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The Limits of Liberty

The problem of the limits of liberty is perennial. Every age brings its own version of it and each age must discuss it afresh. No subject could be more fruitful; on none could constant discussion be more necessary. That goal, freedom, for which every living organism longs, can only be secured, insofar as it is possible to secure it, by the constant review, individually and collectively, of the current situation, whatever it may be, and the difficulties it presents.

No objective could be more noble than the attaining of liberty. Wars have been fought over it, innumerable books have been written about the topic, poets have sung the theme — freedom! We could begin with that great foundation stone of all our liberties, the Magna Carta. Among its first conditions are the words "Quod Ecclesia Anglicana libera sit" - "that the Church of England may be free". Lord Acton's dictum was that the parallel but separate existence of the church and the state gave the guarantee of a free society. That was probably too simple, though much of the history of Europe since the Reformation turns on the antagonism between the two and this provides a certain measure of freedom. The struggle is still with us, very much so here in Canada, where the Roman Catholic church's fight for Separate Schools has never ceased. But in the complex modern world, this particular antagonism is only one of several such. In our own society, for example, the struggles between capital and labour, agriculture, the churches, and the innumerable secular "causes" give us a considerable measure of freedom.

The Common Law of England, which had begun its evolution even before Magna Carta was wrested from King John, apparently has always assumed that complete liberty of action was the natural condition of man, but only insofar as one man's liberty does not trench too violently on the liberty of another. English progress in liberty has in a sense meant the curtailment of liberty. The idea leads at once to the concept of liberty under the law. English liberty early became legal liberty: one could do whatever the law did not forbid him to do. Nevertheless,

English history has from time to time been punctuated by resounding declarations of freedom on specific points. It is hardly necessary to mention the Petition of Rights of 1628, the various attempts in the period of "The Great Rebellion" and the Cromwellian Commonwealth, to write a new constitution, and the Revolution of 1688, with its succeeding legislation. These are the great signposts on the way to the robust nineteenth-century view of the state which in essence simply consisted in each being for himself and the devil taking the hindmost.

The saying is much too sweeping even at the height of *laissez-faire*, for there has hardly been a session of Parliament in which legislation more or less restrictive of personal freedom has not been enacted. Extreme *laissez-faire* put poor women to crawling on their hands and knees in dark tunnels carrying out coal or mere infants to standing all day long in "the dark satanic mills". The sense of order in almost every society sooner or later puts an end to the right of every man to do as he likes. No society can long stand which cannot accept restraints. Unlimited freedom is anarchy. The problem is where to draw the line.

A distinction must be made between the English way of obtaining freedom — the word English is used to signify not only the island of Great Britain, but the entire English-speaking world — and the much more theoretical concepts that have come out of the European continent, and to a lesser degree from the United States. The latter country began by making a sweeping social declaration (in the Declaration of Independence), and doctrinal statements ever since have always been more common in the United States than in other English-speaking countries. But in the United States, also, the genius of history has always been the more powerful force at work, and it never ceases to nudge the Americans back into the old paths of empirical, as contrasted with theoretical, action.

In Canada, until John Diefenbaker's Bill of Rights, there had been no departure from empiricism. Possibly one exception should be noted, in that the British North America Act (fundamental law for us, as it became, though not at first viewed in that light), had many restrictions in it. These are mostly contained in the clauses dividing the powers of government between Dominion and Provinces. But there were others designed as restrictions which quickly became rights. The clauses which secured the equality of English and French languages in the legislature of Quebec and the Parliament of Canada, are examples. Such clauses relate to practical matters, but they hover on the edge of the theoretical — as does the whole federal structure for that matter, for behind the dry legal clauses lies a conception of society and an attitude towards life.

What hovers behind the law is in fact the concept of a just society, and every law in a society whose ultimate assumption is the maximum of freedom and the well-being of the citizens, is in fact an attempt, formally, to enact these assumptions.

In this rather theoretic, round-about way, then, Canada, too, has its own doctrinal declarations. The point is of particular importance in this day and age, for there is another conception of freedom which cannot be reconciled with constitutional or legal freedom. This is the natural bent of every living organism to do as it likes, more especially of every human. "Man was born free," shouted that great author of anarchy, Rousseau. Possibly so, but when he received his first infantile spanking, he came up sharply against the limits of freedom. So, with a cuff from his mother, does the bear cub.

