

'THANK-OFFERING TO BRITAIN FUND' LECTURE

EROSIONS OF PERSONAL FREEDOM  
IN A MODERN SOCIETY

By LORD GOODMAN

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**T**HIS lecture is provided from a Thank-Offering to Britain Fund, which is explained at the outset of the first lecture given under these auspices by your former President, Lord Robbins, two years ago. He took as his theme Academic Freedom, one which had a strong emotional relationship with a motive which had inspired the creation of the Fund by persons who in flight from persecution had found a refuge in a country which rejoices in its freedom and has historically prided itself upon the freedom which it has offered to those to whom it has been denied in other parts of the world.

I, also, have chosen a cognate theme which has high relevance to the background of the Fund and of these lectures. In some ways my lecture is linked in spirit and sympathy although, alas, not in quality with the inspirational address that Lord Robbins gave. Both are designed as modest and moderate warnings of possibilities which we do not seriously apprehend but which might without that 'eternal vigilance' which is the price of freedom nevertheless come about through indolence, want of care, and want of perception.

It is egotistical to believe that one has better powers to see what is going on around one than are shared by one's fellow men. This I do not believe, but I do believe that certain people through chance may find themselves situated at particular vantage points well designed to give a full panoramic view of the social picture which may be denied to others working industriously in the valleys without the energy or the inclination to ascend occasionally to the hill-tops for a view across the horizon.

It is because amongst many of the activities in which I am engaged are those of an observer that I have had cause to see developments, trends and tendencies which, although noticed and remarked upon by a significant number of people, are still not sufficiently the subject of general comment and perhaps of general warning.

My address to you today claims no special profundity and could claim none. It concerns subjects on which I am not an expert. It deals with political, social and philosophical conceptions in which my own qualifications are exiguous, but the role that I have assumed for myself I hope enables me to embark lightly on these topics in the situation of someone who is genuinely in quest of information, anxious to pose the question but not in the least pretending to know the answers. But I do believe them to be important questions.

First, let me make clear that the title of this lecture, selected some while back before it was composed as a broad general indication of its nature, is too wide and too imprecise; it is misleading in that it may convey much more than my present feelings. I do not believe that we are living in a slave state; I do not believe that we can no longer breathe in relative liberty—allowing the constrictions of fog and smoke. I believe that in comparison, and all too often in contrast, with too many other countries, we enjoy freedom and can still be boastful of it. The basic essential of freedom of government—the right to eject one set of rulers and install another—has not been tampered with. It remains the touchstone of a free society. But it requires a devout constitutionalist to appreciate the immeasurable value of the elective system and to disregard or diminish the ‘goings on’ between the elections that I believe to be so discouraging to great numbers of people. Nor does the comfort of the electoral emancipation from disliked measures and rules operate effectively unless there is faith that the new rulers will adopt different methods—will not offend in the way of their predecessors. But the encroachments on liberty which I report have no political origins. Both parties are equally at fault—they are becoming a built-in element of government and, with diffidence, I suggest are becoming a built-in vice of government.

For I believe that slowly and imperceptibly governments—as a part of the governmental process—are taking away essential liberties. They are doing it unashamedly and without apology, either by statutory or legal changes, or more insidiously through economic development carrying such deprivations in their wake.

I believe that the consciousness that we are living in a society where liberty of individual action is diminishing constantly is having a marked effect on younger people. That the unrest and malaise that do exist, the unsatisfactory relationship between the young and the mature, in part at least, may be due to an increasing sense of social claustrophobia that the young may

sense and feel without positive identification. And if they are subject to such sensations, there is, I believe, ample and increasing justification for it.

