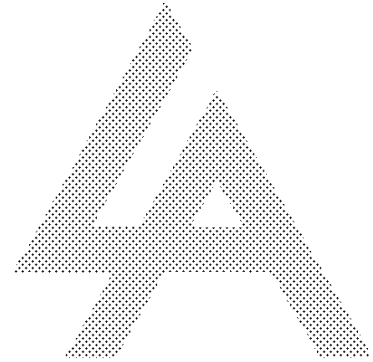


POLITICAL HYSTERIA AND THE DESTRUCTION OF LIBERTIES

J. ENOCH POWELL



I have in the past made use of the privilege of addressing this Association to draw attention to a recent proclivity on the part of Parliament to be hustled by panic or public clamour into legislation destructive of rights of the the individual long established under the law of England. This proclivity has continued to manifest itself, and I return to it today.

Among the long-established rights to which I refer - I am careful not to describe them as "human rights", because I cannot understand how rights can be derived from the mere fact of belonging to the species *homo sapiens sapiens* - are two which at this moment are in process of being destroyed and diminished. One is the right of free movement from one place in the realm to another. The second is the right of free exit from the realm. It is significant and ironical that

Britain has recently been engaged along with other nations in the attempt to coerce the Soviet Union into enacting these very rights by abolishing the practices of internal exile and of restricted or prohibited exit which have long been characteristic of the Russian state for causes which, like other such characteristics, are historically explicable but - between you and me - "none of our business".

THE PROCESS OF PANIC: THE BIRMINGHAM BOMBING CASE

The curtailment of a right is commonly initiated tentatively and then broadened out thereafter. In 1975, in the panic hysteria which followed the so-called "Birmingham bombing", the then Labour Government carried on to the statute book of the United Kingdom a system of internal exile whereby individuals could be prohibited from moving from one part of the kingdom to another, namely, from Northern Ireland to Great Britain or *vice versa*. This was accepted at the time - though I helped to modify it to the extent that the power was made two-directional instead of unidirectional as originally proposed - for two reasons. One I have mentioned already. This was public alarm and dismay, a motivation to which it is the duty of a legislature to remain as far as humanly possible impervious. The other cause was a tendency particularly common and particularly damaging in a parliamentary democracy, namely, the tendency to say, "It's all right. It won't apply to me. It will only happen to those other perishers." If the "other perisher" happens to be someone whom you don't like or of whom you have heard ill report, this 'I'm-all-right-Jack' factor is a powerful lubricant of bad legislation.

So we have accepted internal exile in the United Kingdom for some fourteen years on the excuse that

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FOR LIFE, LIBERTY AND PROPERTY



“it only applies to Northern Ireland”. In fact, Parliament has just been renewing it again.

THE PROCESS OF PANIC: THE SOCCER HOOLIGANISM CASE

However we are now engaged in reaping from the same field another crop of rights diminished and rights withdrawn. We are doing so in the context of what is called ‘soccer hooliganism’.

At this point, for the avoidance of misunderstanding or cavil, I must observe that of course the right of free internal movement within the realm and of free exit from it has never applied, and never could have applied, to persons arrestable on a criminal charge or persons who, having been duly found guilty and sentenced, have been judicially deprived of their liberty. Perhaps the *caveat* is particularly relevant to the underhand manner in which the new withdrawal of a long-established individual right is being compassed, namely, by extending the scope of judicial discretion.

Under the Football Supporters Bill the courts will be able to make restriction orders with the object of preventing convicted delinquents from travelling abroad. They would have to report to police stations or attendance centres when a national team or an English club was playing abroad. These restriction orders, designed to prevent people from going abroad at will, would last for two years where a penalty less than a prison sentence had been imposed and for five years in other cases. So here it is. An offence against the law of England is to attract the withdrawal of freedom to leave the country. Oh yes, but in a period and in circumstances when the former offender might commit a similar offence on foreign soil. On the same logic, a person convicted and punished for exceeding our speed limits would presumably be prevented from going on holiday to France where he might hire a car and drive above the speeds locally permitted.

SINISTER OVERTONES

There are wide-ranging and sinister overtones here, which it is worth identifying. This curtailment of the citizen’s right to leave the realm at will is intended, in the Government’s words, “to reduce the harm done to Britain’s image abroad by its football hooligans”. That takes us into a very big league indeed. It is an assertion that the courts of England ought to be given power, by impeding an individual’s exit, to prevent, or to diminish the risk of, the commission of an offence in another jurisdiction. The concept of national jurisdictions has become seriously blurred of late - and notably, in the atmosphere of panic over what is called terrorism. I understand why the French authorities should assist the apprehension, trial and conviction in England of a person who has committed a serious crime here; but the proposition that having committed an offence in England a person should be denied by law his right to leave the realm on the

ground that he might break the law obtaining elsewhere, is the thin end of a potentially very thick wedge.

We are, it seems to me, in danger of losing sight of two great principles. One is that our rights and liberties are linked with territorial jurisdiction: they are rights and liberties exercised and enforceable within a particular jurisdiction and depend therefore on how that jurisdiction is delimited. The attempt to escape from the delimitation of territoriality brings with it not an enlargement but a curtailment of individual rights and liberties. The second principle is that rights and liberties are endangered whenever the punishment of offences is enlarged by the use of judicial order to include restrictions on the exercise of rights and liberties. In the direction in which we are heading, we could end by giving the courts discretionary power not merely to impose internal exile but to withdraw the individual’s freedom to leave the country.

SHOOT-FROM-THE-HIP LEGISLATION

The dangerous trends to which I have drawn attention have not been the result of any profound and settled public sense in favour of the curtailment of rights and liberties. The question of principle has remained out of sight, and been kept out of sight. Indeed, the public might be surprised to learn that internal exile and confinement to the realm have now become part of the laws of England. This was the result of haphazard and *ad hoc* use of legislation by way of reacting to events that gave cause for alarm or indignation. We have become used to shoot-from-the-hip legislation. We do it all the time. An ugly incident occurs on a football ground here or elsewhere. The Prime Minister comes out with a loudly applauded expression of abhorrence. The next thing we know is that, hey presto, there is to be a new crime created or a new punishment invented. This is happening continually. I personally enjoy no more than the next man the idea of people selling their organs, their tissues or their blood. What I like even less is to hear that - off the cuff, so to speak, with a fair wind from the Opposition and from all concerned - there is to be a Bill pushed through Parliament at top speed to create a new crime or a whole new range of crimes, without adequate opportunity for maturer opinion to crystallize or for the wider and (dare I use the word?) philosophical implications to be explored and understood. This is no manner and no mood in which to stick bits onto the edifice of the criminal law of England. It is this atmosphere of near-hysteria in which with general applause Parliament gets to trample upon the rights and freedoms which it has nurtured and protected through its long history.

There is no better place at which to utter this croak of warning and alarm than a university, that is to say, a place where people have time to think and to stand back from events. May I add, no better university for the job than Cambridge?