While it is impossible to deny the tremendously revolutionary influence of Rousseauism, its explosions were much more marked in Europe than in North America. Rousseauism did not cause the American Revolution. It had little direct effect on Canadian constitutional evolution. The anarchic conception of liberty, prominent from the earliest days in American history, colonial as well as later United States, must be sought in the circumstances of the New World. The sober Puritans who asked permission to move from the Massachusetts sea coast inland to the Connecticut River (where they founded such colonies as Hartford), did not draw on theory: they simply all felt "the strong bent of their spirits". "the strong bent of their spirits" took white men all over North America, often to the great hurt of the people they found in their way. American society, and to a much lesser extent, Canadian, was founded on "The strong bent of their spirits", not on books. The United States found its territory a storehouse of riches, and everyone who came along could help himself. Is it any wonder that the dominating aim of the American, at all times restrained with great difficulty by the law, was to do as he liked and have what he wanted? There could hardly be a better recipe for anarchy, and at times American society has hovered close on the edge of anarchy.

This extreme idea of liberty has received the dignity of a pseudo-philosophy. It is often coupled with the name of John Dewey. Whether Dewey was guilty or not, Deweyism seems to have become the ground from which a vast amount of loose, confused writing and teaching emerged. In our own day, it has received a name and had its countless exponents. "Do-as-you-like-ism" may or may not be a Dewey invention, but it is certainly what is meant by the modern word: *permissiveness.* We are daily bombarded by comments on the confusions of the age, by

assertions of the right "to do your own thing", be your own man, and so on. This notion of permissiveness has worked through the whole of society in the last generation and much of the responsibility for the destruction of our traditional code of right and wrong may be laid at its door.

It would be easy to write a long essay on this subject of *permissiveness*. It comes out starkly in sex morals. Everyone knows that here the old code lies in wreckage and that that condition so often longed for by the lustful male is upon us — free love. Parkman, the historian, in describing the social life of the Huron Indians, stated that the Indian woman of early days, was a wanton in her youth and a drudge in her old age. In our opulent society, women are not drudges in their old age, but apparently, if they want to, they may be wantons in their youth. Some of the less fortunate will also become drudges in their old age. Do they not have the right to do as they like?

Few major societies have accepted the right of young women to be wantons, though many have accepted the right of young men to have their desires (the double standard). No doubt the situation will right itself in time in one way or another, but in the meantime, the permissive society in almost the fullest sense of the word, is that in which we are living. Are there then no limits? How about a little daring shoplifting? Has a young fellow, deprived of his "natural" right to have a car, the right to steal one? When it comes to property, we are stricter than we are in other directions and we stick to the Commandment. How about life? A considerable amount of permissiveness has come into life-and-death situations. Murder is no longer as serious an offense as it once was. Here again, however, no doubt we shall pull up. The right of a person to take his own life, or have it taken in euthanasia? This is not yet accepted. It may never be. It may be. A society that looks without squeamishness at the slaughter on the roads can hardly be expected to go on being careful of the individual life.

Permissiveness comes out dramatically in the current Canadian scene. Examples range from small to great. Recently in a certain university a group of young male smart-alecks organized what they called a "Homophile Society". They gathered in a restaurant and started dancing together. The proprietor threw them out. A letter then appeared in the local paper justifying homosexuality on the ground that it "relieved tensions". One can imagine the purpose of the male dancing. The incident more or less defined the boundaries of *permissiveness*. Again, the horrible reporting on the alleged escapades of Margaret Trudeau. Whatever she did or did not do, the vulgar reporters added immensely to

her embarrassments. If they did not destroy her reputation, it was not from want of trying, and this for a woman whose position as Prime Minister's wife made her an easy mark. The limits of freedom? The limits of the freedom of the press? Are there limits?

