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THE CATHOLIC HOUR

FUNDAMENTAL RIGHTS

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The sixteenth in a series of addresses by prominent Catholic laymen entitled "THE ROAD AHEAD," delivered in the Catholic Hour, broadcast by the National Broadcasting Company in cooperation with the National Council of Catholic Men, on September 22, 1946, by Thomas H. Mahony, of Boston, Massachusetts, outstanding authority on international affairs. After the series has been concluded on the radio, it will be made available in one pamphlet.

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FUNDAMENTAL RIGHTS

The Declaration of Independence of 1776 asserts "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. . . ."

In the preamble to a "Statement of Essential Human Rights," prepared by an international group of jurists selected in 1943 by the American Law Institute, it was stated that,

"Upon the freedom of the individual depends the welfare of the people, the safety of the state and the peace of the world."*

It is more and more apparent every day that human rights and their protection are of paramount importance in a peaceful post-war world.

The phrase "human rights" as thus used may be described as those fundamental rights of the individual which, by reason of their origin and the purpose of their exercise, antedate in point of time and validity, and transcend any governmental authority. They are not given by any political society—they are God given. They cannot be surrendered to or destroyed or trans-

gressed by any nation—they are unalienable.

These unalienable and fundamental rights to life, liberty and the pursuit of happiness and those rights which are incidental thereto are sometimes classified as basic (the right to life), civil (the right to due process of law, etc.), political (the right to the ballot, etc.) economic and social (the right to social security, etc.) and scientific (the right to freedom of scientific inquiry and information).

The committee of jurists, referred to earlier, composed of members from many nations listed in their "Statement of Essential Human Rights,"* the following rights and freedoms:

1. "Freedom of belief and of worship. . ."
2. "Freedom to form and hold opinions. . ."
3. "Freedom of expression. . ."
4. "Freedom of assembly. . ."
5. "Freedom to form . . . associations of a political, economic, religious, social, cultural, or any other character for purposes not inconsistent with these articles. . ."

* Am. Law Inst. Com.—Annals of Am. Acadm. Pol. and Social Sc., Jan., '46, pp. 18-26.

* Preamble of Statement—*infra*.

6. "Freedom from unreasonable interference with his person, home, reputation, privacy, activities and property. . ."

7. ". . . the right to have his criminal and civil liabilities determined without undue delay by fair public trial by a competent tribunal before which he has had opportunity for a full hearing. . ."

8. ". . . the right to immediate judicial determination of the legality of his detention. . ."

9. The right not to be "convicted of crime except for violation of a law in effect at the time of the commission of the act charged. . ."

10. ". . . the right to own property. . ."

11. ". . . the right to education. . ."

12. ". . . the right to work. . ."

13. ". . . the right to reasonable conditions of work. . ."

14. ". . . the right to adequate food and housing. . ."

15. ". . . the right to social security. . ."

16. ". . . the right to take part in the government. . ."

17. ". . . the right to protection against arbitrary discrimination in the provisions and application of the law because of race, religion, sex or any other reason."

18. "In the exercise of his rights every one is limited by the rights of others and by the just requirements of the democratic state."

The Inter-American Judicial Committee late in 1945 published a "Draft Declaration of the International Rights and Duties of Man"* in which substantially those same rights were included. Certain additional or rather more specific rights were included. Among these were the following:

. . . the right . . . to petition the government for redress of grievances or . . . in respect to any other matter of public or private interest. . ."

". . . the right to a nationality. . ."

". . . the right to be free from interference in his family relations."

". . . the right to share in the benefits accruing from the discoveries and inventions of science. . ."

More recently the Committee on Human Rights of the Committee to Study the Organization of Peace issued a proposed International Bill of Rights containing substantially the same suggested rights.

The United Nations Charter

* Ibid.—Pan. Am. Union, March, 1946—pp. 5, 7, 9.

pledges the member nations to promote "universal respect for, and observance of, human rights and fundamental freedoms." It does not, however, confer any power upon the United Nations, as an organization, to enforce observance of these rights or freedoms.

The Charter further provides for the establishment of a Commission on Human Rights with power to recommend to the Economic and Social Council or the General Assembly the formulation of an international bill of rights. The question of whether these rights will be observed and, if so, how and to what extent observance will be enforced, is still to be determined by the individual nations. The failure or refusal of any nation to recognize or to enforce such rights does not lay it open to any penalty or punishment.

The Inter-American Juridical Committee suggested the adoption of its Declaration by every nation as part of its domestic law. It also suggested that in the case of decisions against aliens resident in a country other than their own the national state of the alien should have the right to appeal to an international court for a review of the adverse decision.

One of the delegates to the

present peace conference at Paris recently suggested that there be written into the peace treaties, in addition to a covenant to recognize and to protect fundamental personal rights, a provision for the establishment of a European Court of Human Rights with original jurisdiction, and appellate jurisdiction over national courts, in all matters involving such personal rights. This suggestion has not yet been adopted.

There is, therefore, at the present time, no means whereby any nation can be compelled to recognize these fundamental human rights, or to adopt them as a bill of rights or to enforce them, if that nation refuses to do so. There is no international or world authority with any such power of enforcement. The United Nations has no present authority to enact or to adopt and enforce an international bill of human rights.

