

THE ESSENCE OF FREEDOM

By GEORGE HAMBLETON

MY purpose in this article is to assert the freedom of the individual as a positive right. The freedom of the individual, as I see it, is not a privilege conferred by some benevolent autocrat. It does not arise merely from the absence of restraint. The right of the individual freely to think, believe and express himself is as inherent as his right to food and drink. The freedom of the individual is essential not only to his own moral, spiritual and intellectual development, it is essential to the development of a healthy national life. For if man is restrained, either by fear of police action or by fear of social ostracism from making his full contribution to national thought whether religious, scientific or political, society as a whole is the loser. Error cannot be extirpated by repression. It is merely driven underground; and its roots, fed on martyrdom, will spread to fertile soils and break forth again.

There is this limitation. The individual has a right to exercise his own freedom but he has no right, by so doing, to limit the rights of others. There lies the never-ending conflict between Right and Responsibility.

I am aware that the truths I have stated have been stated before. Those great documents of history, the American Declaration of Independence, the French Declaration of the Rights of Man and, to come to more recent days, the constitution of the Republic of India, alike enshrine freedom as a human right. Even that rather pallid endeavor, the United Nations Declaration of Human Rights, has an article which declares that "Everyone has the right to life, liberty and the security of person". But since the revolutionary days of Thomas Jefferson and the First French Republic, there has been a change in emphasis as between Right and Responsibility. We fought and won two world wars for freedom, but taking the world as a whole, there is less real freedom today than there was in 1914. Travel across international frontiers is restricted. The exchange of ideas is restricted. For honest and reliable information we get the shoddy of propaganda. We talk of iron curtains but trammel our own minds with make-believe. In his more ardent days, Thomas Jefferson (who drafted the Declaration of Independence) might welcome Shays' Rebellion and fear lest Americans should lose the habit of rising against their Govern-

ment. If he did so today, he would be denounced as a traitor or worse.

Consider first man's responsibility to society. I do suppose for a moment that anyone will question that man has a responsibility to the society of which he is a member. Purchase of an automobile licence does not entitle me to run down a crowded street at seventy miles an hour. To cite a classic illustration of the late Justice Holmes, the right to free speech does not entitle a man to shout "Fire" in a crowded theatre. Society is entitled to put under restraint the man who knowingly endangers its security.

The difficulty comes in applying the test. We are the slave of catch-phrases in these days that we are apt to condemn, unheard, anyone with an unpopular turn of mind. We punish and properly punish Communists who deliberately betray their country to a foreign power. We condemn and properly condemn the man, Communist or not, who considers that he owes a loyalty to some foreign country higher than the loyalty he owes to his own. But all Communists are not traitors nor are they all necessarily atheistic or disloyal. The Christian Church, established at Jerusalem, was communalism "all that believed were together and had all things in common". The ideal Commonwealths of Plato and Sir Thomas More were based on common ownership of property. The Catholic Church sanctions the voluntary communalism of certain of its religious communities. But there is a difference between the voluntary communalism of a religious community and the modern Communist state. In one a group of people freely and voluntarily pool all they have for a common end; in the other, the rights of the individual are completely merged in an autocratic authority. For the modern Communist state has in large measure inherited the Nazi philosophy; the State is everything, the individual is nothing.

There is no freedom more sacred than the freedom of thought. From the earliest days, the finite mind of man has striven to tune itself with the infinite. It has sought refuge in charms in medicine men, in wizards and witchcraft. It has sought to understand the life beyond life. Man's belief in an all-wise Creator was his firm-set anchor in a turbulent sea. For his right to believe, for his right to worship as he thought, man endured imprisonment, exile and torture. And when today, in the name of a free society, we lightly impose restraint on expressions of unpopular opinion, it is well to remember

The self-same arguments we used have been used in the past to justify persecution of some of the greatest thinkers and teachers of the human race. Socrates was indicted as an irreligious man, a corrupter of youth and an innovator of worship.

