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FIFTY YEARS OF FAIR HOUSING: LEARNING FROM THE PAST, LOOKING TO THE FUTURE

*The Hon. L. Douglas Wilder **

I think sometimes you need to wonder where we were in 1968. It wasn't just the Fair Housing Act that was passed in 1968. What happened in 1968? George Wallace was running for president. Hubert Humphrey was running for president, and Richard Nixon as well. It wasn't just the assassination of Dr. King, we also had the assassination of Robert Kennedy. We likewise had the Vietnam War, and America was a mess. We had something else occurring in 1968. That was the Kerner Commission Report, that Dr. Crutcher mentioned had been instrumental in the fair housing bill. And they made recommendations. I happened to have been a part of that last month in Minnesota, and had great occasion to talk with Fred Harris, who was the last surviving member of the Kerner Commission, Senator from Oklahoma. And also, Walter Mondale and I had a long time to talk.

But as I say here with you, and I used to say it when I was in the state senate, there was a guy who ultimately became the Lieutenant Governor, Henry Howell, and he used to say, "There's a lot running around in the dark at night other than Santa Claus." And, absolutely right, I heard Dr. Crutcher say, "Would but we could have some of these things today." You're absolutely right.

And so, looking back to the history of the Fair Housing Act, it reminded me of something. And, it's almost as if we are in H.G. Wells' modern version of the time machine. But the difference is, when Wells' man was in the machine, he went to this great, won-

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derful new world. Things were just magical. Things were going on, so beautiful; different, but different to the extent of progress. And so I think we're in a time warp. What progress have we made in that fifty-year period of time? If you measured against what we need to do. But I try very hard not to allow advanced years to contribute to my already advanced cynicism and pessimism.

But if you look around, and last Wednesday, we had an event at VCU. At which we spoke of housing period, not fair housing but housing, as the Dean has indicated. And in that regard, we spoke of the numbers of things that we needed to do. And in an interview with a reporter, I said something like, "When people speak about fair housing, and housing, and things that we need to do, it's almost as if there was a time when things were done right in this country." And I'd like, for those of you here to tell me where I was when these things were done right; they have never been done right. They've never been observed. Where's that discussion taking place today, as to what we as a people need to do? Take me there, so I can join in that discussion.

How do our young people know anything about what we lived through if we don't tell them? And so, as with the Kerner Commission Recommendations, much work remains to be done in the area of fair housing. But as I said, it has never been right. Look at what we do now in terms of redlining. How can young people be able to even afford rent? And when you consider the banks are saying, "Well, we want 37% of your income, debt free," it's impossible. And as we pointed out the other day, in the absence of a minimum wage how are you going to make it? And so, I don't think any rule or policy can make it. What law would you like to be passed today to take care of it? You don't need a law. We need to demand what is right and to criticize what is wrong, not to wait until judicial appointments come about.

When you hear people tell you, "Well, we are going to be looking for the originalist." The original version of the Constitution. What did the Framers of the Constitution have in mind? They had in mind to keep me forever in slavery. They didn't know. How could you call them leaders of what we do today when they themselves owned slaves? There's no compromise with that there's no "well, that was then." No, that was wrong then and it has always been wrong. To suggest that any judges that are appointed to Virginia courts should not be interpreting the United States Constitution to the originalist design and the theory. And if they so do, then they shouldn't be put on the bench.

More important is to talk about those things that matter most rather than the others. To know what is right and not to do it is for want of courage. That's what Mark Antony, I think, was said to have said. I wish that more of us had that degree of courage. We, particularly here with the law school and people who come within the bending sickles of instruction, we can be instruments for change. We should be the change agents. We can't wait for the government to act. Government must be prodded to act. We must make known to those who are entrusted to us for education, that they have a responsibility not to be lawyers, not to make money, but to make progress for the people of our nation.

Many of the problems we see in our communities have gone unnoticed, unresolved, and even unrecognized. The problems of public safety and increasing crime in Baltimore didn't just come about with the murder of Freddie Gray. They've been there forever, unaddressed on so many occasions. The water in Flint, Michigan, didn't get unsafe to drink when it was finally, finally recognized by the media, because it's still contaminated, as I speak. The increasing crime rates in Chicago, and people are killing each other on a regular basis. So much so that it's, "Well, only one hundred got killed last week." So, these problems are there.

Do they affect housing and fair housing? Absolutely. But where are these discussions taking place if not here, where? Oh, we've had the Taliban, and Al-Qaeda, and Afghanistan. ISIS and Iraq, the offshoot of terrorism around the world, threatening democratic governments. But I remained convinced, I've said it many, many times before, the greatest enemy the American people confront and face is the enemy within. We're our own worst enemies. If we could ever resolve our differences, the difficulties, to make certain that there's no such thing as housing for some, fair housing for others. We've got a long-ways to doing that.

I've had a long-term definition of politics, and I say this in my classes at Virginia Commonwealth University. And I'll say it to you: I have a one-word definition that determines government policies and government operation. And you know what that one word is? Money. All the students argue with me, "I know, I got something," but in the end, they understand. And so, what I'm talking about is this, everything costs money. We're talking about all our national debt now is twenty plus trillions of dollars, which will never be paid. We'll retire some of those bonds, but the debt increases. The debt has never been paid off, nor will it ever be

paid off. So as that debt is accruing, what is that debt accomplishing?

Our citizens deal in retrogression. Crime is still rising, even right here in the city of Richmond. Transportation, for some. How can you get a job? How could you get to work if you didn't have a car? And if you miss the bus by two minutes, that's forty-five minutes late to work. And so, all of these things they're so inter-related, and so I still make the case: How much does it cost? Where will the money come from, and how will it be spent?