So, too, there is no international or world authority, with power to enforce the fundamental rights of States. The United Nations has no such present authority. The exercise of a veto in the Security Council by any of the Great Powers prevents any imposition of any sanctions against any violating State.

The recognition of these

fundamental human rights and the protection of them is the mark of a political democracy.

Lincoln defined political democracy as "government of the people, by the people, for the people," and no better definition has since been found.

Of recent years the particular form of government has meant little with reference to political democracy. Of two monarchies, one may be a political democracy and the other a totalitarian dictatorship. Of two republics one may be politically democratic and the other authoritarian, maintained by a secret police.

There are certain minimum requirements for political democracy. If a national government possesses them it is politically democratic and if not, it is not, whatever its form may be. There should be a representative legislative body, elected periodically, reflecting current popular will. The elections should be by secret ballot, fairly conducted and upon a franchise broad enough to express majority popular will. Political parties should be free to participate in such elections; to offer candidates and platforms and to campaign for them. There should be a judiciary which functions to administer justice independently of any interference by legislative or executive

agencies. No government which seeks to perpetuate itself or its leaders in power by refusing to recognize these fundamental requirements or to apply these principles can properly be called a political democracy.

Unless these rights are recognized and protected throughout the world it is certain that there will be countries where political freedom and economic freedom do not exist. Such areas are the breeding places of discontent, friction and war.

In addition to these fundamental human rights, however, there are also certain fundamental rights possessed by nation states. The Inter-American Juridical Committee some time ago issued a proposed declaration of such rights based upon principles adopted at various Pan-American Conferences. Among those rights they included the following:

"The right to respect for its personality, sovereignty and independence."

"The right to judicial equality with all other states."

It has also been asserted that states have or should have the right to equitable revision of burdensome treaties, to free access to necessary raw materials and to free economic intercourse

with the people of all other nations.

The failure to recognize and to respect such fundamental rights of States has frequently led to war and may do so again in the future.

Pope Pius XII has made it clear in his recent encyclicals and messages that these human rights and state rights must be recognized and sustained if world peace and world order are to be maintained. He points the way in challenging words.

In his Christmas message of 1943 dealing with the State as a unit of human society, Pius XII pointed out man's fundamental rights saying:

"He who would have the star of peace shine out and stand over society should cooperate for his part in giving back to the human person the dignity given to it by God from the very beginnings. . .

"He should uphold respect for the practical realization of the following fundamental personal rights:

"the right to maintain and develop one's corporal, intellectual and moral life and especially the right to religious formation and education;

"the right to worship God in private and public and to carry on religious works of charity;

"the right to marry and achieve the aim of married life;

"the right to conjugal and domestic society;

"the right to work as the indispensable means toward the maintenance of family life;

"the right to free choice of a state in life, and hence, too, of the priesthood or religious life;

"the right to the use of material goods, in keeping with one's duties and social limitations."

In his Christmas message of 1939, Pius XII, in discussing the rights of States, said:

"A fundamental condition for a just and honorable peace is to assure to every nation, large or small, powerful or weak, its right to life and independence. One nation's will to live must never be tantamount to a death sentence for another. . ."

In his Christmas message of 1940 he again referred to this matter, and asserted as one of the indispensable prerequisites for a peaceful world:

"Triumph over those germs of conflict which consist in excessive disparities between nations in the field of world economy; hence progressive action, secured by appropriate guarantees, to arrive at some orderly arrangement which would give to every

State the means of securing for its citizens of all classes a proper standard of living."

In his Christmas message of 1941 the Pope again emphasizes this point saying:

"Within the limits of a new order founded on moral principles there is no room for the violation of the freedom, integrity and security of other States, no matter what may be their territorial expansion, or their capacity for defense. If it is inevitable that the powerful states should, by reason of their great-

er potentialities and their power play leading roles in the formation of economic groups comprising not only themselves but also smaller and weaker states, it is nevertheless indispensable that in the interest of the common good they, like all others, respect the rights of those smaller states to political freedom, to economic development, and to adequate protection in case of conflicts between nations, of that neutrality which is theirs according to the natural as well as international law. . ."

THE CATHOLIC HOUR

1930—Seventeenth Year—1946

The nationwide Catholic Hour was inaugurated on March 2, 1930, by the National Council of Catholic Men in cooperation with the National Broadcasting Company and its associated stations. Radio facilities are provided by NBC and the stations associated with it; the program is arranged and produced by NCCM.

The Catholic Hour was begun on a network of 22 stations, and now carries its message of Catholic truth on each Sunday of the year through a number of stations varying from 90 to 110, situated in 40 states, the District of Columbia, and Hawaii. Consisting usually of an address, mainly expository, by one or another of America's leading Catholic preachers—though sometimes of talks by laymen, sometimes of dramatizations—and of sacred music provided by a volunteer choir, the Catholic Hour has distinguished itself as one of the most popular and extensive religious broadcasts in the world. An average of 100,000 audience letters a year, about twenty per cent of which come from listeners of other faiths, gives some indication of its popularity and influence.

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