The accusation against Jesus was not merely that he had committed blasphemy (in calling himself the son of God) but that he had perverted the nation and stirred up Jewry from Galilee to Jerusalem. In the eyes of the Jews, the teachings of Paul were both subversive and seditious. He was a "pestilent fellow" and a "mover of sedition among all the Jews throughout the world and a ringleader of the sect called the Nazarenes". Nor can attempts to suppress Christianity in its early days be laid exclusively at the door of either the tyrant or the unreasonable mob. Trajan, one of the ablest of Roman emperors, and Marcus Aurelius, one of the wisest of her philosophers, both persecuted members of the early Christian Church. Marcus Aurelius regarded Christianity as sacrilege and punished it as such. Christians, he held, taught a unity which transcended the unity of the Roman Emperor, a loyalty higher than the loyalty they owed to the Roman Emperor.

But persecution, whether by a tyrant like Nero or a philosopher like Marcus Aurelius, failed to suppress Christianity. Christianity threw on martyrdom. Its martyrs and its missionaries carried its message of love and charity to distant realms the Romans never knew. Yet strongly and courageously as the early Christians resisted pagan pressure from without (such are the frailties of the most well-meaning of people) they did not themselves learn tolerance from within. As pagan pressure relaxed, the Christian Church expanded and with its expansion became more rigid in its interpretation of the Faith. Departures within its own ranks from the strict canons of an unyielding orthodoxy were heresy; and heresy in the Middle Ages often meant torture and the stake.

The sincere Christian of today cannot but read with horror the lamentable story of heresy persecutions which stain the record of the Church. I am not referring merely to the Mediaeval Inquisition. Only to those of perverted mind can the record of the Inquisition be justified. But heresy persecutions are no monopoly of the Roman Catholic church. They did not end with the Protestant Reformation. If Catholics persecuted Protestants, Protestants also persecuted Catholics. Both persecuted those within their ranks who ventured to question

the orthodox. In the reign of Henry IV of England, a Parliament called at Leicester passed a statute against the followers of Wyclif. It provided that whosoever read the Scriptures in English should forfeit land, cattle, goods and life and be condemned as heretics to God and traitors to the King; that they should not have the benefit of any sanctuary (although this was a privilege then granted to the most notorious of malefactors) and that if they continued obstinate or relapsed after pardon, they should first be hanged for treason against the King and then burned for heresy against God.

Under this Act, Sir John Oldecastle, Lollard leader, was first hanged and his body then burned. How many of his followers also went to the stake, no one knows. But the Lollard movement disappeared.

Yet, despite hanging and the stake, the English bible remains.

Protestant England persecuted Catholic and Puritan alike. At the left of the Puritan movement stood the Independents or Congregationalists. In matters of Church polity, the Independent was the antithesis of the Catholic. The Roman Catholic Church with its highly centralized system of government, its theory of papal infallibility on faith and morals, its hierarchy, its ritual and its sacraments occupies what, for lack of a better word, might be termed the right wing of the Christian Church. In the Congregationalist Church, each congregation is virtually a self-governing republic, electing its pastor, its own officers and operating independent of outside control.

It was a congregation of Independents which left East Anglia in 1607 and found in the Netherlands the religious freedom they were denied at home. But it was freedom without home. America beckoned and offered both. The Independents returned to England and, with others of their faith sailed on the *Mayflower* for the New World. They established themselves in Massachusetts. Before going ashore, they gathered in the cabin of the *Mayflower* and bound themselves to found a civil body politic. Other Puritans followed to found the Massachusetts Bay Colony. The government they established was democratic in theory. In practice it was a theocracy. Rigidly independent at home, rejecting state control, they established in Massachusetts a commonwealth in which state and church were one. They admitted neither to power nor to residence anyone of different faith.

There was the case of Roger Williams. Roger Williams

left England in 1630 for the "Commonwealth of Saints" of Massachusetts Bay. Williams was eloquent and disconcertingly independent. "I affirm", Williams declared, "that the State should give free and absolute freedom of conscience to all men". Rank heresy. The rulers of Massachusetts decided to blot into darkness the "flaming scourge who preached nothing less than an uprising of the people".

Roger Williams was ordered to stand trial. Fifty judges in black robes heard the charge: "Dangerous opinions tending to unsettle the kingdoms and commonwealths of Europe". Williams refused to recant. In winter he was banished into the wilderness. He took refuge with friendly Indians and, in Rhode Island, founded a colony to which all creeds were welcomed.

