

Transcript

**Remarks of Stephen N. Zack**  
**Upon Assuming the Presidency of the American Bar Association**  
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You know, as a 14-year-old in 1961, when I was fleeing Cuba with my family and we were taken off the plane by G2, which is the Cuban equivalent of the KGB, and we were taken and put into a cell – separated from each other – and I didn't know whether I'd ever see my family again, or, frankly, what was going to happen to me. The last thing on Earth that I could ever have imagined is a day like today, and I want to thank each and every one of you for this privilege. I came to a country where Alexander de Toqueville said -- 200 hundred years ago -- said law is king. And today, 34 years ago, proved that statement by the resignation of Richard Nixon as president of the United States. Think of that. The most powerful person in the world left office, not by force of an army, but by a greater force, the Constitution of the United States. It reaffirmed that in the United States when we have the most serious problems, we turn to our lawyers and not to our generals.

It was also one of the finest moments for this Association because our then-president, Chesterfield Smith, said, "We must always speak truth to power, and no man is above the law."

There were many who disagreed with him. And, as a matter of fact, Chesterfield told me on more than one occasion that a lot of folks thought *he* should be impeached for saying

it. But it was a courageous and principled position that this Association must never, ever be afraid to stand for. Not then. Not now. Not ever.

That is the responsibility of our association, and today I would like to talk to you about four responsibilities that we have. I'd like to talk to you about the preservation of the justice system, about civic education, about human rights and about protecting and preparing for disaster.

You know, when I was 14 in Cuba, the first knowledge that we had that we were going to lose our liberty – that I didn't realize as a 14-year-old – was the attack on the judiciary. We, today, are under the same attack against our justice system. We are fighting to establish the rule of law around the world, and we are in danger of losing it here in the United States. We are able to defeat our enemies abroad, but are we equally able to protect us from within? The financial crisis in America has been devastating to our court system. We have a justice gap in this country. Eighty percent of poor people cannot afford a lawyer. Eighty percent. Most of them are women and minorities. And the foreclosure crisis has further exacerbated that problem. It is hard to imagine a justice system that is a co-equal branch of government, when in Florida the total budget that goes to fund the entire justice system is one-half of one percent.

The Speaker took me to South Carolina and the chief justice told me there – one-third of one per cent to fund the entire justice system. I just talked to Judge Lee Edmon, who has been a member of this House forever. She's responsible for the Civil Division in

California in Los Angeles. Eighteen courtrooms have been closed in California. 140 are scheduled to be closed unless they get the financing.

When we talk about the justice system, we're not just talking about judges' salaries – and we most certainly have a problem there. But, we are talking about public defenders, state attorneys, prosecutors, and we are talking about closing the doors of our courthouses to all Americans. It's not just a question of rich, poor, middle class. This is a question of access for all Americans because access begins with access to our courts. Right now over half of our courts are under a freeze for judicial compensation. One-third of them are actually considering user fees. Imagine that in America -- to access justice in America, you have to pay or it.

Shakespeare actually got it wrong. He should have never have said, "Kill the lawyers." What he should have said is, "Kill the justice system." Because without a justice system, we don't need lawyers. And we don't even need an American Bar Association.

For that reason, today the ABA will set up a task force that will look at the preservation of our justice system and it will be chaired by David Boies and Ted Olson, and 20 of the most distinguished lawyers in our country from both sides of the aisle to bring recommendations back to this House for solutions. That is our responsibility and we will fulfill it.

It is equally important to respond to Justice Souter's challenge to us to become involved in teaching civics to all Americans. You know, when I came to this country, the Cuban

constitution was identical to the American Constitution. Almost word for word. I keep a copy of it on my desk both in English and Spanish, just to remind me that we thought the words were enough -- and we were wrong. They're only words. And two out of three high school students graduating today -- this was Justice Souter's remarks to us last year -- think the three branches of government are Democrat, Republican and Independent. It would be amusing if it weren't so tragic.

More Americans today know who are the judges on American Idol than know who are the judges on the United States Supreme Court.