The topic is a vast one and only the briefest summary can be provided within the period of endurance of the best trained of lecture audiences. It is in addition immensely controversial. A reasoned and convincing defence would be supplied for each count of any indictment. It would, I think, be based largely on the popular proposition that we must sink our selfish self-interest in the public good, that 'salus populi suprema lex' and that although individuals may suffer they should do so uncomplainingly for the benefit of the community. Now of all governmental propositions requiring the closest scrutiny and the strongest scepticism, this one comes foremost. For it is the proposition which can justify any hardship or injustice to a private person—and the one most prone to ignore the arithmetical truism that the community is the sum of its individuals. That injury to an individual—inequitable or unrequited—is, in the absence of strong contrary proof, an injustice to the community in whose name it is so lightly committed. But it is invoked with monotonous ruthlessness by governmental systems which—in their frenzied haste to maintain a steady, even flow of new legislation—have forgotten, if they ever knew, the purpose of government and which confuse the pure self-indulgence of unrestricted legislative activity with a pathetic belief that all legislation flowing from a present government (as distinct from its predecessor) is a social virtue—for which only ingrates such as your present lecturer will not give dutiful thanks. But I do not give thanks and I would urge that we should none of us give thanks for governmental energy and zeal as disembodied qualities. For I do believe that nothing does more to induce social insecurity, frustration, and in the end discontent than an endless flow of legislative change, and this aspect of society I would place first in my catalogue of the matters upon which we need to shine the searchlight of an enlightened reformist spirit.

Each year, with increasing volume—and terrifying diligence—whatever government may happen to be in power will enact Statutes by the dozen creating new restrictions, and new offences; changing the law with little or no regard for established rights; putting into effect a programme whose seeming beneficence, viewed from the comfortable pages of an election address, may be more than neutralized by the injury of change to great numbers of people. Every year we have a Budget—

translated into a Finance Act—designed by the wizard in charge to make us happier and in the very long run richer. But every year, with a callousness which is the more frightening because it is unintended and unconscious and to him totally unimportant, sections of the community may be ruined overnight. Illustrations are too readily available and too painful. The fluctuation in a travel allowance—which occurs with gay abandon every time it is desired to demonstrate that the pampering influence of holiday travel cannot be countenanced under our successive puritan regimes—will damage or destroy the trade of agents, hoteliers, and other innocent people at home and in many parts of the world. A change in tobacco duty may enrich or ruin the tobacconist; a change in purchase tax teach the furrier or jeweller to know better than to indulge the appetite of luxury when austerity is the payment. But we may ask whether such fiscal caprice is either just or even sane: can a society regard itself as well-ordered which damages or destroys innocent members overnight—without a word of warning or a word of regret or a whisper of compensation? Can the injured members regard themselves as living in circumstances of guaranteed freedom when so arbitrary an act can be so inflicted? I pose the question and ask no answer.

But in extenuation of Budget and Revenue changes government can plead that habitual misfortune which—apparently however skilled the economist concerned—inevitably leaves a situation of crisis for resolution by measures of near-hysteria at least twice a year, and now seemingly oftener. We may therefore decide to forgive the peremptory nature of financial legislation—and we are in these matters forgiving beyond credence. But should we forgive the continued flow of Acts of Parliament which year after year—creating virtually no liberties—erode gently and persistently the diminishing hurdle of liberties that we still possess? It is easy to appear flippant about them. It may be regarded as positively unserious to list a few of the novelties of 1967. It is a risk I will assume, since 1967 was not specially a bumper year—but it provided a fair average crop from which to make a judicious selection.

An intense code of new law was introduced by the creation of a Land Commission, an Act of undoubted social potential, open to detailed criticism, but more important, open to the contention that it was enough for the year on its own. It radically altered the rights of every landowner. It needed to be absorbed slowly and methodically by a population which could barely be

