United States is as varied as its physical climate. For example, some states legalize and permit gambling, some states prohibit it legislatively and protect it administratively, and some try to prohibit it entirely. The same variation of attitudes towards other law-enforcement problems exists. The federal government could not enforce one kind of law in one place and another kind elsewhere. It could hardly adopt strict standards for loose states or loose standards for strict states without doing violence to local sentiment. In spite of the temptation to divert our power to local conditions where they have become offensive to our sense of decency, the only long-term policy that will save federal justice from being discredited by entanglements with local politics is that it confine itself to strict and impartial enforcement of federal law, letting the chips fall in the community where they may. Just as there should be no permitting of local considerations to stop federal enforcement, so there should be no striving to enlarge our power over local affairs and no use of federal prosecutions to exert an indirect influence that would be unlawful if exerted directly.

The qualities of a good prosecutor are as elusive and as impossible to define as those which mark a gentleman. And those who need to be told would not understand it anyway. A sensitiveness to fair play and sportsmanship is perhaps the best protection against the abuse of power, and the citizen's safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility.

The Tale Of The Dedicated Juror

Several days ago I was coming into the Courthouse at the same time as an older lady wearing a juror tag. When I say older, we are talking about someone who almost certainly could have been excused from service because of their age (i.e., over the age of seventy). The sheriff was telling her that it was an employee's only entrance when she asked if she could sit for a moment because her asthma was making it hard for her to breathe. Just to let everyone know, lest you worry, she was told to sit, asked if she needed a drink of water and the entrance changed to one for employee's and folks with asthma.

Every individual is of course unique with regard to every aspect of what it is that makes them the person that they are. Included within this is an individual's physicality. People are young or old or perhaps somewhere in the middle. Some face substantial physical challenges while others participate in triathlons. What we do with the cards we have been dealt, how we play the hand that is our life, that is where and how a person distinguishes them self.

Over the years news coverage has been criticized for being overly negative. The same is undoubtedly true with regard to those of us who do not carry press credentials. If someone starts out with "Did you hear about what the Jones boy did?", it probably is not going to be got a cat out of a tree. In the words of Mr. Johnny Mercer we need to "Ac-Cent-Tchu-Ate the Positive."

Well, with that said, let me start by expressing my respect and thanks to this lady for her service. She should be admired and her actions should be seen as an example. I always told our children growing up that I never cared what grades they got as long as they put a maximum effort into whatever it was they were doing. I am proud to say that our children, now adults, seem to have taken the words to heart. Still, to make sure they stick I will have to recount to them the "Tale of the Dedicated Juror."

I look forward to seeing you soon.

Joe Bennett



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