

THE NATURAL LAW AND THE RIGHT TO SELF-EXPRESSION

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THIS is the fourth Convocation of the Natural Law Institute at the great University of Notre Dame. In these four annual sessions some 20 papers have been presented, examining the background and various of the manifold aspects of Natural Law. The availability of these essays in permanent form is an enduring testimonial to the spiritual insight, and the deep patriotism, of those who have sponsored this much needed undertaking.

And it is of course appropriate that the connection between the two — between religious and patriotic conviction — has been frequently emphasized at this Institute. It could scarcely be otherwise at an American gathering devoted to examination of the Natural Law. In spite of erosion and decay it still remains true, as de Tocqueville noted of our people in 1831, that "Religion . . . must be regarded as the first of their political institutions." That is the rock on which the Republic stands.

Although this Institute is now so well established, I think it is true that, prior to this morning, no direct consideration had been given to my subject: "The Natural Law and the Right of Self-Expression." I confess to having, for a time, thought this omission somewhat surprising.

If we agree that man receives certain rights direct from God, it would certainly seem that the right of self-expression is basic among them. Man is a social being, distinguished physiologically from the lower animals not merely by his thumb but more especially by the relative facility with which he can communicate his thoughts to his fellows. All this communication, esthetic or utilitarian, spiritual or carnal, uplifting or degrading, is a form of self-expression.

Are we not forced to assume, then, that the ability to communicate, with tongue, or pen, or brush, or chisel, is of itself evidence of the divine in man, since his power of communication so clearly distinguishes him from the beasts of the field? If so, any examination of the Natural Law, which is God's Law, should logically begin with an affirmation of Freedom of Expression. For, without that freedom, none of the other aspects of Natural Law could be given a general emphasis, and it could be called illegal even to preach the word of God. A right is something that can be exercised. If a Right cannot be exercised, it becomes unsubstantial to the point of non-existence.

That argument is certainly plausible. And if it were the whole truth, instead of only a part thereof, you would doubtless have considered the Right to Freedom of Expression at your first Institute, disposing of the subject for better or worse. But Dean Manion wisely decided otherwise. He knows, I am sure, that we have here a disturbing issue, surrounded by booby traps, which it is my difficult assignment to uncover, or at least locate.

In this endeavor I came to realize why all the emi-

nent theologians and jurists who have spoken at this Institute have heretofore dodged the subject. There is, however, one classical type of person who rushes in where angels fear to tread. Obviously it was one of those around whose outstretched neck Dean Manion would eventually throw his noose. He is surrounded by angels. What he needed this morning was a — commentator.

He needed a commentator not so much because the breed is commonly supposed to be fluent in expression — a college president could have filled that bill. But those who write professionally for the papers, or talk over the radio, necessarily learn something of the hazards of unrestricted self-expression. I do not refer merely to the law of libel. Let me recall an incident that will help to illustrate.

In 1938, the evening of October 29 of that year to be exact, a precocious young man named Orson Welles staged a radio skit describing an invasion of this country by superhuman creatures from the planet of Mars. It was, of course, a free-hand dramatization of the fantasy called *The War of the Worlds*, by H. G. Wells — no relation of Orson and indeed written years before the latter was born — in fact written so long ago that I enjoyed it as a boy.

Technically, this radio skit was extremely well done. It started with a program of dance music, supposedly emanating from a New York hotel. Soon this was broken by bulletins, telling of strange disturbances — explosions of incandescent gas — on the planet Mars. More dance music and then more bulletins about Mars, until a culminating report told of the landing of huge

metal cylinders in New Jersey, of the eruption of weird creatures from these interplanetary vessels, of their attack with heat rays and other withering devices. Four times, during the broadcast, the unseen audience was told by an announcer that it was all fictitious. That did not dull the effect. Let me quote a few lines from the description of the public reaction, as told by Frederick Lewis Allen in *Only Yesterday*.

"Terror-stricken people rushed out of their houses and milled about in the streets, not quite sure whether they were being attacked by Martians or by Germans, but sure that destruction was on the way. . . . In Newark, New Jersey, several families, convinced that a 'gas-attack' had begun, put wet cloths on their faces and tried to pack all their belongings in a car; the traffic was jammed for blocks around. A woman in Pittsburgh prepared to take poison, crying, 'I'd rather die this way!' A woman in Indianapolis rushed into a church screaming, 'New York destroyed; it's the end of the world . . .'"

