PHILOSOPHY AND PUBLIC POLICY

Remarks by

MAX M. KAMPELMAN
to the
Philosophical Society,
Washington, D. C.
April 18, 1970

Mr. Chairman,

I confess to some hesitation in standing before an audience to speak about "Philosophy and Public Policy," but I have agreed to do so and I shall. It has been a long time since my days as a college teacher, but I do have a Ph.D. attached to my name and even though it was earned in the field of political science, I trust it qualifies me to express some views on the subject.

In the main, I shall address my remarks to the relevance of our democratic political philosophy to the great public policy questions of the day.

Our democracy today faces two great crises and it would be useful to explore whether philosophy has a contribution to make to their understanding and possible solution: They are the role of dissent and obedience within the society; and the ability of a democratic society to meet international conflict and survive amidst the tensions and hostilities of the world.

Let us begin with the internal matter, the direct threat to democracy that arises out of the call by some to achieve their ends by "direct action".

Max M. Kampelman Papers

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Somehow a moral tone has become identified with this posture because some of the objectives sought appeal to many of us as desirable; and because the term "civil disobedience" has also injected itself into the debate and that is identified with high moral people like Thoreau, Gandhi, Tolstoy, Martin Luther King.

It is time to examine this problem, not as ideologues but as philosophers, primarily interested in the truth wherever it may lead us.

What is the guiding principle of a democratic society?

It is that to the extent possible, when there is a choice to be made between what the majority wants (if that can be ascertained) and what any minority wants, the decision will be made by the majority.

Related to this principle are certain axioms:

No freedom can be absolute, for frequently one freedom limits another and freedom for one may limit the freedom of another. Laws are, therefore, the vehicles by which to define and resolve these conflicting interests. In a democracy, it is laws enacted by a majority decision-making process which attempt to arbitrate the relative freedoms and create and protect certain freedoms by limiting other freedoms. My freedom to swing my arms, therefore, is restricted at the point it touches the other fellow's nose.

Understanding that freedoms conflict one with another, what alternatives are there by which we may resolve the conflict, other than by laws enacted through the democratic decision-making process? Should

the laws be ignored and force substituted? Should we permit anarchy? Or should we prefer laws to be enacted by a special minority rather than the majority process, such as by the rich, or by the strong, or the wise, or the blue-eyed blond-haired, or the moral? Obviously, we would here be substituting forms of despotism for democracy.

A corollary to all of this is the further understanding that if the majority's view is to prevail with legitimacy, the franchise must be as broad as possible and the electorate must have access to the arguments for the alternative positions. Thus, our political party system and our constitutional freedoms of speech, press, assembly, are integral parts of the system.

Furthermore, the added attractiveness of the system is that, in fact, we are each of us at the same time members of the majority, and members of many minorities. As a white, I am in the majority; as a Jew, in the minority; as a Democrat, in both.

This is the system: It has provided the mechanism for change from a primarily rural society to a highly industrial one; from a small new nation of 13 states to a mighty world power of 50 states; from a relatively homogeneous Anglo-Saxon country to a complicated mass of many cultures and nationalities and religious groupings. It has permitted the achievement of more liberty and more material goods for more people than any society in world's history.

Yet, some of our most sensitive young people and most fluent writers and intellectual talkers today in practice challenge that system. They obviously do so when they refuse to permit an opposing point of view to be expressed in a college auditorium; and they certainly do so when they resort to violence and rioting to make their influence felt. Obviously, the question whether there has been a failure in our educational system and in our colleges is a good and legitimate one. The question is highlighted when we see many who would by their profession of learning claim to be members of the Age of Enlightenment and to live by the word of reason, instead condone and apologize for or extenuate the use of violence and other techniques traditionally used by the rabble-rousers and the demagogues of the marketplace.

All of this raises the question, of course, of the role of the intellectual in our framework. One would expect a speaker dealing with the subject of "Philosophy and Public Policy" to admire the role of the intellectual and to equate the role of the intellectual with that of the philosopher. The intellectual, however, has too often become the ideologue rather than the seeker of truth. Too many have arrogated to themselves a moral superiority and a claim to attention in areas in which they have no training or expertise. The usefulness of intellectuals as instruments of national power has, therefore, been greatly exaggerated and I confess to a sympathy of Chaucer's view that "the gretests clerks be naught the wisest men."

