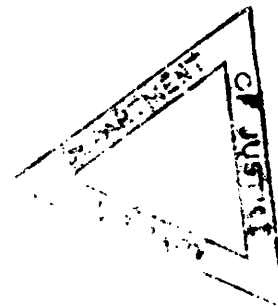


PS
668
.96

FOR RELEASE TO MORNING PAPERS
SUNDAY, JULY 11, 1954



"PROTECTION OF OUR FUNDAMENTAL RIGHTS"

ADDRESS

BY

HONORABLE HERBERT BROWNELL, JR.
ATTORNEY GENERAL OF THE UNITED STATES

Prepared for Delivery
before the
NATIONAL CONFERENCE OF METHODIST MEN

Hall of Music
Purdue University
West Lafayette, Indiana

8:00 P.M., Saturday, July 10, 1954

Freedom of the press, or freedom of speech, or the right of an accused in a criminal prosecution to a speedy public trial by an impartial jury are perhaps the constitutional rights of American citizens most frequently discussed. I have chosen, however, to talk primarily about freedom of religion. It, too, is one of our great and fundamental rights. And it seems to me that it is an especially appropriate subject in view of the theme of this conference: "Methodist Men Work For Christ."

I want to discuss with you, then, some aspects of the role of the church in the life of our nation, and, indeed, of the world.

When I speak of the "church", I am not thinking of any particular denomination or creed or faith. Perhaps I can make clear what the word "church" means to me by referring to the autobiography of George Wharton Pepper. Entitled Philadelphia Lawyer, it was published in 1944 and is the story of the life of a great American.

At one point Mr. Pepper says this:

"The word 'church' has for me, at seventy-seven, a meaning different from its meaning when I was twenty-one. Then it was the Protestant Episcopal Church in general and St. Mark's Parish in particular. Today it is a collective name for all who are willing to be counted in the company of Our Lord's disciples."

So, for me, the "church" means the company of all God's children.

If one undertakes to appraise the influence of religion and the power of the church in the lives of men and nations throughout the

world today, it is easy to become discouraged. Faith seems to be giving way to cynicism on the part of so many people. The material appears to be triumphing over the spiritual in many places. It has become customary to do what is expedient rather than what is right.

In such times, it is reassuring to all of us to know that our President, the leader of our nation, is a man of deep religious faith. He is a man to whom the church means much.

You will recall that at the very outset of his inaugural address President Eisenhower uttered a moving prayer which he had composed. In it he asked for Divine guidance in the days ahead.

Then there was his reaction to the attack on the loyalty of Protestant clergymen made in the summer of 1953. You will remember the charge made by J. B. Matthews: that the Protestant clergymen were the largest single group supporting the Communist apparatus in the United States.

Dwight Eisenhower's response to this charge was in the form of a telegram to a Catholic priest, a Jewish rabbi and a Protestant minister, representatives of the National Conference of Christians and Jews. It is such a stirring document that I would like to read it to you in its entirety.

"Generalized and irresponsible attacks that sweepingly condemn the whole of any group of citizens are alien to America. Such attacks betray contempt for the principles of freedom and decency. And when these attacks -- whatever their professed purpose be --

condemn such a vast portion of the churches or clergy as to create doubt in the loyalty of all, the damage to our nation is multiplied.

"If there be found any American among us, whatever his calling, guilty of treasonous action against the state, let him legally and properly be convicted and punished. This applies to every person, lay or clergy.

"The churches of America are citadels of our faith in individual freedom and human dignity. This faith is the living source of all our spiritual strength. And this strength is our matchless armor in our worldwide struggle against the forces of godless tyranny and oppression."

The President's words were in keeping with the finest of American tradition, for our nation had a spiritual foundation. Our founding fathers came to the shores of this country in order to worship God as they pleased. The American colonies were havens for devout men and women who had fled from the religious oppression and persecution of the Old World. Our forefathers endured much of suffering and hardship, but they left us a magnificent heritage of freedom.