II

By far the most important case of *permissiveness*, and the one with which this essay is primarily concerned, is that presented by René Lévesque and his confederates, who have assumed their right of taking the Province of Quebec out of the Canadian Federation and thereby destroying Canada as we know it. Persons who plot against their country are normally called traitors, and one Member of Parliament has not been slow to denounce them in such terms. His denunciation is premature, for they have not yet committed an overt act. But the assumption of M. Lévesque, now Premier of Quebec, apparently is that if he can secure a favourable vote in his proposed referendum (one of his associates is reported as saying that fifty-one percent would do) then he may go ahead and proclaim the independence of Quebec. Quebec, that is, can do as it likes. That is permissiveness on a grand scale.

I do not know if M. Lévesque would formally subscribe to doctrines of *permissiveness* (for a Roman Catholic, he has been pretty *permissive* in his personal arrangements) and possibly it might be considered wrong to bring this revolutionary movements under the heading of *permissiveness*. But if I go back to the general topic I am discussing, the limits of freedom, it seems to me that it comes in appropriately. All revolutionary movements are in this sense movement of *permissiveness:* those who conduct them go on, according to the circumstances, to their logical culmination, whatever that may be, and usually, until the movement rolls up in size and weight, its leaders are able to take advantage of the sense of justice, the apathy, neglect or tolerance of the constituted authorities. When their efforts have gained size and weight, they become able to defy authority. The culmination is reached when the established authority is replaced by the revolutionary one.

History is full of movements of political revolt. Between them all there is a similarity in general outline, however much details may differ. In this area, the philosophical problem is clearly the problem of political freedom. It is a problem whose magnitude is only equalled by the similar problem of freedom of religion. How far may freedom go? May it go as far as to destroy traditional establishments that fit a people to their institutions and them to the people, establishments that have endured,

possibly, over many centuries? At once the question arises: was the American Revolution to be justified? Was the French Revolution to be justified? Was the Russian? The historian might answer to each of these in turn: "Possibly", "No doubt", "Certainly". English-speaking scholars have a "built-in" bias towards the justification of revolution, for our history and institutions rest in great part upon the revolutions of the seventeenth century, which still colour our sub-conscious emotions. It is always difficult, therefore, to condemn a new revolutionary movement. The idea lies deep within us that a revolution presupposes injustice, tyranny, every type of public wrong-doing.

With the American Revolution, Canadians begin to shift their ground, for much of our Canadian history rests on the Loyalist tradition. Moreover, when the Revolution is examined (as it has been by countless scholars, not only American, but British and some Canadian), it is difficult to see substantial justification for its occurrence. Most scholars would agree that there was a minimum of injustice being suffered by the American colonists, nothing that good understanding could not have remedied. The Revolution rested on the simplest of terms; who was going to be "boss". It was the obstinacy of George III and the complacent ignorance of his ministers that eventually brought about revolution. As John Adams remarked, the British government had discovered the formula for making a large empire into a small one. As a simple American of the time said, "We had always governed ourselves, and then, they tried to rule us."

The French Revolution presented an easier problem, for France was badly governed, governed in a way to inflict grave hardship on many people. Moreover it was preceded by half a century or more of ideological assult. But the French monarchy was the work of nearly a thousand years, its kings had founded the nation, France, with the sword and their attitude had been paternal. The French kings were not tyrants. A reasonable measure of good government would have obviated revolution in France.

With Russia, the case, at least to western eyes, is much clearer. The huge country was badly administered, some of the czars had been harshly repressive and ideological preaching had been rife for two generations. Russia came closer to a "tyranny" than France had done, though it was not a tyranny. Still, compared with the American colonist in the eighteenth century, a thoughtful Russian might have been justified in considering that he lived under a tyranny. Revolutions are the work of the few. For good or bad reasons, the few assume responsibility for mak-

ing up the minds of the majority and end up by forcing their will on that same majority.

III

Quebec presents an interesting variation of the same set of factors.

Two hundred odd years ago, Quebec was conquered: there is no other word for it. In the church of Beaumont, down river from Quebec City on the south shore, there was posted and there remains to this day, the notice that Wolfe sent out to the *habitants*: the countryside was to be laid waste, to prevent the people resisting the British armies. It was laid waste: the fires raged up and down over the land. That notice confronts parishioners every Sunday as they enter and leave their church. One need hardly go further in seeking explanation for the lack of harmony between the two races. The memories of conquest have become fainter, but they have not faded. They remain strong in the Montreal district where they are reinforced by memories of the Rebellion of 1837: the burning of the church at St. Eustache, the three score prisoners exiled to New South Wales, the dozen executions in Canada.