But what about the argument arising from some of them that "violence is as American as cherry pie"; that "rioting is an American way of life" and has "creative uses"; that violence should not provoke moral outrage because, after all, force is necessary in human relations and is an instrument of government as well.

The argument is, of course, absurd. When I grew up, lynchings in the South were prevalent, but men of intellect and democratic thought would have been outraged at the suggestion that they be condoned because "violence is as American as cherry pie". Furthermore, it is fallacious to equate violence with force which is, indeed, essential to any ordered society. Violence is the illegal use of force. The government use of force may be wise or it may be unwise, but it is valid and its use is consistent with democracy unless the courts call that use illegal. The use of force by government is legitimate unless the government has usurped or forfeited its authority. In a democracy, there are procedures to determine those limits, but they are not determined by individuals using personal rationalizations, even if those individuals have valid grievances that cry out for solution. Yes, a democracy provides the mechanism by which grievances may be remedied, but those remedies may be slow, may be ignored, may be inadequate - and it must be understood that the decision as to when or how to remedy those grievances cannot be made only by those who suffer from them.

This brings us to the question of "direct action". When it is not orderly and peaceful but takes the form of violence, it must be restricted by a democratic society or the alternative is an invitation to chaos. What if there are two groups with opposing points of view and claims for recognition, each committed to violent forms of direct action? The result would be a Hobbesian war. It is a substitute of mob rule for the rule of reason.

But what if the "direct action" is committed to non-violence? Here, society and those who would philosophize about its role and responsibility are faced with a different challenge. Even here, however, it is a delusion to so cloak the tactic with legitimacy as to blind us to the understanding that it short-cuts deliberation and consultation, gives up or avoids those essential steps of the democratic process of confrontation.

Non-violent direct action against the state is a form of disobedience and disobedience is not necessarily the same as dissent. Nor should it be treated the same way. The right of dissent is integral to a free society, but by definition there must be limits to that dissent, even in a democratic society, where it goes beyond the expression of views and takes the form of action threatening to the society. This is a distinction that is basic to an understanding of the democratic process.

More has been written about civil disobedience in the last few years than in any period which preceded it in our history. And it is much misunderstood. When I began reading Gandhi, Tolstoy and Thoreau

as a young man and as a conscientious objector, there was very little of a current nature written about the technique other than perhaps by Richard Gregg. Today, foundations and government agencies are providing funds for research in non-violent resistance and its implications, study centers are being established in our universities, seminars are being taught.

Here again, certain fundamentals are useful to note:

To a democrat, resort to civil disobedience is not legitimate when there are lawful methods and procedures available to remedy the evils that are being protested, or to achieve the ends sought. Where they are not available, or when a man of conscience cannot accept the judgment of the majority, or persuade them to his views, he may well consider himself morally or religiously obliged to rise on an issue of transcendent importance, bear witness to his faith, and resort to civil disobedience in order to open up the minds and hearts of his fellow citizens. In that case, however, he must willingly accept the consequences, including punishment.

Society may choose not to punish and to recognize the act of conscience. But that becomes a matter of judgment for society, for freedom from punishment for violations of properly enacted laws cannot be a matter of right in a democratic society. Where the man of conscience challenges the right of society to ask him to accept the consequences of his action, he is in effect abandoning his reliance on the democratic process and is acting as if he were at war with the democratic community.

He, therefore, puts himself at odds with the duty of the society to protect itself against him when it feels threatened.

Martin Luther King stated his view of the matter as a democrat who wanted to work within the system and as a disciple of non-violence when he said: "I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law."

But not all believers of civil disobedience have a respect for law. There are those who would assume that each law in a democratic society poses legitimate questions as to whether to obey or disobey. This assumption runs contrary to the principle that the prior allegiance of a democrat is to the legitimacy of the democratic process by which the law is adopted. We are, after all, not talking about the dilemma of whether to obey the laws of a totalitarian society. We are rather talking about civil disobedience in a democracy! To make an issue of obeying every law is to repudiate the principle of majority rule and the democratic process.