That last observation contains a complete non-sequitur. It thereby emphasizes that the emotional content is often stronger than the logical among us humans. Right here we begin to see the scope of our problem, for the Natural Law assumes not merely that the universe is rational, but also that man is a rational creature in a rational creation.

No radio station in this country would today fake an atomic bomb attack. But, before drawing conclusions from one example of unrestricted freedom of expression I would like to mention another, not in the

field of entertainment but at the opposite poll of intellectual argument.

A century ago a disagreeable but unquestionably brilliant German scholar was spending his days in arduous research at the British Museum. The stated aim of Karl Marx was to appeal to the intelligence of mankind and certainly *Das Kapital* demands extraordinary mental concentration, even if one finally concludes that it is all pretentious rigmarole. Moreover, this undeniably influential book is characterized throughout by a pervading arrogance, and a complete absence of spiritual consideration of any kind. To Marx, in the words of a recent English critic: "*Das Kapital* was primarily a means to impose his superiority." That book therefore stands as a monument to unbalanced, intellectual self-expression. Today our country is engaged in a gigantic defensive effort against an evil that can be directly traced to the uninhibited distortions promulgated by this embittered German Jew.

Here are two very different illustrations — and everyone of us could supply others for himself — of the fact that self-expression, no matter how theoretically desirable from the individual viewpoint, can and does inflict injury on Society as a whole. That injury can be permanent, as well as transient. It may affect morons, or infect teachers in our colleges. Yet self-expression is certainly closely connected with that "Right" of Liberty, which our Declaration of Independence declares to be "unalienable," because it is a part of the endowment which men have received from their Creator — a part of Natural Law. The First Amendment to the Constitution confirms the freedom of speech and press implied

in this organic law as first adopted. Does this mean that we should uphold a freedom when it is used to attack this Constitution as a "bourgeois monstrosity," fit only for destruction? That is a most appropriate problem for the consideration of this Institute.

A clue, but only a clue, to the solution of this problem is found in the homely saying that "Liberty is not License," affirmed in a previous paper on this program. But that is not to my mind a very satisfying apophthegm, since literally Liberty is License, and nothing else *but* License. The word "license" comes to us from the Latin *licentia*, meaning "freedom to act." What is Liberty, if it is not freedom to act? What is the Right of Self-Expression, if it is not freedom to act in the field of the communication of ideas, spoken or represented?

So our clue brings us immediately to the mystifying fact that, in the course of centuries, the word *licentia* has had a wholly paradoxical development. On the one hand, it still means that which is permitted. If you have difficulties with a traffic cop it certainly helps to have a driving license. On the other hand, license also means something that should not be permitted. I suppose that any student at Notre Dame would be seriously embarrassed, to say the least, if his superiors could justly call him licentious. Thus — perverse though it may seem — nobody has license to be licentious.

Here is a literal confusion — a "pouring together" — of opposite meanings in a single noun. And as verbal detectives, confronted by this etymological confusion, we may reasonably guess that some other element was formerly involved in *licentia*. When that other element

is still present, license is permissible; if it is absent, license is not permissible. It will require a historical detour to identify that elusive ingredient. Possibly we would be better off if the modern American mind were as well designed to get around roadblocks as is the modern American car.

We may note that in ancient Rome only part of the population was entitled to *licentia* — or freedom to act. Slaves had no such freedom; nor did teenagers, and even in the case of women it was severely limited. The Roman matron was wholly subject to the decisions of the head of the family. Though the nominal head of a family myself, I do not claim that this was a desirable arrangement. I merely note that in the Golden Age of Rome it was the actual fact.

Licentia, in the Roman practice, was reserved for those who had *virtus* — the quality of free manhood. And there was still another restriction on license. A Roman had to possess *pietas* — a sense of duty — in order to have *licentia*. *Pietas*, however, was really a part of *virtus* to the Romans. If you were virtuous you were also pious and you could not be virtuous unless you were pious.

We live in an age in which many abstract words, along with the qualities for which they stand, have lost much of their pristine value. Today if one says that a man is virtuous and pious there is an implication that he is somewhat effeminate and namby-pamby. Women are illogically supposed to be more virtuous than men, though actually only more mulierish, if you will note the extra syllables. Indeed we are curiously prone to regard the virtuous as lacking virile qualities. The vir-

tuous are "good," we would agree, but not real "he-men."

