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ADDRESS

by

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

Prepared for Delivery

at the

Notre Dame University Commencement

Notre Dame, Indiana

Sunday, June 5, 1955

3:00 P.M., EDT

In the last few years, the most remarkable expansion has taken place here at Notre Dame in the fields of liberal arts, science, law and education. The spirit and lofty aims of Father Sorin and his worthy successors are very much alive everywhere on your campus.

Your great University, from its inception, blazed a trail in the field of beneficent human endeavor and religion. But you have also gained distinction in the fields of engineering, international relations, history and science. Only recently instituted, your Distinguished Professor Program of attracting outstanding scholars from all over the world has won widespread praise. Your graduates now occupy leading positions in religion, industry, commerce, the professions, the armed services, government, the judiciary and other notable fields of endeavor.

The important work carried on inside and outside this University completely "scotches" the myth that Notre Dame is a football factory. But as many universities and colleges throughout the country will sadly attest, your football team is by no means a myth.

The interest in sports and other extracurricular activities which prevails here is not confined to a handful of students who are on varsity teams. Your entire student body engages in a lively, active intramural program in recognition of the fact that group activities teach the fundamental principles of cooperation and fair play in the finest traditions of our country.

Above all, you will take away an abiding knowledge and interest in religion, the role of the church in society and your position as a citizen in the community. Long after other principles learned have faded

into obscurity, there will remain with you undeviating devotion to God; the firm ethical principles which teach how to live righteously with fellow men; how to respect the dignity and rights of all men; how to preserve the freedom of conscience for all mankind; how to inspire others by your own good example. There are no more precious values for you to cherish than these; there are no precepts which have better stood the test of time.

Freedom of conscience--freedom of religion--how vital these rights are to our way of life!

It was no accident that religion was the first of the liberties mentioned by our founding fathers in our Bill of Rights. In Europe, failure to conform to religious beliefs and modes of worship resulted in cruel and inhuman punishment. Early settlers came to the shores of this country in order to worship God as their conscience directed. Nevertheless, for many persons, including Catholics, Jews, Unitarians, and others, the colonies were not the havens from religious oppression they had expected. Religious persecution continued in its many hideous forms. The degree of discrimination and intolerance varied with the time and place. Some persons were hounded until they departed for other colonies. People were taxed against their will to support state recognized churches, frequently by sects whose tenets they opposed. Failure to attend public worship and opinions designated as non-conforming were punished severely. In many instances the discrimination was of a political character. Religious tests were common for the enjoyment of a franchise, the holding

of public office, voting, jury service, competency as a witness, guardianship, and the exercise of other rights and privileges. In other cases, the restriction was against the exercise of one's freedom of conscience in religion.

In 1647, it was not safe for a Catholic to be in Massachusetts. Its General Court had entered a decree barring every spiritual or ecclesiastical person ordained by the Pope or See of Rome. If such a person were seized, the sentence the first time was jail and banishment; if taken a second time, the sentence was death. For a short period under Lord Baltimore, Catholics found fairly complete religious liberty in Maryland measured by the standards prevailing at the time. But this protection was temporary and sporadic, depending on which King occupied the English throne. In many colonies, liberty of conscience was granted to Christians alone.

After Roger Williams had been banished from Massachusetts, he and four companions established a community at Providence, Rhode Island, for Baptists, Quakers and other non-conformists of that day. In later years, he obtained a charter from the British crown which protected persons from being molested or punished for any differences in opinion in matters of religion so long as they did not actually disturb the peace and civil beliefs of the Colony. Under these laws, Catholics and Jews could worship God in their own way without fear of punishment. The views of Roger Williams in Rhode Island were to chart the course for religious liberty that followed throughout all America.

It was the long and violent history of religious persecution which convinced many of our founding fathers of the need for including explicit guarantees in our Constitution to protect freedom of religion and other rights.

Nevertheless, the Constitution, as adopted, fell far short of its mark. It merely provided that no religious test shall ever be required as a qualification to any office or public trust under the United States. There were no express safeguards for freedom of religion, speech, press or assembly, and other rights which mean so much to our way of life. In response to insistent demands of the people, the Bill of Rights was shortly thereafter embodied in our Constitution, protecting from government interference the conscience, the spirit, the minds of men, their right of privacy, their person, their property. The First Amendment to the Bill of Rights provides in part that: "* * * Congress shall make no law respecting an establishment of religion, or prohibit the free exercise thereof * * *."