But the even severer treatment accorded rebels in Upper Canada has left little trace on the Ontario mind, for it has been buried under new arrivals, and carried away by the steady stream of people into the province and out of it: from across the seas, across the border. Ontario is not a province of memories. Quebec is.

Every generation since the Conquest has provided its own incidents to keep resentment alive. After the rebellions, the uneasy union of the two provinces. Then Riel and Red River, Riel and the North West, the loss by the French in New Brunswick of their own schools, the loss by the French in Manitoba of their own schools, the attempts of the Government of Ontario in the years from 1911 onward to force the English language on the French people of the province, the two conscription crises of the two great wars. That is a minimum list: few "Francophones" would not be able to add to it. It is a sad story and no fair-minded man can fail to acknowledge that the English must bear the major share of the responsibility for it. Resistance defeated again and again by superior numbers or by judicial interpretation! The right of the stronger! " 'Tis excellent to have a giant's strength, but 'tis tyrannous to use it as a giant." The two peoples look through two entirely different sets of eyes, and they read the story in entirely different ways. That is, if the English read it at all, for nothing is more conspicuous among then than their lack of imagination about the nature of their own past.

I have used such words before — always in the hope that some of my fellow countrymen would understand them and try to act in such a way as to prevent the need of uttering them again. It may be that a few Anglophones — optimistically, a considerable number — have grasped their purport and that English Canadian tolerance is wider than once it was, but tolerance is not acceptance and it still has many a mile to go.

In the meantime, here we have a highly self-conscious group of some six million people determined to be themselves, determined not to allow the domination of what many of them would still call *"les sacrés anglais"*. Francophone Canadians are among the most bilingual of the peoples of the western world, but there is little evidence that they have more understanding of *les anglais* than *les anglais* have of them. They have the knowledge that comes from having to live with a much stronger partner than themselves: they have to be wary and know his weak points. They know English-Canadians in much the same way as English-Canadians know Americans — in many, many cases, of course, through personal acquaintance, but collectively, from the outside. Moreover, of all the great peoples, the French, Old World and New, are psychologically the most self-contained and self-sufficient. (The writer has several times had his lapel decorated by nice French ladies in Montreal or Quebec with buttons reading "Queen's University, Toronto". Could there be a greater indignity for a professor at Queen's?) From whatever angle the situation is viewed, the look is much the same: two peoples separated by every conceivable type of approach to life, radically different peoples.

Yet these two peoples have between them built Canada. There is little need to dwell on the magnitude of the accomplishment. They have built Canada. They have built a state, almost a major state, and they have assured for themselves and for the hundreds of thousands they have received into it, a good life. It is no small thing to have given HOPE to millions of people, mostly humble. They have built that state, no informed reader need be reminded, against some of the heaviest obstacles that the mind of man can imagine, geographical obstacles, climatic obstacles, many others. We Canadians may look on the labour of our hands and find that it is good.

The question at once arises: shall a few men be allowed to destroy what has been built? I will not argue the point of whether Canada could survive without Quebec, for that condition would project us into a state of affairs so different from our present situation that the results cannot be foreseen. There surely must, however, be agreement that a Canada entirely different from that which now exists would come out of separa-

tion, its survival much more dubious, its hopes much less buoyant that the united country possesses.

The problem posed is deeper than the fact of separation, for it raises the right of separation, that is to say, the limits of political authority.

That problem has engaged the best minds of the ages, from Plato and Aristotle to our own day: it cannot be answered with a mere "yes" or "no". It involves the right of rebellion, the right to kill tyrants, the right to suppress dissidence and such lesser rights as freedom of the press, linguistic rights and other forms of civil liberties. Every country is confronted with it sooner or later. Examples are legion: the Thirteen Colonies, the Southern States, Ireland, Scotland in the "45", Poland, Hungary, Catalonia, Rhodesia and a dozen others. What are the limits of political liberty?