To the early Romans it was exactly the opposite. Those whose conduct was brave and whose sense of responsibility was strong were therefore virtuous and pious, and you did not merit the adjectives unless you were manly as we use that word. Moreover, and this I emphasize, you had no license unless you were both pious and virtuous.

I am a charter member of the S.P.C.A.W. — the Society for the Prevention of Cruelty to Abstract Words. But I shall not apologize for this idiosyncrasy in an assembly containing so many budding lawyers who already realize that most of our spade work in legal discrimination and codification was done by the Romans. We must understand the thought behind Latin abstractions in order to understand the fundamentals of our legal system. We must ask ourselves, as Cicero did, the searching question that really divides the naturalists and positivists. Is law a matter of human discovery, or of human invention?

In their magnificent effort to discover law the Romans early came up against the problem of reconciling the innate individual sense of what is fair and reasonable, with the social necessity of generalized and therefore arbitrary rules of conduct. This dilemma was at least partially resolved by the doctrine of equity, meaning that in some respects all men — and women too for that matter — were deserving of equal treatment by the magistrate, regardless of whether the individuals affected were Roman or barbarian, patrician or plebeian, free man or slave. Thus, well before the coming of

Christ, it was generally accepted by the Romans that there is a universal natural law (*ius naturale*) back of the common law of peoples (*ius gentium*) and back of the law for Roman citizens (*ius civile*). That underlying natural law justified the doctrine of equity and was used to support the right of individual self-expression for every man, even if it were not specified in *ius gentium*; even if it were denied by *ius civile*.

The principle of equity, however, cuts two ways. On the one hand it emphasizes extenuating circumstances for the humble and underprivileged transgressor. On the other hand it demands even-handed justice for the powerful but irresponsible individual who considers that he is not subject to natural law. The purpose of equity, in Virgil's immortal words, is: "*Parcere subjectis et debellare superbos*,"—to spare the lowly and strike down the proud. Without the principle of equity we might never have seen the necessity of separating the judiciary from the executive, thereby placing those with political power under the control of law. But that is an aside.

What is very much to the immediate point is the balance that practical Roman experience brought into legal consideration. It was not by accident, nor as a result of any fine-spun theory, that license was given only to the virtuous and pious man. Slowly, and with a great deal of trial and error, it was discovered that no Right can be established without the acceptance of a conjoint Responsibility. Of course the Greeks, as Professor Maurice LeBel emphasized here two years ago, had seen the necessity of this synthesis and proclaimed it. But it was the Roman achievement to systematize the establishment of natural rights by tying them with

parallel responsibilities. The Romans, before the birth of Christ, had made the concept of natural rights practical by associating it with the doctrine of self-restraint. Only he who could restrain himself had license for self-expression. And that idea of self-restraint is the missing ingredient which, by its frequent absence, gives an equivocal meaning to the word license as we use it today.

The coming of Christianity was of course of the greatest possible import for the doctrine of natural rights in general, and the right of self-expression in particular. Christ emphasized the universality of these rights, to an extent that seemed revolutionary to the most liberal contemporary Romans. But He emphasized even more the parallel responsibilities of the individual. Every circumstance in the life of Christ tells us, indeed, that the acceptance of stern discipline is the condition for eventual reward. "Whosoever doth not bear his cross, and come after me, cannot be my disciple."

It seems to me — and I hasten to add that I am only an amateur historian — that the rigorous Christian religion took root quickly in the Roman Empire, in part because great minds had prepared the soil in advance. Cicero, for instance, had argued that any statute contravening the natural law need not be obeyed and indeed is not properly called law. In his own words, no more so than the regulations of a band of robbers. The commands and prohibitions of the natural law are laid upon all men, said this great Roman lawyer, through the medium of their conscience, the organ that "knows with" God. The role of statute law is really to supplement that which is ordained by God, supporting those

who wish to obey the supreme command, restraining those whose ears are deaf to divine promptings. "The discipline of law," wrote Cicero, "is drawn from the inmost nature of man." Those who recognize this discipline are for that reason — and for that reason alone — entitled or licensed to express themselves freely.