It will be noted that the prohibition against interference with religion is upon Congress alone. However, as construed, the Bill of Rights also bars both the President and the Federal Courts from abridging freedom of religion and the other rights guaranteed to the people.

The Fourteenth Amendment, adopted in 1868, has been construed so that the states also are restricted from interfering with the right of a person to worship God according to the dictates of his own conscience. In this way, the supreme law of the land guards against the repetition of strife engendered by bitter struggles which lasted for centuries abroad and which marred our early history.

What do these guarantees mean as applied to our daily life? May a State or the Federal Government set up a church? It may not. May State or the Federal Government pass laws which prefer one religion over another? It may not. May a State or the Federal Government force a person to go or to remain away from church against his will or compel him to profess a belief or disbelief in any religion? It may not.

Through the firm prohibitions contained in the First and Fourteenth Amendments, religious conscience and worship are fully protected from every pressure of governmental coercion.

While the First Amendment guarantees freedom of religion, it may not be invoked as a shield against legislation enacted to preserve an orderly society. Thus, the First Amendment does not constitute a defense for polygamy, made criminal by Act of Congress. Nor would freedom of religious worship justify human sacrifice. So too, a State law which prohibits religious groups from parading on the streets without a public license, in order to prevent a breach of the peace, is not an invalid interference with freedom of religion. To permit these practices under professed doctrines of religious belief, the Supreme Court said, would "in effect permit every citizen to become a law unto himself. Government could exist only in name under such circumstances."

In applying these principles, the Courts have upheld the right of a parent to provide a religious education for his children in voluntary and non-tax supported schools so long as these schools meet general standards prescribed by law. So too, the Supreme Court has ruled that, under the guarantees of religious liberty, a State cannot compel a child attending a public school to salute the American Flag, if this requirement

violates the conscience of members of a religious sect. The Supreme Court of New Jersey has held that freedom of religion under the First and Fourteenth Amendments is violated when a city places the weight of its authority behind one sectarian bible for use in the public schools over another. As the court declared, to condone this action would renew "the ancient struggles among the various religious faiths to the detriment of all."

While the federal and state governments are forbidden from meddling in religion, the question has been raised frequently in recent years whether they are also barred from cooperating with religious authorities and assisting our religious way of life. Does our Constitution require that the state and religion shall be alien to each other-- to be hostile, suspicious or unfriendly? Obviously, it does not.

The Supreme Court has held that a state does not offend the Constitution when it provides parochial schools with secular textbooks on the same basis as they are furnished for public school children.

The Court has also held that a state may spend public funds to transport children to parochial schools as part of a general program under which it pays the fares of pupils attending public schools. In this case, it was claimed that the state was using public funds to advance sectarian school needs. The Court replied that this expenditure was no different than detailing traffic policemen to protect the children who go to these church schools, furnishing fire protection, or sanitation safeguards and other public services.

The Court has also held that with parents' permission children may be released from school during the school day to attend religious courses outside the public school buildings paid for by religious organizations. This law, the Supreme Court declared, does not show partiality to any one religious group. It merely respects "the religious nature of our people and accommodates the public service to their spiritual needs."

On the other hand, the Supreme Court has held that the First Amendment forbids religious instruction classes from being conducted during regular school time within a public school building by denominational teachers. Its ruling in this case, the Court emphasized, was not hostile to religion, but merely recognition that "both religion and government can best work to achieve their lofty aims, if each is free from the other within its respective sphere."

Thus, you see, our Courts have construed the Bill of Rights in a way intended to give freedom of religion the broadest scope that could be countenanced in an orderly society.

There are other evidences that we are a deeply religious people whose institutions presuppose a Supreme Being. We have Chaplains in Congress, in state legislative halls and in the armed forces. Presidential proclamations make Thanksgiving a holiday. There are tax exemptions for religious institutions. West Point and Annapolis require compulsory chapel attendance. Our coins bear the inscription "In God We Trust." A witness in a courtroom takes an oath to tell the truth "So help me God."

The Supreme Court opens each session with the words "God save the United States and this Honorable Court." There are appeals to the Almighty in messages of the Chief Executive. The Cabinet opens its meetings with a silent prayer. An Act of Congress last year added to the Pledge of Allegiance the words "under God."