Where liberty has taken the form of a struggle for political independence, the issue has invariably been settled by armed conflict: "liberty" has either been won or attempts at independence have been crushed. No simple rules are to be found. The Irish fought for seven centuries to escape from England. At last, they prevailed, The Welsh have not prevailed. The Catalonians have fought time out of mind for independence. They have not prevailed. Nor do these struggles often rest on rational grounds: their inspiration, their strength and their persistence rest on emotion, the stubborn determination of a people to be themselves.

At the present juncture, therefore, it is no use appealing to M. Lévesque to be reasonable and to negotiate. He, or rather, his more determined colleagues, are apt to say, "Give me liberty, or give me death." Is there, then, no answer? Must the rest of Canada sit passively by and see a wing of its own house burned out?

I hope English Canada, while not sitting passively by, will have the good sense to see that it cannot act as the chief of the fire brigade. If this particular case of the limits of political liberty is to be solved within the overriding concept Canada, it must be solved, first of all from within Quebec. Sir Wilfrid Laurier used to say that his compatriots had not ideas, but sentiments. The appeal to Quebec must be made in emotional terms. And a Francophone must make it. For better or worse, destiny points to one man, the present Prime Minister, Mr. Trudeau. We may like him or dislike him, agree with him or disagree, be of his party or not, but we in English Canada have no other recourse — except, if it should come to that, brute force, which would settle nothing but to unite every Francophone in the country against the Anglophones. No, Quebec must be won from within. For an Anglophone to raise his voice (except

in the most tactful way) in this present issue is to raise up hostility. English Canadians may legitimately seek out their opposite numbers among Francophones and build up with them the ties of unity and fellow-citizenship. But Anglophones must not exhort or denounce. Let Mr. Trudeau speak to his fellow Francophones as Mr. Lapointe spoke to them in 1939 (despite Mr. King's attempts to dissuade him). Lapointe won Quebec for Godbout and a four year respite during the war. Trudeau may be able to do the same. At the present juncture, the relations between the Lévesque government and Ottawa should be regarded as is foreign policy: they should be strictly non-party, and no shade of mere partisanship should be allowed to obtrude. Party attitudes are luxuries we can afford to postpone.

But what has all this to do with the problem of political liberty, or, in wider terms, of liberty? If a community can show a long-continued record of oppression and injustice, if the stronger makes no effort at accommodation, surely most people will accept its right to fight for its freedom. But if these wrongs cannot be demonstrated, if there is will for accommodation on the part of the stronger, then surely, a minority has little justification for seeking to destroy that which has been created. Destruction is highly congenial to man, as witness vandalism and war, but surely construction is just as attractive and, in the end, more desirable. It was a far greater accomplishment to have created our traditional code of behaviour than, as we moderns have done, to destroy it. So with the state. "A thousand years scarce serve to build a state," said the poet, "an hour may lay it in the dust." Is our state, Canada, to be laid in the dust?

What are the limits of political liberty? Do they extend to the almost wanton destruction of a relatively satisfactory country? Canadians, French and English, have had to work out the problem of living together. They have by no means completely succeeded. But they have made excellent progress. They can boast men like Laurier and St. Laurent, men who have given their career to bridging the gap. They can boast many others of the same type. Most of them, French and English, can claim good will, a live-and-let-live attitude.

The present group in control of the government of Quebec logically repudiates all such men, and it will end, by the logic of its own nature, in setting race against race, in deepening the chasm that the best minds have always sought to fill in.

To allow the present drive towards dismemberment of Canada to deepen into a racial conflict would be to lead to the greatest tragedy of our history. It is hard to see how it could be justified - except as sheer

racial egoism. It must not happen. It can be avoided, surely, by frank acceptance on the part of the English, of "the French fact". Large-mindedness — magnanimity — will do it; every effort to remove resentment will greatly help. If Canada is to be saved, the two races must now accept each other "for better or for worse", without distinction of larger or smaller, certainly with all suggestions of superiority or inferiority set aside. In so doing, they will find liberty by finding the limits of liberty.

I give a slogan for our particular problem of liberty. "Every possible accommodation for the French-speaking people of Canada. No special privileges to the Government of Quebec."