Cicero was murdered some forty years before the birth of Christ, shortly after lamenting in a famous letter that: "We have completely lost the Republic," an assertion all too well justified by subsequent Roman history. But political and social demoralization under the Caesars served to strengthen individual belief in natural law, as set forth in the teachings of Christ. The corruption of earthly government and the venality of man-made law did not undermine but fortified faith in the natural law, and in many ways this tremendous drama is being re-enacted in the hearts and minds of men today. Yet it was no easy doctrine that the twelve apostles went forth to preach. It was not, and is not now, easy for men to practice restraint and self-control. So there was no pretense that those who took up the cross of Christianity would find it a light burden, or that the Church would provide vacations, social security and old-age retirement pensions for all its adherents. "He that endureth to the end shall be saved." That doesn't sound like a "Fair Deal" election slogan.

I have been laboring to point out that even in the West, distinguished from the East largely by a more closely reasoned faith in Natural Law, that concept has always been regarded as contingent rather than absolute. Natural Law certainly exists independent of the minds of men, but you must personally discover its

meaning before you may personally claim its benefits. It follows that the Right of Self-Expression, derived from Natural Law, is only a contingent Right. Self-Expression may be freely exercised by those who have developed self-discipline. It is not granted unconditionally to anybody; decidedly not to those who assume that they can get Rights more cheaply from the President than from God.

In earlier days it was generally recognized that effort is the prerequisite for reward. When the ability to read and write was a distinction, acquired over serious obstacles by those who really valued learning, the sacrifice involved was itself a price paid for freedom of expression. But the child of today, taken by bus from home to school, coddled through the three R's by ingenious methods of instruction, with schooling from kindergarten to post-graduate level paid, in many cases, out of taxation, has himself made far less effort than used to be necessary to learn the art of self-expression. And this is true not merely of oratorical or literary skills. It applies to all the more definitely artistic forms of self-expression. I know nothing about the early training of Pygmalion, but the fact that he was so sour on women indicates that he had a tough apprenticeship. Mozart and Beethoven certainly toiled ceaselessly to develop their genius. And Michelangelo did not learn his anatomy in any public works of art project.

Let me make my point clear. I am in no way criticizing educational techniques which have made learning so much easier and more attractive than it used to be. I believe in free public education and I can think of many worse ways of wasting the taxpayer's money than

Federal grants in behalf of even third-rate artists. I do draw the line at television ads asserting that childhood's tender bloom is wilted by parents who fail to see the educational value of Kukla, Fran and Ollie. But short of such simon-pure baloney I would go a long way in smoothing the path of any serious student.

Nevertheless, it remains eternally true that before anyone seeks license to express himself he should have acquired, somewhere, somehow, some part of that virtue and piety which the Romans of Cicero's day associated with *licentia*. Individual freedom of expression, in short, implies an honest individual effort, and beyond that certain generalized standards, to insure that the expression shall not be socially deleterious.

The necessity for such standards has long been recognized in most of those fields of self-expression that we call professional. The man or woman with an urge to express himself in medicine or the law must first "qualify" by passing examinations that require arduous and protracted training. It is not enough to have an interest in the subject, nor even to have worked at it spasmodically, as I happen to have done in the case of the law. Dean Manion is kind enough to think — or at least he thought until this morning — that I have a certain competence to address this Institute. That friendly judgment, however, does not entitle me to defend or prosecute the most trifling case in any court in this country. I am not qualified to do so.

In other professions, such as teaching, architecture, engineering and banking, the standards are less formalized, but not less real. They are very real in the vital field of religious self-expression. I am not ac-

quainted with the details of the sifting process which I know is rigorously applied to applicants for the priesthood, but I feel sure that it seldom errs on the side of laxity. My own religious affiliation — that of the Society of Friends — is unusual among other respects in that it has no professional priesthood. Here it would ill become me either to defend or criticize this custom. It is appropriate to point out that the practice is in no way at variance with the doctrine of Natural Law.

