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Symposium: Civil Liberties - Preface

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PREFACE*

Max Lerner‡

The great force that has thus far broken the shock of the periodic assaults on freedom from within American life has been the civil-liberties tradition — the historical commitment of Americans to the public protection of the freedom of the individual person. Its roots go deep into the history of American thought and attitudes.

We may start with the Puritan (and generally Protestant) emphasis on the importance of the individual conscience. Beyond that there was the teaching, from the religious tradition, of the intensity of sacrifice for individual conscience and for the ideal of justice and equality. Broadening out still further, there was the emphasis on the individual personality and its sanctity, resting on the tradition of natural rights, the religious belief that each person has a soul, and the premise of potential individual creativeness. Add to this the property complex which has put a premium on the value of individual effort and its relation to reward, and the success complex which has linked freedom with the sense of competitive worth and the impulse for self-improvement.

Round it off with the two basic American attitudes toward freedom as an ingredient in the social process. One is the pragmatic attitude expressed in Holmes's phrase about the competition of ideas, which is a more astringent way of putting Milton's ". . . who ever knew Truth put to the worse, in a free and open encounter?" It says in effect that the idea which survives may not be necessarily the truth, but what better way does a society have for choosing the ideas it will live by? The second is the belief that the individual personality is more productive if it functions in freedom than if it must obey someone else's authoritarian behest. Put all these together, and in the convergence of intellectual, emotional, and institutional factors you get the strength of the American freedom constellation.

It is not the possession of any single group in American life, nor can it be left to the sole guardianship of any group — not even of the Supreme Court. The labor groups care about freedom of collective bargaining and freedom from strike-breaking violence, yet they may themselves be scornful of the civil rights of Negro workers whom some unions still exclude. The business managers are concerned about their freedom from government controls, yet American history is filled with the denials of freedom by employers to workers who sought to organize.

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Liberals claim the civil-liberties tradition as their own, yet some of the staunchest defenders of civil liberties have been conservatives, from John Adams through men like Charles E. Hughes and Henry L. Stimson. Some who have called themselves conservatives have forgotten that the civil-liberties tradition is the most precious heritage to conserve; some who have called themselves "liberals" have been known to run from the defense of freedom as soon as the firing became hot; while, in a different grain of "liberalism," there have been some so bemused by the "world revolution" of Communism that they did not face with realism the nature of the Communist threat to freedom.

In all the instances of faltering, the weakness that breaches the defense of the civil-liberties tradition is the lack of genuine commitment to freedom. This is sometimes the result of a poverty of moral generosity, sometimes the failure of imaginative insight into the plight of others and its meaning for the civilization as a whole. In the end it reduces itself to a contempt for the sovereignty of another's personality. Freedom is an inherent part of the development of personality. Wherever freedom is diminished for anyone, the personality — however noble or ignoble, intelligent or doltish — is thereby diminished. The diminution affects not only the personality deprived of freedom but others as well. For freedom is indivisible. What is disturbing to the student of contemporary America is not only the number of infringements of freedom but the fact that so few Americans who were not themselves targets rallied early or spontaneously to the support of the victims. Equally disturbing is the fact that many of the continuing threats to freedom come not from government action but from private boycotts.

For a clue we must go back again to the nature of freedom as the American conceives it. He sees it as the right of an individual against hostile forces outside — usually the government. But the individual is helpless to defend himself against the attacks on him, especially in an age of publicity when accusations made before a Congressional committee or by a speech on the floor of Congress or a resolution of a veterans' group gain wide circulation. He can be secure only if the group — committed by the social duty of defending his rights even as against itself — protects him against assaults until he is proved guilty of overt action or covert conspiracy involving sedition or treason. The test, of course, must be the law itself, operating through judicial procedures and not through some extrajudicial procedures or emergency measure.

Some of the critics of America abroad have cited these recent invasions of civil liberties as proof that the whole American concern for freedom is hypocritical. The charges do not sit well with cultures where the power of party and state spells the moral annihilation of the individual, and where the total fusion of diverse powers crushes the liberties of the

person. Many Americans have not understood, however, that the reality of the totalitarian threat furnishes no adequate reason for betraying the whole career of freedom in America. The measures which seem to be dictated by the urgency of danger are in fact as badly calculated to meet the real threats to security within the nation as they are to advance the democratic cause in the rivalry for world position outside. The conditions of living in a contemporary industrial society are likely to produce, as Erich Fromm has pointed out, a fear of freedom and an impulse to escape from its burdens. But they are the burdens of self-government and of moral decision, and they cannot be escaped. Those who sell Americans short on the capacity to survive as a free people ignore the perilous but great career of American freedom that disproves their calculation.