Even more troublesome is that 75 percent of all Americans don't know that the Bill of Rights protects religious freedom. And 50 percent of Americans who were read The Bill of Rights and asked what they thought was the origin said they thought it was a Communist doctrine. You know, if an enemy of our country imposed upon us that level of ignorance of our democracy we would consider it an act of war. And ground zero in that war today is our schools. And for that reason, today, we are establishing the American Bar Academy. The American Bar Academy will be chaired by two long-standing members of this house, Marna Tucker and Paulette Brown. Let's give them a round of applause.

They'll work with Justice Souter and Justice O'Connor to change this terrible situation. Justice O'Connor actually said it best: "The knowledge of democracy is not transferred in the gene pool. We have to teach it to each generation."

How did this happen? We took civics in ninth grade, didn't we, some of us? Well, today, because our government has decided – and appropriately – to focus on science and math and we stopped teaching civics. We stopped teaching civics in our high schools. So today civics is an elective and sometimes you aren't even given the option of learning civics, so you graduate a whole generation -- that will be the generation that we are going to rely on to defend us -- without having any knowledge of our basic democracy. It is our responsibility and our obligation to teach civics to all Americans and we will honor that responsibility.

Unfortunately, every day our nation becomes more divided when it comes to human rights. One of the issues that divides us is immigration. We must be united and we can be united. President Kennedy, over 50 years ago, wrote a book that I would recommend to each of you. I just re-read it. It's a short book; you can read it on the airplane; you can put it on your Kindle. It's called *A Nation of Immigrants*. And he reminds us that we are all a nation of immigrants and that our basic freedoms are based on the principle that the law protects the minority from the tyranny of the majority. And for that reason, the ABA, with Carolyn's good leadership, published the most comprehensive report in the last 50 years on immigration reform that was adopted by this House last year at our last meeting, because that is our obligation, and that is our responsibility, and we will honor that responsibility.

We believe in diversity. It's one of the four principle missions of our association. And because of that, our Center for Diversity has recommended the establishment of a Commission on Hispanic Legal Rights and Responsibilities. Hispanics are now the

largest and fastest-growing minority, over 20 percent of our population. And to chair that commission, we have with us today our new chairman, Cesar Alvarez. Will you please stand up, Cesar, and be recognized. And Emilio Estefan has agreed to be one of our honorary chairs because of the importance of this issue -- because Hispanics are very underrepresented in our association, in our profession, in our law schools and in our courts. And, we must fully integrate the Hispanics into our profession and our society because that is our responsibility, and that is our obligation and we will do it.

Finally, we have a fiduciary obligation to prepare for disasters. I was chair of this House when Katrina hit, and we were not prepared for Katrina. Courthouses closed. Records were destroyed. Jails were closed. And there were thousands of American lawyers who wanted to go to Louisiana to help, because that's what we do as a profession. We want to go and help people who are in trouble. They weren't interested in money -- this was all pro bono. They just wanted to go and help and the court said we couldn't come. It was the unauthorized practice of law.

As a result of that, we have adopted the Katrina Rule that we have now passed in 18 states and we ask each of your delegations to go back and have your Supreme Court adopt the Katrina Rule. Because we know there's going to be another natural disaster. There has to be. I'm from Florida -- I can tell you, there'll be another hurricane. There'll be another earthquake. There'll be another oil spill and we, as a profession, have a responsibility to be prepared.

But unlike the past, today there is the possibility and, if we believe what we hear on television, it may be the inevitability of a man-made disaster. And if such a disaster occurs, and if the President of the United States suspends *habeas corpus* like President Lincoln and President Roosevelt did, what is the response of our association? What will we say to the American people? Now is the time to reflect on that. Now is the time to consider what our response should be, before the events overtake us. Because we know at those times, our liberty is most fragile and most at risk. And we must remember the words of Benjamin Franklin who said “Those who sacrifice liberty in the name of security will have neither.”

In conclusion, let us remember, history has taught us that we can have liberty and justice or neither, for there is nothing in between. We know in America that no man is above the law. We now have the responsibility to make sure that no one is beneath its protection. And when people ask today as they did 34 years ago who will speak for justice, we will answer, “We will, the American Bar Association.”

Thank you very much.