Quakers do not subscribe to ecclesiastical distinctions, because of their profound conviction that all men are on an equal footing before God. And this is really the strongest possible affirmation of the belief that Natural Law operates upon and is binding on Everyman. The absence of a professional ministry does not mean, as sometimes thought, that any worshipper in Quaker Meeting is equally entitled to rise and deliver a homily to his associates. Before such indulgence the true Friend must have felt himself "moved by the Spirit," and it is further assumed that he will have personally subscribed to the Discipline of his Yearly Meeting, or governing body, and will have answered conscientiously the Queries of his local Meeting. These are searching questions: "Do you endeavor to express in your daily lives the love and brotherhood, the sincerity and simplicity, that Jesus Christ lived and taught?" Only if you can answer that, and similar questions affirmatively, do you possess acknowledged Right to express yourself in Meeting..

And the Society of Friends, I venture to assert, has been influential beyond its numbers because every convinced Friend must accept Responsibilities before—not after — he lays claim to Rights. Precisely because this

conscientious attitude has been so well attested, our Civil Law is today generous to members of the Society of Friends. Their affirmation is the equivalent of an oath and those who claim conscientious objection to conscription are customarily allowed to perform alternative service.

The same general rule, it seems to me, must apply to our Society as a whole. The Rights of citizenship are contingent upon, and follow, acceptance of the Responsibilities of citizenship. And this acceptance cannot be merely perfunctory, if one expects to assert the contingent Right. The sense of responsibility must be positive. It must have been demonstrated, to general satisfaction, before the Right can properly be asserted.

When the sense of Responsibility is not affirmatively present, in any form of individual self-expression, it must be negatively imposed. This denial of license is clearly a function of the State—a part of the police power that none but anarchists would deny to the State. For it is sadly true that almost everybody is occasionally deaf to the commands of Natural Law, and that some are permanently hard of hearing when the still, small voice of Conscience tries to speak.

Therefore, as Cicero pointed out two thousand years ago, the Civil Law is set up to restrain, and assist, those who do not heed the commands of Natural Law on their own initiative. The effort of all legal philosophy, however, has been to make the Civil Law conform with the Moral Law, as understood by the religious sense of the historical period. Statutes as such must necessarily be concerned with actions rather than intentions, but under the doctrine of Equity every Court will take in-

tentions into account. They pave the road to Heaven as well as that which descends to Hell. Justice, we now agree, demands a jury of laymen as well as a judge and attorneys who know the law professionally. Reflect on whether we would have had the jury system unless those who evolved it had believed in Natural Law.

Nevertheless, the rule of the State, as law giver, remains essentially repressive. It can say what people must *not* do. It cannot with equal facility say what they *should* do. The affirmative function, in making man receptive to the promptings of his higher nature, belongs to the Church, whether it be separated from or linked with political government.

That point scarcely needs laboring. But what many people do not seem to realize is that the so-called Welfare State is today trying to assume functions that are not properly political. The effort to legislate morality may be due to a failure of the Church, to a lust for power on the part of those who direct the State, to the emphasis of the capitalist system on material values, or even to less obvious causes. In any case the trend points towards disaster, simply because virtue and piety are necessarily personal qualities. They cannot be impressed from without. They must be expressed from within. The Church is competent to help the individual in this respect. The State is not. And the expansion of State machinery in the moral field serves only to emphasize its soulless nature, leading further and further from the Confessional, closer and closer to the Concentration Camp.

It is customary nowadays to assert that the complexity of modern civilization has forced mankind to sur-

render the direction of his destiny to the State. If so, we are trying to kill the Hydra by cutting off its heads, for certainly State intervention creates at least two problems in place of one that is solved. The ghastly picture in the Far East is a case in point. When our dealings with China were primarily those of individuals, and largely directed by missionaries, the Chinese admired and respected us. Disaster came when our Government began to throw its weight around, on the basis of a bipartisan foreign policy interpreted to mean that nobody should criticize governmental blunders until too late.

Not the complexity of our civilization, but the failure of men to heed the Natural Law, is at the bottom of the moral crisis in which we find ourselves. And clearly it is not a crisis that can be resolved by piling up more statute law, or by demanding "world government" when men are forgetting how to govern themselves. President Truman—a badly confused leader—recently condemned the Eightieth Congress as "do nothing." To him it failed because it would not enact even more socialistic legislation. A wiser President would have realized that a Congress that does little, thus encouraging the people to do more for themselves, is thereby fulfilling the highest American ideals, of individual liberty and collective freedom.