Our federal laws also recognize the validity of religious conviction against war in exempting conscientious objectors from universal military training. This exception is not one protected by the Constitution, but by a federal law. It is consistent with the American heritage of religious freedom and tolerance. Behind this statute of the Congress is the profound philosophy of our way of life that there shall be no coercion of a young man's conscience.

Today we enjoy the blessings of freedom of religion in the fullest sense of that word. We also recognize the corresponding duty of not interfering with the rights of worship and freedom of conscience of others. We know, from our own experience, that if we are not vigilant, the virus of prejudice and hate can infect individuals of every religion. We have learned from the experience of other countries how contagious are the corroding effects of religious intolerance. We have also learned from experience in totalitarian countries that when a Nation becomes contemptuous of religion and the rights of man, it is not long before all freedom is lost.

The pattern of tragedy and injustice has been the same wherever freedom of religion and other individual rights have been snuffed out. Often massacres, assassinations, imprisonment by lawless elements are

started against a small minority too weak to protest. Before the brakes can be applied, their violence may be shifted against majorities who are too confused and disorganized to resist. The Nazis picked on the Jews first. Later, as law and order were swept aside, the Nazis laid their swastika and sword on church altars seizing and disposing of Cardinal Faulhaber of Munich and many other Catholics.

The episodes leading to the imprisonment of Cardinal Mindszenty by the communists in Hungary were substantially the same. There was merely a slight difference in form - not one in fact. The Nazis, inflated with arrogance and indifferent to the world's appraisal of them, did not even bother about staging a trial and imposing a sentence. The communist-satellite Hungary, more fearful and mindful of world opinion, went through the pretense of a trial. Indeed, it coerced a confession so skillfully, there were some people in this country at the time who concluded that Cardinal Mindszenty had been tried and jailed for political activity.

Everyone soon learned the truth of what went on in the dungeons of the Iron Curtain. Cardinal Mindszenty had made the "horrible" mistake of urging the people in a totalitarian state to vote for candidates who believed in justice, the dignity of man, and in freedom of religion. A lesser man would have chosen to remain silent. But Cardinal Mindszenty spoke out against oppression, tyranny, and religious persecution. He chose to fight for his faith and what was right.

As may be expected, he was soon charged by the communists with treason, espionage and plotting to overthrow the government. He was thrown into jail and tortured. Finally, broken and under the influence of forced drugs, the communists got their confession just as they had from others. This they used against him in a mockery of a trial lasting three

days. He was convicted and sentenced to life imprisonment. The communists also went through the sham of permitting an appeal to the National Council People's Courts, the country's highest tribunal. There, of course, "rubber stamp" judges affirmed the sentence.

Cardinal Mindszenty may have been imprisoned, but his great faith could never be confined. It still lives in the hearts of free men everywhere. As President Eisenhower recently said:

"Despite the constraints of person and silence imposed on Cardinal Mindszenty and other church leaders by their prosecutors, the spirit of these men has defied confinement by the totalitarian State. It has become, indeed, a symbol of faith and freedom for our times."

You may be interested to know that the culprits responsible for the Cardinal's imprisonment met violent deaths. Three ministers of the interior who played major roles in securing the conviction of the Cardinal; key witnesses against him; the secret-police agents who participated in his arrest; the minister of justice at the time of the trial; his interrogators at the time of his arrest, all strangely enough, soon thereafter were liquidated. "Dead men tell no tales"-- and this was one tale the communists wanted to hide forever.

Cardinal Mindszenty's story is not unique. Country after country has been infiltrated, subdued and finally overrun by similar communist intrigue, force and false promises. The proud peoples of Poland, Czechoslovakia, Hungary, Roumania, Eastern Germany, Albania, The Baltic Provinces, China, North Korea, North Viet Nam and Others are now humbled trophies hanging in the communist Halls of Infamy.

As soon as the communists took control in each of these countries,

fear and oppression reigned, ending in the deprivation of the very freedoms which had furnished safe refuge for their conspiracy.

Those who, for their own purposes, had advocated the right to speak freely now imposed strict and rigid censorship on open discussion and assembly. Those who previously preached the need for independent thought in the schools now demanded complete conformity to the communist mold. Those who had complained that the system of justice had been unfair now established courts where the accused was condemned even before he was heard.