Our Declaration of Independence began on a spiritual note: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the pursuit of Happiness."

Our Constitution includes a firm guaranty of religious freedom. The First Amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Incidentally, there is an interesting story about the use of prayer in the constitutional convention of 1787.

On some of the basic questions before the convention there were opposing, and strongly held, viewpoints upon the part of the delegates. At one point, compromise seemed out of the question, and an insurmountable impasse had apparently been reached. Benjamin Franklin, afraid that the convention was doomed to failure, made a motion that the "convention open daily with prayer, invoking Divine guidance to save it from ruin." Alexander Hamilton opposed this motion, fearing that such action would cause undue alarm among the people with respect to the deadlock. Even on Franklin's motion there was no agreement. As one author has said: ". . . either this [Hamilton's argument] or some other reason was so potent that scarcely any one voted yea . . . "

But to return to our discussion of the Constitution's guaranty of religious liberty.

As you are aware, it is the function of the Supreme Court to interpret our constitutional provisions, and to give them meaning and life. The court on one occasion said this with respect to the First Amendment:

"[It] was intended to allow every one under the jurisdiction of the United States to entertain such notions respecting his relations to his Maker and

the duties they impose as may be approved by his judgment and conscience, and to exhibit his sentiments in such form of worship as he may think proper, not injurious to the equal rights of others, and to prohibit legislation for the support of any religious tenets, or the modes of worship of any sect." . . .

Over the years the Supreme Court has had before it quite a number of cases concerning freedom of religion. The specific legal issues involved in these cases have been as varied as they have been important. Perhaps you would be interested in two or three examples.

In one instance, a community which imposed a license fee on vendors of merchandise sought to collect the usual fee from itinerant evangelists who sold religious literature. The court refused to sanction this, saying that it would constitute an invalid restriction of freedom of religion.

In another case, a young girl was selling religious pamphlets on the street. A state sought to prohibit this by applying its child labor laws to the situation. The court permitted the state to do this, holding that it would not amount to an unconstitutional invasion of religious liberty.

In still another situation, a state sought to use public funds to provide free bus transportation to pupils attending parochial schools. The court held that this practice would not be "an establishment of religion", as forbidden by the Constitution.

These few examples are illustrative of some of the problems con-

cerning religious freedom that the Supreme Court has had to consider. Many of the cases have involved highly complicated legal questions, and often the court has arrived at its decision by a divided vote of the justices. It is not my purpose this evening to discuss any of these controversial legal issues. I do want to emphasize, however, that the exhaustive consideration given by our courts to these cases is striking proof of our vital concern whenever religious liberty is at stake.

There are countless other illustrations of our government's interest in things of the spirit. Think for a moment of the conscientious objector. Under the Selective Service Act, any person "who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form" is given a partial or full exemption from military service. The policy behind this statute is that there shall be no coercion of a young man's conscience.

If a local draft board denies a registrant's claim for exemption because of conscientious objections, he is entitled to ask for a review of this decision by a Selective Service appeal board. In such a case, the appeal board refers the claim to the Justice Department for an inquiry and hearing with respect to the character and good faith of the registrant's objections. The Department then makes a recommendation to the appeal board as to whether the conscientious objector's claim should or should not be sustained.

The hearings in these conscientious objector cases are held throughout the country before Hearing Officers. These Hearing Officers are lawyers appointed as Special Assistants to the Attorney General for

this particular purpose. They serve without compensation. They are a splendid group of high minded and public spirited men and women, leaders in their profession and in their respective communities. During the past year there were 255 Hearing Officers who served in approximately 1800 conscientious objector cases. I would like to take this occasion to pay tribute to them. They are rendering a distinguished public service.

The recent appointment of Dr. D. Elton Trueblood, the eminent Quaker philosopher, as Chief of Religious Policy for the United States Information Agency is another illustration of our attention to spiritual matters. This agency is probably best known as the sponsor of the Voice of America. In announcing Dr. Trueblood's appointment to this newly created post, the director said that it reflected "the importance this agency is now giving to our moral and spiritual heritage." In the struggle for men's minds, truth is our most effective weapon. We have a dynamic story of personal liberty to tell to the world, and we should tell it with conviction.