The widespread indifference to Moral Law, the growing emphasis on Statute Law, can only lead—and is leading—to encroachment on freedom of expression of every kind, and perhaps especially on freedom of speech and press. Of course, even in our fortunate country, there have always been some restraints on the Right

to verbal and written self-expression. There is not merely the law of libel, but also blanket provisions against disturbing the peace or inciting to riot, not to mention explicit Constitutional provisions against treasonable utterances in wartime. It is noteworthy, however, that all these restraints are as applicable to the President, or the Chief Justice of the Supreme Court, as they are to the humblest citizen. They are not limitations imposed on the governed by their governors. They are limitations applied equitably by impartial law to all who clearly reveal an inability to govern themselves. The distinction is important and we should always bear it in mind.

Freedom of expression, even of a corrupting character, is more jealously guarded with us than is, for instance, the freedom to advertise falsely, or to sell impure food and deleterious drugs. That is not because we value our property, and our physical health, more than our spiritual welfare. We cling to the doctrine of *caveat emptor* — the buyer should beware — especially in the field of opinion because it is so difficult to be sure that any opinion is wholly meretricious. If it contains even a portion of truth, the suppression of a distasteful opinion may destroy that which could be helpful to mankind. Christians, so often persecuted for their views, should be the first to recognize this reasoning, superbly argued by John Stuart Mill in the *Essay on Liberty*.

But the logic of the *Essay on Liberty*, and indeed the whole case for freedom of expression, depends on the fundamental assumption that *virtus et pietas* — virtue and piety — are normal human attributes. Even with that assumption, safeguards must be placed around the

license of self-expression. If virtue and piety are empty words; if there is no God behind them to give these abstractions substance, then the safeguards of legal controls must be strengthened until finally all but the opinion of officialdom is *verboden*. Without authority there can be no social life. There is the Authority of God and there is the Authority of the State. At bottom there are no other alternatives. And the more the Authority of God is minimized, the more the Authority of the State must be augmented. It is as simple as that.

For a long time now we have been steadily contracting the sphere that belongs to God, and steadily expanding that which belongs to Caesar. The theory of the Welfare State moves, like the shadow of an eclipse, across the face of God. And as the divine warmth is cut off — by our own folly — we become not more secure but only more baffled, anxious and confused. I cannot myself believe that this eclipse will be permanent. There is too much of goodwill, which is of course God's will, still present in the hearts of men. But do the American people as a whole, today, possess as much faith in God as they have in the Atomic or the Hydrogen Bomb?

Recently a Washington newspaper published a survey indicating that 40 per cent of the population of the National Capital have no church affiliation of any kind. Now I do not equate religious faith with church attendance, nor could I do so without exposing myself to awkward questions from those who note my own observances. Nevertheless, a failure to belong to any congregation does certainly suggest an unwillingness to honor God. And it is startling, to put it mildly, to learn

that two out of every five people in Washington, most of whom work for a government founded on religious faith, are without any perceptible manifestations of such faith. Perhaps the Committee on Un-American Activities would be well advised to inquire into the religious inactivity of those who run the sprawling mechanism of government. There is such a thing as passive, as well as active, subversion.

This is really a matter of profound political concern. A person who is without conviction, or interest, in God is also without conviction or interest in God's law, which is the natural law. And while one may continue to observe a law about which one has no personal concern — out of a lingering sense of morality or a fear of punishment — that pallid observance will be wholly lacking in any sense of personal responsibility. Yet that ingredient of personal responsibility has always been a necessary part of the license — the freedom to act — permitted by Natural Law.

If you want a good football team — though perhaps I shouldn't say this at Notre Dame this year — you must give it close attention. If you want to preserve your savings these days, you had better give your investments careful thought. If you want your business to run some place other than downhill, it too must be given continuous supervision. If you want a foreign policy less wasteful of American lives and resources than the one we have, it would be wise to re-examine it, thoroughly. And if you want to preserve the Liberty that is the gift of God, it is only rational to give rather serious consideration to God himself. It isn't enough to use His name to re-enforce an expletive.

As the Communists know very well, the denial of God is necessary for the triumph of their system. Lenin said: "We do not believe in God" and therefore we "repudiate all morality that is taken outside of human class concepts." But the Communist attack on religion as "the opiate of the people" is far older than the Russian Bolsheviks. In the famous Communist Manifesto, written by Marx and Engels in London in January, 1848, you will find it asserted that "Law, morality, religion are so many bourgeois prejudices, behind which lurk in ambush just as many bourgeois interests."