Just laws, justly administered, are essential to the development of an orderly society. Any law is, in its essence, a restraint on the freedom of the individual. He can act just so far as the law allows and no farther. The law represents, or should represent, the collective conscience of mankind operating to protect both the individual and society from outrage and wrong. If the law is just and is applied fairly and justly, any restraint on the freedom of the individual will be compensated by the wider freedom of society.

But the rule of law alone, however it may be presented as the crowning glory of an ideal society, is not in itself an adequate safeguard against tyranny and oppression. No matter how fairly and honestly the law is interpreted by the courts, if the law itself is basically unjust its application will result in injustice. Some of the worst tyrannies in history have been enforced under the authority of laws validly adopted by the law-making authority. Earlier in this article, I mentioned the Act passed by an English Parliament under which Lollards were sent to the stake for reading the Bible in English. The law was validly adopted. The courts enforced it. Yet application of the law wrought nothing but evil.

Over and over again, in the history of all countries, one may find instances of laws which violate all sense of decency and fair play. Sometimes the law arises from the uncontested will of an autocrat. Sometimes it is due to the pliant servility of a spineless parliament. Whatever the origin it means that the prisoner in the dock will get short shrift and scant justice.

Law as administered in Nazi Germany or Fascist Italy was to us tyranny. It was still the national law. Law as applied

in the Soviet bloc means not the protection but the suppression of individual freedom. But such as it is, it is the national law. And until offending states can be cited before an international tribunal for infringement of an international covenant of human rights, the individual is bound by national law, no matter how tyrannous it may be. Even when the rights of the individual are guaranteed by charter or fundamental law, the guarantee is worth little unless procedure for its enforcement is readily open to the individual and is, if he is a poor man, within his means.

Nor need restraint on the individual be exercised merely by the operation of repressive law. The restraint may be equally effective if it is economic or social. The individual may have full freedom of expression so far as the law is concerned. But if he is denied a medium of expression—an outlet for his views—his opinion, whether valuable or valueless, is lost to society.

When a young lawyer in Athabaskaville, Quebec, Sir Wilfrid Laurier (at the time he had not attained the dignity of knighthood) took over a weekly newspaper known as *Le Défricheur*. It was in the days when Liberal opinions were frowned upon by the ultramontaine element in the Catholic Church, when Liberalism in politics was confused with liberalism in matters of faith; and Laurier's effort in journalism fell under the ban of the Church.

In six months, the paper was dead. In publishing his weekly newspaper, Laurier offended no law. But the ban of the Church ended *Le Défricheur* just as effectively, perhaps even more effectively, than an order from any civil authority.

In theory, there is nothing to prevent anyone today from starting a newspaper and using it as the medium of his views. But costs of production are now such that only the man of large means can afford to take the risk. In Winnipeg, a few years ago, an attempt was made to start a cooperative daily newspaper. But lack of an adequate news service and insufficient capital soon drove it to the wall.

During the Second World War, a weekly was started in Ottawa. Its programme was excellent. It aimed to provide a medium for the expression of all points of view on public questions. It lasted one issue. High costs of production killed it.

Fear of social stigma may equally serve to repress individual freedom. The man with a family to maintain is not likely to express unpopular views if he knows that by so doing he is

likely to lose his job. A healthy public opinion will challenge views injurious to society as a whole. But a healthy public opinion will not deny the right of the individual to express his views, no matter how unorthodox they may be.

And where does all this lead us? Simply to this: because we live in a democratic society, we cannot take our rights and freedoms for granted. We must be prepared to challenge every encroachment, no matter from what source it may come. We have become so accustomed to accept the orthodox as beyond reproach that we hesitate to examine, even impartially, the opinion that differs in any degree from the customary. We raise our hands in outraged horror at any idea of being thought subversive without stopping to think that some of the greatest and noblest movements have, in their time and place, been classed as subversive. The right to life, liberty and the pursuit of happiness; freedom of speech and thought and faith; the right of peaceful assembly; freedom from arbitrary arrest and imprisonment—these are fundamental rights and freedoms we must retain and preserve, no matter under what alluring pretence they may be attacked. They can be preserved by cultivation of an active, intelligent and critical public opinion.

But public opinion, if it is to retain its virility, must be constantly strengthened and corrected by the independent mind.