Any discussion of freedom of religion in this country would be singularly incomplete if it failed to take into account our fight against the Godless tyranny of Communism.

There is no doubt that Communism is today the greatest threat to freedom. A democratic society is a free society; a Communist state is a police state. Under our democratic way of life, our supreme values are the worth, the dignity, the liberty of individual men and women; under Communism, these things count for nothing. Religion is a foundation

stone of democracy; Communism is atheistic and represents a complete denial of God. Wherever the Communists have come into power, the light of religious freedom has been quickly and brutally snuffed out.

Your government is fully alert to the communist menace in this country, and is dedicated in its determination to control it and destroy it. The Justice Department is playing a major role in this effort. In a radio and television report to the nation on April 9, 1954, I undertook to inform the American people about what we are doing in this fight against Communism. I do not, therefore, propose to discuss the matter in any detail on this occasion.

I do feel, however, that I should indicate again -- this time in brief and summary fashion -- a few of the major moves that we are making in this effort to destroy the greatest of all threats to religious liberty.

Here, then, are some of the things we are doing.

In 1953 and so far in 1954, 41 active Communist leaders have been convicted under the Smith Act and sentenced to jail for conspiring to advocate the overthrow of our government by force and violence. In addition to these 41 party leaders, 28 others who have been indicted in recent months are on trial or will be brought to trial in the Fall. Our objective is to cripple the domestic leadership of the Communist Party and thereby destroy a large part of its effectiveness. We are proceeding under the Internal Security Act of 1950 to require various subversive organizations to register with the Department of Justice. This registration will force these organizations into the open, subjecting them to the

full glare of publicity with respect to their members, activities and finances. We are using the immigration and nationality laws to stop the entry of foreign Communist agents into this country, to deport those who may have already entered, and to denaturalize those who may have acquired citizenship. And finally, the Administration has weeded out from the government payroll several thousand employees who are security risks.

In the fight against Communism, we have not only employed every legal weapon at our disposal, but in addition have proposed that the Congress add several new weapons to our arsenal. For example, we have asked for the enactment of immunity legislation. This would allow the government under certain conditions to compel the testimony of a witness before a court, a grand jury or a congressional committee by granting to him freedom from prosecution for matters disclosed in his testimony. We have urged enactment of a law that would allow evidence procured by wiretapping to be introduced in the federal courts in cases involving the nation's security. We have proposed legislation that would bar an individual from access to a defense facility if, after a full and fair hearing, he were found to be disposed to commit espionage or sabotage. We have recommended legislation that would eliminate Communist control of any labor union or industrial organization.

Our fight against Communism has thus been vigorous and successful. At the same time we have proceeded with a careful regard for individual dignity and rights, and in full accordance with the American tradition of due process of law.

The Communist menace is real, and must be recognized and dealt with as such. But there is no cause for exaggerated fear. This is no time for panic, but for calm and sober judgment.

In this struggle between freedom and tyranny for the minds of men, we must never confuse honest dissent with subversion. We must never fail to distinguish between what is merely unorthodox or unpopular and what is disloyal.

Ours ~~must~~ be a positive program. It is not enough that we should be against Communism. We must be that and much more. We must be for democracy and freedom -- in our every word and deed.

Let me give you an example. That is the story of our government's so-called Escapee Program. To me, it is one of the exciting and significant stories of our day.

This Escapee Program is carried on by the Foreign Operations Administration, of which Harold Stassen is the head.

I was about to say that in this program "the Lord must surely be on our side." I am reminded, however, of Abraham Lincoln's reply to the clergyman who said to him during the dark days of the Civil War that he hoped "the Lord is on our side."

"I am not at all concerned about that," Mr. Lincoln replied, "for I know that the Lord is always on the side of the right. But ~~it~~ is ~~my~~ constant anxiety and prayer that this nation should be on the Lord's side."