It is useful in this connection for men of conscience to accept in humility that the voice of conscience is not always right, just as the expression of law is not always wrong. Voices of conscience may conflict one with another. If the dictates of a man's conscience cannot understand rational discussion and criticism and if it fails to persuade enough of his fellow men to constitute a majority, there is at the minimum,

it seems to me, an obligation to question the validity of the position held before proceeding to take any steps which may determine the strength of the democratic society. A man of conscience should always understand that there may well be a fine line between conscience and self-seeking and those subjectively involved in the process may find it difficult to make the distinction. It is well to be reminded of Oliver Cromwell's urging: "I beseech thee, by the bowels of Christ, bethink that ye may be wrong."

Our own democratic society, aware of this dilemma, has tolerated civil disobedience only as to matters of the greatest moral importance and has limited its legitimate use only within the framework of the system and has not tolerated its use as a threat to destroy the system.

In this connection, we might briefly take note of the growing argument whether our society should extend its recognition that religiously motivated conscientious objectors to all wars are exempt from combat duty to a broader exemption extending to those whose conscientious objections are limited to specific wars. Here, aside from the immense difficulty the proposal presents in the administrative task of ascertaining the bona fides of such conscience as applied to individual cases, there is much to the argument that to permit individuals to choose their own wars and exempt them from others could well seriously undermine the ability of the state to defend itself or to perform the obligation it has assumed. In any event, these questions as to the ability of society to afford the exemption without risking its

security or its ability to perform its obligations are the proper criteria by which to decide and act.

We have every right to expect that a citizen will obey the laws that have been enacted by a majority vote of his fellow citizens or their representatives, even if he disagrees with a law.

Sidney Hook once explained his views on civil disobedience with an analogy that the truth obviously must be told if human relations are to be meaningful. But only a fanatic would say that the truth must be told all of the time. A moral man will sometimes not tell the truth, just as a moral man, a good responsible citizen in a democracy, may find he cannot obey a law enacted by the majority because it violates his conscience. But the fact that a moral man may not always tell the truth does not mean that we consider a man moral if he grapples with the question as to whether to tell the truth as to every fact that faces him. For such uncertainty would be a form of mania or identify the person as a "con man". Similarly, we expect and assume that a democratically arrived at decision is prima facie binding.

Furthermore, to say like Thoreau that only laws that benefit you should be obeyed is to create the equivalent of anarchy and, indeed, puts the individual in the role of an immoral free-loader.

In summary, then, there is a limited role for civil disobedience within the framework of a democratic philosophy. Its limits are the points at which that disobedience becomes violent and chooses to

undermine the democratic system for the rest of us. At those points, a democratic society has the duty to protect itself.

And here we come to an area which is relatively unencumbered with profound thought or philosophical input. To the question of how to relate democratic theory to the role of those within a democratic society who are dedicated to destroying it, we find little new to illustrate that we have learned anything from the tragic case of Czechoslovakia where internal subversion eroded away the capacity to resist totalitarianism, or from the experience of other nations where violence ended the opportunity for democratic development. Instead, we have depended on the liberal philosophical contributions of the 18th and 19th centuries whose thinkers faced problems of a different age and a different dimension. Indeed, it is appropriate if we want harshly to evaluate the contributions of philosophers to the crucial problem of the 20th century, to recall the words of Hans Morgenthau who said that: "...political philosophy has tended to become ritualistic incantation, in good measure intellectually irrelevant and politically useless, save as ideological rationalization or justification."

One thing is clear to me. Those within a democratic society, whether organized or not, who reject the commitment to the principle of peaceful change and dedicate themselves to direct action to achieve their objectives, present a challenge which society cannot ignore. They are and must be considered essentiall illegitimate. There is no defensible theory which can conceive of democracy and the freedoms

necessary for its operation as implying the legitimacy and inevitability of its own suicide.