Was there ever any vestige of liberty left? You know the answer as well as I.

The right of the people to worship in accordance with the dictates of their conscience; the right to vote; the right to engage in an occupation of one's own choosing; the right of an individual to privacy; the right to own property and to enjoy the fruits of one's own labor -- all these were erased from the slate of human rights. Freedom of every kind was beaten, crushed and killed for all the tragic people who happened to be the victims of the communist conspiracy.

With this stained page of history before them, as well as the techniques used, it became apparent to all freedom loving people that the communists were engaged in a vast international conspiracy dedicated to enslaving the entire free world. Experience demonstrated that the favorite method pursued by them, like that of any bird of prey, is to pick on its victims one by one until they are all consumed.

Recognizing this common threat to the peace, security and freedom

of the world we have taken steps to guard against and beat this global menace.

First, we put into motion a drive to destroy the communist conspiracy in the United States. Our objectives have been carried out successfully within the framework of our Constitution and without sacrifice of our cherished rights and liberties.

As a result of splendid teamwork within the Department of Justice, most of the national communist leaders have been convicted of conspiracy to overthrow the Government by force and violence. Many of these convicted leaders had penetrated strategic industries from which they would have spearheaded their sabotage when the time was ripe for it. A conspiracy without leadership is doomed to failure.

The most determined efforts are being made to cleanse the government, the unions, and the country itself of its prime communist leaders, their subordinates and sympathizers. Here again, these objectives are being accomplished in accordance with the traditional American conception of fair play and due process.

Second, we have entered into historic agreements with other free nations which proclaim that in united action lies our strength. One of these agreements adopted at Caracas in 1954 was with the American Republics.

By this declaration, the American Republics made clear their determination and cooperation to protect "the inalienable right of each American State freely to choose its form of government and economic system and to live its own social and cultural life."

Following this example, the hope of free men everywhere was also rekindled by the Southeast Asian Treaty and by the recent agreement signed in Paris. These announced the determination of the Asians and the European Western Nations, as did our own, to strengthen the cause of security, peace, independence and liberty throughout the world. By such international cooperation and by our efforts at home we hope to eradicate the international peril.

But it is not enough to act against communist conspiracy. We must act affirmatively for peace and freedom in order to make the brotherhood of man a reality.

One example may suffice to illustrate the point. It is the story of our government's humanitarian "Escapee Program". Under it, our government furnishes food, clothing, shelter, and other assistance to those persons who are fortunate enough to escape the Iron Curtain. With the aid of American voluntary agencies, our government accepts, cares for and through medical treatment, vocational and language training helps these escapees qualify for resettlement in foreign countries. Our government asks nothing in return--and gets nothing but the eternal gratitude and appreciation of those who fled a Soviet police state.

With charged barbed wire, watch towers, armed border guards, mined traps, policedogs, deep ditches, torture and certain death if caught, the series of dangers involved in these escapes would make any movie thriller tame by comparison.

You would, therefore, think that those enslaved behind the Iron Curtain would shrink from the grave risks involved. But the practices to which they are subject are so inhumane and the yearning for liberty is so intense that in three years, about 50,000 escapees have broken

through their barriers to freedom--to a new life of dignity, self-respect, opportunity, and security of mind.

Almost all of their files tell heart-rending stories. Some escaped from the forced labor camps where hapless millions are confined. They had been arrested without cause on flimsiest charges--tried without an attorney of their own choosing--even barred from conferring with him prior to trial--convicted without proof on forced confessions--jailed without a chance ever to see their family or friends or to write letters to them or to receive mail--deprived of the right to pray or to turn to the church for solace and faith.

There are other cases where the escapees were not imprisoned behind the Iron Curtain--but where life was so harsh, so full of terror and torment, and so devoid of fundamental rights, that they might just as well have been behind prison bars. In one case three Catholic Sisters were deprived by the communist authorities of all ration cards on the pretext their work was not beneficial to society, and thereby denied the right to receive even bread. In another case, a church was converted into a party meeting hall; the bell in the tower was removed and a propaganda loudspeaker installed. In still another case, Catholic girls were suspended from school because of alleged disloyalty to the State. Now what do you think was the "heinous" offense for which these children were branded as subversive? Well--they made the sign of the cross when the chimes of a nearby church rang the call to worship. Another case tells of devout Jews who were denied the right to worship and compelled to work on Saturday their Sabbath. In still another case, Protestant teachers were punished because they taught their pupils that God created the world.