Law — morality — religion. It was not by accident that Marx coupled them together. They are joined together, and they will stand or fall as one. Destroy religion and you destroy morality — not immediately, but as a room grows cold when the embers die. Destroy morality and you destroy law, in so far as it is an effort to support morality with an enforceable code that assumes the equality of men and the individual right of man to pursue his happiness. As morality may linger after the decay of religious observance, so courts of law will continue, and indeed multiply, after morality is gone. But they will no longer dispense justice. The spirit of the law will be dead. And the business of the courts, as in Russia today, will be the enforcement of the dictates of those in power.

If that evolution — and it is certainly threatened — comes to pass there will be no more Right of Self-Expression. Why should there be, if the concept of Natural Law, which alone supports that Right, is dead? Destroy the idea of God and you destroy all the abstractions that emanate from that central idea. Liberty is

destroyed, and Justice, Mercy, Charity, Forgiveness, Kindness — everything in life that is not directly functional or for which, in the dreary words of John Dewey, “no confirmatory experiential meaning or test can be found.” The Central Committee of the Russian Communist Party only carried this positivist thought to its logical conclusion when it ruled, three years ago, that:

“Soviet writers, artists and cultural workers can have no other interest save the interests of the people and the State. That is why all advocacy of art . . . without politics, of art for art’s sake, is alien to Soviet literature . . . and must not find a place in our books and periodicals.”

Since the Communists, when they come to power, deny the Right of Self-Expression to all non-Communists, should we, under Liberal doctrine, deprive them of this Right to which, as men, they have a qualified claim? Logically, such tolerance would seem to be misplaced. No Communist believes in freedom of expression. They are quite open about it and their entire political and social theory is indeed based on the eradication of this freedom. It is appealed to, by American Communists, only to give them opportunity to undermine the system they abhor. They admit as much. So every local government in this country is thoroughly justified in demanding that no teacher affiliated with the Communist Party should be employed. No school which is supported by taxes can properly hire a teacher who is hostile to the fundamental principles of the government that these taxes support. But there is more to it than that. The man who denies the Natural Law can

scarcely claim the privileges that spring from Natural Law, and from that source alone.

Nevertheless, free speech and a free press are guaranteed by the Constitution. And even if that were not the case we should be very careful about denying Communists the right of self-expression, as distinct from position under, and benefits from, the government.

There is an obvious argument for permitting the Communists to talk, and to continue the publication of the *Daily Worker* and their other papers. By self-expression they tend to give themselves away, as has proved true even of some of the clever ones who have infiltrated the Government service. That is better than driving the entire Communist movement underground. But this is a superficial argument, and does not touch the deeper issues.

Of far more importance is the fact that every statute which encroaches on the Right of Self-Expression is thereby an encroachment on the Natural Law. There is no doubt that such encroachment may be necessary. It may even serve to bolster, prop and support the Natural Law. But, as a general rule, the greater the political regulation, the less the spiritual development; the more men are regimented by the State, the less they will discipline themselves; the more we depend on statutes, the less consideration we give to Natural Law.

The State has concentration camps for lost sheep. But the way of the Good Shepherd was different. The scribes murmured, saying "This Man receiveth sinners and eateth with them." To those who knew only the written law that was objectionable. It was not, we know, objectionable to the angels.

The best way to protect the Right of Self-Expression

is not to crack down on the tiny minority — the one per cent perhaps — of actual subversives. As we have seen, there are many of them who can and will repent. To deny them Rights is the negative approach to the problem, even when the denial is justifiable. We cannot encroach upon the natural rights of any of our fellow-men without at least threatening encroachment upon those rights for ourselves.

The positive approach lies, I conclude, in a keener realization of our ideals among the 99 per cent who have not realized their need of repentance. The indifferent, the apathetic and the agnostic constitute a more real threat to America than those who openly attack its institutions. It is the absence of faith in our own creed, rather than the presence of emissaries of the Kremlin, that is the danger.

Those who fail to affirm God thereby fail to affirm the Natural Law that God alone sustains. We have forgotten that to divorce ourselves from moral Responsibility is simultaneously to eliminate our claim to moral Rights. No Constitutional guarantees will serve to save the Freedom of Expression, for all Americans, unless we also demonstrate belief in God.