Arthur Lovejoy, founder of The American Association of University Professors and long one of the boldest champions of freedom, wrote that there is one kind of freedom which is inadmissible - the freedom to destroy freedom and that those who would deny freedom to others if they could, have no moral or logical basis for the claim to enjoy the freedom they would deny.

Inevitably this discussion must lead to the area of international policy. For if there is a value in preserving a democratic society so that freedom and liberty are maximized, those who support that society must recognize too that a program defining its role in the world is a relevant one.

There is very little in the entire tradition of Western political thought that contributes to foreign policy. Ideology flounders in this area. What, for example, is a liberal, conservative, radical or reactionary foreign policy? Ideologies are useful in permitting its advocates to interpret the past, make sense of the present and outline a shape for the future. Where there is no consistent prevailing ideology, however, we find ourselves gripped with inconsistencies, a lack of direction, a lack of clarity. This may be why Ernest Lefever once wrote that no modern nation has ever constructed a foreign policy that was acceptable to its intellectuals.

This is, of course, complicated by the belief that the area of foreign affairs is intrinsically immoral because of its heavy reliance upon expediency.

In any event, we find today men of thought and intellect expressing positions which seem on their face to be extraordinarily inconsistent one with another. It is, of course, perfectly understandable that an individual may be appalled at our military intervention in Southeast Asia and state as a reason for his position that the national security of our country will not be threatened there no matter what happens. That same individual, however, might well raise no objection if the United States were to send an armed force all the way to South Africa to overthrow apartheid, even though South Africa would obviously offer no threat to American security.

Lincoln once said that no man is good enough to be President, but that someone has to be. It could also be said that no nation is good enough nor wise enough to discharge the heavy responsibilities that history has thrust upon the United States today. If we can understand that truth, however, we are likely to approach those responsibilities and exercise our power with restraint, compassion and an understanding that we have an obligation to use power constructively as we seek to maintain our own safety and security.

Our nation has been confronted with a perplexing variety of responsibilities, many of which are unfamiliar and morally uncomfortable for a nation only a few decades away from innocence and isolation. Winston Churchill pointed out that we have only had a perilously short

apprenticeship for the burdens of power. It is, therefore, perhaps understandable that we have failed as a nation to develop a political theory adequate to our new role as a world power.

What we need is more than a commitment to decency and a flair for pragmatism. We need a working political philosophy that will help us grapple effectively with the classic problems of power which have been exaggerated and intensified by a galloping technology, the communications revolution and the existence of messianic political movements that are backed by massive military power.

In looking ahead, we have found many friendly states confronted with the need to combat Communist insurgency and subversion, with some of them requiring and calling for our assistance. This has presented morally disquieting problems for us.

The fact that so many of our students and teachers and thinkers were horrified not so long ago about the revelations that our government had a CIA, that it was working overseas, that it was using American citizens to accomplish our national objectives, that it was financing research, that it had supported private foundations - all of this obviously reflects a lack of understanding of the realities of the world in which our nation finds itself. What tools are we to use to play an international role?

Regrettably, 19th century liberal rationalism which has been battered mercilessly in recent decades has never dealt realistically with international politics or with the problem of political power and national security. Yet we have nothing else.

The task is to come to grips with the need, to embrace our commitment to Western democratic values, to understand the importance of pragmatism but at the same time to embrace a greater measure of political and moral sophistication so that we can free ourselves from the facile notions of human perfectability and inevitable progress.

What alternatives do we have to the modern state and international power politics? There has been little profoundly new or important in political democratic philosophy to challenge the heavy reliance on force and expediency in foreign affairs. When many challenge reliance upon expediency in the conduct of foreign affairs, are they doing so because expediency is immoral? Is force immoral? Would it be equally immoral to use force and kill people to open Rhodesia and South Africa for the black man as it is to use force and kill people in Vietnam? Is killing the evil to be condemned as the true pacificists tell us? Or does it depend on the purpose of killing and who kills and who is getting killed?