Nowhere is this more evident than the realm of housing, where generations of policy have kept poor neighborhoods poor, and affected every other aspect of life from education, transportation, health, and also crime. If we are to correct those inequities, we must redouble and double down on our efforts. I said in a book that I recently wrote, *Son of Virginia*, that we must redig the wells that our fathers have dug. By that I referenced the oft-quoted truism that there is no new thing under the sun, nothing new. We've experienced it all before. As you know, Thurgood Marshall won the landmark decision before the U.S. Supreme Court, rendering a unanimous decision with the case of *Shelley v. Kraemer*, prohibiting restrictive housing covenants. Such things became unenforceable in court, but Marshall did that twenty years before the Fair Housing Act would come about, and even that was not enough.

And so, I remember in the Kerner Commission Report when someone asked Ken Clark, the psychologist who was available for the *Brown v. Board of Education* decision, when they asked him to look at it and see what he thought of it. And he said, "Okay, I was asked to look at a report after the riots and all. I was asked to look at a report after the riots in California, and now you're asking me to look at this report and I will. And fifty years from now, you'll be asking someone else to look at another report."

Yes, we observed fair housing law today. But observing it and not criticizing from whence we come and where we are and where we're going is another thing. Next year will also mark the four-hundredth anniversary of the bringing of Africans to the shores of America by those who came just shortly before. And it's an observation, not a celebration, as the fullest enjoyment of the fruits of American life are not here with us yet. We can't avoid the consideration of income, and affordable housing, and affordability in

any way. When you say, “We found housing,” how is it fair when it’s not available? How is it fair when you have your highways and transportation modalities going through neighborhoods that were once pristine, tearing them up and putting nothing in place? How is it fair when you have a retreat from the urban areas leaving the educational facilities in our cities in disrepair? Well, we’ll get to them one day.

And you see the report that’s coming out today. The job report today. Oh, it’s great. But the people are saying, “We can’t even get the employees to come into these middle-income positions because they’re not trained.” And so, the corporations are saying, “We’re going to train our own people.” The greatest educational opportunities exist in America today, and yet our institutions are not turning out students trained for the possibilities.

And so, you’ve got a lot to do. No rule, nor any policy can completely prevent every bad act. I am also believing that we must continually seek to improve the law and add to the law. And I think that what is lost by some is that this cannot be something we discuss here at the University of Richmond or Virginia Commonwealth University, and leave it. Nor can we depend on those, and I can say this because I spent a great deal of time in politics, I can say we cannot depend on the elected officials today. One of the worst decisions that ever came through the United States Supreme Court was *Citizens United*. You can just give billions of dollars for your cause, not to the cause of that individual. And then, when people say that millennials are not voting, why aren’t they voting? Because the right to vote is sacred. No, the right to vote is not sacred, the right to vote is essential, but it’s essential for the purposes of effectuating and making change. And so, if you say “Well, vote for me because I’m better than this guy. Okay, vote for me because I’m better than those guys.” That’s not good enough. Vote for you for what reason? “Vote for my party because my party is better than this party.” Okay, so we’re going to vote for you because your party is better. And then we do that. And then what happens?

The more things change in many instances, the more they remain the same. And so, I think to the extent that Lincoln had it right and Jefferson had it right. What do I mean by that? Opposite parties, opposite ends. One was a slave holder and another was a person that freed slaves. But they had it right to the extent of believing that the power rested in the people. Jefferson said

when that form of government is structured to these ends to the right of the people to alter and to abolish it and to institute a new form of government. And Lincoln, government of the people, for the people, by the people should not perish from the earth. And you are the people, we are the people. Our responsibility is infeasible, but sometimes we forget.

Those of you assembled here have that responsibility to infuse and motivate, to demand from those in government and public affairs adherence to those demands. To know what is right and not to do it is for want of courage. Next year, as I have said, when we do these things we should understand that platitudes won't help us. But with determination we could make it come about. I would hope at the end of your discussions today, as we look to the next time you gather, there would be concrete steps and measures that we should hope to see next year and the year thereafter and not to wait. Because if we don't do it now, if not now when? And if we don't do it, who should do it for us? And to the extent that we continue to wait and believe that it's going to be done with the election of the next person or the next person. That's not going to happen either.

We have got to make government do what we want government to do. Because if we're not government, then the people who say that they represent us, do not do that. It's not going to be easy. Nothing has been easy. It took me eight years to get the holiday bill passed for Martin Luther King. I would get the bill passed in the senate, where I was, and the house would kill it. I would get it passed in the senate, where was, the house passed it, governor vetoed it. Get it passed in the senate again, house would kill it. It took me eight years. Two governors vetoed my bill, and yet Virginia became the first legislature to establish a holiday for Martin Luther King.

Two years after I was there, I introduced a bill for Virginia's fair housing law, because I knew that I couldn't just rely on the federal government. That was in 1972. Virginia has its own fair housing law. Do we need it? Yes. When you could take people where they were living, tear down their apartments, and put in condominiums without having to have guidelines. When you had uniform building codes not being observed. When you have zoning laws in your communities that allow you to have people's front doors backing up to an alley. These are not things I'm imagining. These are things that I know about because I've lived in that

2019]

LOOKING TO THE FUTURE

1019

structure. So, I encourage you, Carol, and Dean, and Dr. Crutcher, moving in the directions that you're moving, you're encouraging others to know that you are concerned with what's right.

You're also concerned with people, and to the extent that people can look to you, and this university, and the school of law for leadership. Because leadership is a collective thing in our society today. We can't look to one group or the other group. We all must be a part. Because if we're not, as Lincoln said, "Those things will perish from this earth."