News of these escapes filters through into the Soviet orbit. Each escapee who succeeds is a bright ray of hope to those who remain that they too may soon be free of oppression and tyranny and offered a chance to lead a worthwhile life. Tightening border controls and intensifying purges will not stop these escapees from seeking freedom-- the only thing which will stop them will be the end of religious and civil persecution.

We are trying our best--by word and deed--to sustain their faith in humanity and freedom in other ways. In addition to supplying the physical needs of life, we are helping to resettle many of these escapees in the United States, Australia, Canada, South America and other lands where a warm welcome and asylum is to be found. Already 18,000 escapees have been resettled. These accomplishments are the best evidence to these captive peoples that their welfare is of genuine concern to us and to other peoples of the Free World.

We are also meeting the thrust of communist expansion and aggression in underdeveloped countries throughout the world by financial and technical assistance which will help them maintain their morale; establish a sound economy; and retain their freedom.

Here again, as at home, we are making considerable headway--but not by adopting the methods of the communists and exploiting the weak or defenseless. For, unlike the communists, we have no imperialistic aims or conspiratorial designs anywhere. We recognize the right of each state to adopt its cultural, political and economic life free from foreign influence. We recognize the juridical equality of the smallest of nations. We seek only to protect their political independence from the interests of an alien despotism. But we must do more if we are to

achieve freedom, peace and stability for the peoples of the world.

Many of you have often been puzzled, as I have been, why restraint, order and peace should prevail within our country, but the world outside is often torn asunder by such savagery, dissension and war.

It seems to me that we find peace where there is general agreement among our peoples as to what is right and just. It is upon this foundation that our internal laws beget respect and obedience.

In the pattern of our daily lives, we may discover the ideal for world peace. Our way of life is one of trust in each other and in the judgment of the courts; of tolerance for each other's ideas and standards; of protecting the weak against the strong; of mediating our controversies with patience and fair compromise and abiding by the decision; of treating our neighbors as we want them to treat us; of recognizing the differences among our peoples and respecting them; of reducing inequalities and eradicating injustice; of acknowledging that progress cannot be stopped but must be attained by representative process; of regulating the course of public affairs to the needs of the people. These are the ingredients of order and peace at home.

The President has aptly observed that "Men of widely divergent views in our country live in peace together because they share certain common aspirations which are more important than their differences." In the scales of justice as applied to all mankind, there are no differences between nations, however deep-seated, that outweigh the cause of peace. Indeed, history teaches that disputes between nations do not die with war - they are only laid to rest with peace. But lasting peace can only be achieved through the combined strength of a free world, and fair and equitable reconciliation of all conflicting claims. And it must be peace with honor if it is to endure.

Let us learn to resolve the disagreements among hostile countries as to what is right and just, and we shall reach the ultimate solution for international order and world peace. Let us devote our attention to laws and programs which look to human betterment, and we will forever keep the baneful influence of the Iron Curtain from our shores. Let us dedicate our resources and inventiveness to the joys of life instead of to the misery of war, and civilization will never be threatened again. Let history record that the United States, as the mightiest of nations, played the role of peacemaker, and spent its strength saving mankind instead of destroying it with nuclear weapons.

As young men entering various fields of endeavor your vision, decision and leadership will play an important part in our country's history. The unquenchable spirit of Notre Dame, its precepts that life is a noble calling, its inspiring teachers have endowed you with faith, stout hearts, disciplined and inquiring minds.

As citizens you will have your chance to further the cause of peace, of freedom of thought and conscience, of academic freedom, of civil and political rights. Bring to these vexing problems of human rights a balanced, unbiased judgment, fearlessly probe and weigh all the evidence, and by and large the decision you reach will be the one that justice requires. It was Pope Leo XIII who once wisely said:

"The first law of history is not to dare to utter
falsehood; the second, not to fear to speak the truth."

The Spirit of America, its great aspirations, its glorious destiny, its splendid tradition of ordered liberty are an inheritance that you will always treasure. Use, respect and preserve them well. You will grow from strength to strength, and all mankind will be enriched by your contribution.