Suppose force were indeed outlawed by a good society, by a democratic society, what have the scholars and philosophers told us about the way such a pacificist society could defend its values and the lives of its people against the rival but less scrupulous society armed with modern weapons? What insights do we have in human relations which might give nations a better prospect of getting along with one another?

Until either rivalries between nation-states are minimized in intensity and kept that way, or until our social scientists and philosophers can develop a non-violent method of resisting evil in international relations that is more effective than the use of violence, power politics will and must be an instrument of any nation's foreign policy, including a democratic society's foreign policy. The brilliance and righteousness of a foreign policy are no match in this world against superior power. Those who fail to recognize this are dangerously blind to reality.

Here is a challenge to democratic philosophers, a challenge which I trust they will accept and fulfill, in a spirit, in a manner and with an approach that distinguishes them from the failures of the intellectuals of our day. We live in a period where writers and critics with no professional competence in any specific area of public life nevertheless help shape the opinions of the educated and play a crucial role in defining the moral quality of our society. They provide the symbolic legitimacy to institutions and to points of view. Regrettably, they are not as well equipped as they ought to be.

They find it necessary to hold and express decided views on automation, disarmament, urban renewal, economic planning and all sorts of matters on which they are inadequately informed.

People who read extensively and write beautifully or speak fluently are not necessarily wiser than those who do not. It is an error to equate good talk with good thought. One may well ask why

any person well trained in physics, physiology, religion, anthropology, art or music, even with a Ph.D. attached to his name, can believe his opinions on military and world problems carry a special validity. But many intellectuals indeed seem to think that their views on subjects unrelated to their expertise should carry special weight and regrettably they often do.

Our society faces great questions of value and value conflict whose critical study constitutes the distinctive subject matter of philosophy's grand tradition:

How does our pursuit of affluence relate to our pursuit of happiness?

How do we define the individual's rights and duties in a new complicated society with the ever-increasing need for internal regulation in an inter-dependent complex civilization such as ours?

How do we relate the need for freedom with the discipline that is an essential part of organization with its requirements to create Thou Shalts and Thou Shalt Nots?

What is the place of conscience as against civic obligation?

How do we reconcile our commitment to social equality with our commitment to personal liberty?

How do we help the struggle against the "degradation of the word", with totalitarians passing themselves off as democrats and with many of us lending ourselves to the semantic corruption which judges a culture not by its practices and institutions but by its rhetoric?

We need good minds - the best minds - if our cities are to become inhabitable, our schools educational, our economy workable, our goals for peace achievable. These minds need to be chastened by some first-hand experience in the governing of men or even the simple governing of government. These minds need to be free to let their thoughts carry them to strange places and strange ideas. These minds need to understand and absorb the democratic society of which they are part, for we must be careful that we don't find ourselves in the situation where America has absorbed its intellectuals without the intellectuals ever having quite absorbed America. As Irving Kristol once wrote, that would indeed be a new kind of American tragedy.

# # #

May 26, 1970

Mr. William Randolph Hearst, Jr.
Hearst Newspapers
57th Street at 8th Avenue
New York, New York 10019

Dear Bill:

It was good to see you at lunch the other day.

The enclosed copy of a talk I recently gave fits in quite well with the substance of our discussion. Since you agreed to send me your column, the least I can do is send you my speech.

I am having lunch with Hubert tomorrow at which time I will pass on your greetings.

All my best.

Sincerely,

Max M. Kampelman

Enclosure

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June 1, 1970

Mr. Max M. Kampelman
Strasser, Spiegelberg, Fried, Frank & Kampelman
1700 K Street, Northwest
Washington, D. C. 20006

Dear Max:

Thanks for remembering to send me your speech which reminded me that I had forgotten to send you my piece.

I've since written another, so to make up for my lapse in memory, I'm burdening you with some added reading material.

As ever,

W. R. Hearst, Jr.

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Atts.

April 27, 1970

Dr. Harry D. Gideonse, President
Freedom House
Willkie Memorial Building
20 West 40th Street
New York, N. Y. 10018

Dear Harry:

I thought you would be interested in looking at the enclosed talk.

All my best. Keep up the good work.

Sincerely,

Max M. Kampelman

Enclosure