What is the Escapee Program? It is a program under which our government provides assistance to those men and women and children who escape from behind the Iron Curtain.

Escape is an extremely hazardous undertaking. The frontier areas of the Soviet satellite countries are cleared of buildings and trees so that detection in crossing is almost certain. There are barbed wire barriers and armed border guards. In some places camouflaged pitfalls 15 to 20 feet deep trap the unwary. Families and friends left behind face persecution.

Inspired by a yearning for liberty, however, many persons overcome these obstacles and make their way to the West and freedom. But their difficulties are then by no means over. They must have food and clothing and shelter. Medical care must be provided, and they must be helped in finding a new home and starting a new life in a democratic society.

Through the Escapee Program our government is giving vital assistance to these men and women who have risked and sacrificed so much for freedom.

Since the program was instituted two years ago, over 26,500 escapees have been given aid. Of these, about one-third have been resettled, primarily in Australia, Canada, South America and the United States. The remaining two-thirds are receiving assistance in Europe pending final resettlement.

The files of this program tell countless heart rending tales -- of Catholic girls suspended from school for "subversive activities," their offense consisting of making the sign of the cross when the chimes from a nearby church rang the call to worship; of devout Jews forced to work on Saturday, their Sabbath; of consecrated Protestant teachers denied the right to teach their pupils that God created the world.

But the files also contain stories of hope. Here is a vivid example:

"In Bavaria on the Czech-German border, a group of escapees erected a large wooden cross within a few feet of the Iron Curtain itself. The cross is so constructed and placed as to cast its shadow across the barbed wire barricades and mine fields into Communist-dominated Czechoslovakia. The cross and its shadow, in penetrating the Iron Curtain, are symbolic of the power of Christianity and a source of eternal hope."

It would be a fair question if you were to ask me what, in my judgment, you as individual representatives of the church can -- and should -- do, affirmatively, to help preserve our Republic and freedom.

My answer to this question is based upon my personal belief about the essential nature of religion. Of course a man's relation to God is the very heart of religion. But religion also involves man's relation to his fellow men -- to his neighbors across the street, and across the sea.

Religion, then, cannot be separated from the great political and economic and social issues of our day. This being the case, it is your obligation, as it is mine, to strive to help bring about a better, a more secure, a more satisfying life for all men.

But you are no doubt interested in specific contributions that the good citizen, the religious citizen, can make.

He can vote, in the primary as well as in the general election and at the local, state and national levels. He can be willing to hold public office, even though it takes time that he would prefer to use otherwise. He can accept jury duty willingly, although it may involve financial sacrifice. He can participate in worthwhile community causes -- youth organizations, Red Feather drives, civic associations, to mention but a few. He can lend his support in clearing slums and improving schools. He can conduct his personal and business life in accordance with a standard of values that will help to bring about the Kingdom of God on earth.

One splendid chapter in the history of American freedom was written on May 17, 1954. That was a significant day in the onward march of this nation toward a more perfect democracy. The Supreme Court then announced its decisions in the segregation cases. Some seventeen states and the District of Columbia have separate public schools for White and Negro children. In two unanimous opinions delivered by Chief Justice Warren, the court struck down this policy as forbidden by the Constitution. This action is a telling answer to Communist propaganda that we preach freedom abroad but fail to practice it at home. Our highest tribunal has proclaimed again one of the cardinal principles of our American way of life -- that all persons stand before the law as equals, regardless of their color, creed or class.

During the course of his opinion, Chief Justice Warren made the following observations, which are of such significance in life today that I will take your time to read what he said:

"Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms."

The Supreme Court, then, has outlawed segregation in our public schools. Now the court's decision must be implemented and carried out in communities throughout the nation. I urge each person here tonight to give support and exercise leadership to this end.

The decision presents new responsibilities -- and new opportunities as well -- to the American people. I am confident that their response will be in keeping with the cause of human dignity and freedom.