apprised of it—and to this day are barely apprised of it—before the continuing flood of additional laws drowned even the massive bulk of this one. For the year, of course, introduced the breathalyser. Very good, many will say, and I should echo them. But before you could savour the benefit of this splendid and adventurous piece of law along came wage restraint; and, good or bad, there flowed after it livestock marketing control for farmers; and the necessity for a licence (for the first time) for a *private* place of entertainment run for gain; to sell a dead wild goose; to take a lapwing's egg (without need of a licence from the lapwing); to give driving lessons; to hold a shot gun; to pick flowers in Antarctica. If you run a restaurant, you may be required to close at 11 p.m.; if you sell television sets you must report your customers (a provision in line with the other obligation of delation, for a doctor to report his drug addict patients—regardless of the relationship of doctor and patient whose confidence is a long hallowed tradition of civilized living). But to continue the year, Statute required you to keep away from pirate radio—in terms appropriate for an act of high treason—since to bring any comfort by way of victuals or other aid was an offence in itself, although you might mercifully rescue them if they were sinking. You must not, since 1967, kill your turkey except in an approved manner—again not necessarily by the turkey. You must not, in this year of light, dump your car in the open. You may not (although until stopped you may) supply, acquire or consume liquid fuel, or sell plant food without the prescribed label. You may be arrested for crime on a British controlled aircraft; if a preserved tree on your land dies, you must plant another.

It is demonstrably a year of serious restriction of liberties for pirate musicians and felonious air-passengers; of grave diminution for land-owners; of relevant increases in the liberties of lapwings, turkeys, and dead geese (wild); and of gentle encroachment and erosion for the average citizen. But in justice not all was debit in the account book of freedom. It was the year which, wisely and mercifully, made consenting adults (of over 21) free to engage in their own sexual practices; abortion was made a social possibility in circumstances of confused uncertainty and insecurity, and you can no longer be prosecuted for being an eavesdropper or a common scold—a reform which many may regard as highly retrograde.

You may ask—and seemingly with reason—whether these matters (and the many others I have mentioned) seriously

affect the ordinary human being. The answer, I believe, is that they do. That most people, like yourselves, will know nothing of these changes until one of them wants to open a private place of entertainment, buys a television set and finds that his supplier is also an honorary State informer, or does one of the relatively obscure acts that until 1967 had somehow remained unproscribed without apparent damage to the structure of society.

And, each year (be the government Socialist or Tory, coalition or of one unsullied texture) the endless stream proceeds. Nor does the citizen complain or even I complain on his behalf where, however onerous, the statutory requirement is tied in with some governmental policy. The law now requires Tax Returns so comprehensive that only the immortal soul may be left undisclosed—and certain it is that any trafficking with it by a modern Dr. Faustus would attract a capital gains tax for the increased earning capacity of his revitalized person. But these—albeit with muttering—we accept as necessary for the machine of government. But all the others—are they necessary? Should we accept them as lightheartedly as we do? Are we satisfied that any present-day government realizes the weighty responsibility that attaches to a legislative change which leaves us—even by a featherweight—less free than when it was introduced?

Nor are the changes always in areas of obscurity or superficial unimportance. Last year saw the disappearance of the unanimous jury and the acceptance of a lower standard of justice—a majority verdict. I voted in favour of the measure with misgivings. It was presented as a necessity for the proper administration of justice against the resourceful and audacious manoeuvres of professional criminals—now embarked on the bribing of juries. The evidence seemed to establish the case—but the measure was not one for rejoicing but for a reception with heavy heart that a liberty enshrined in the fabric of British justice was now somewhat frayed—had had to be tampered with. I heard no one in authority present the matter in this light and I regretted this as much as the departed unanimity.

Nor in the struggle against increasing lawlessness was the change in our jury system the only unhappy, if unavoidable, development. The law of criminal libel—over the years regarded as an erratic and dangerous instrument and brought into almost total disrepute by a famous First War trial of one Pemberton Billing—was re-introduced in circumstances that can give little

satisfaction and much disquiet to liberty lovers. A prosecution was instituted on behalf of members of the police force against accused persons who had made allegations of ill-treatment against the officers concerned in connection with their arrest or detention. The men were convicted and sentenced to terms of imprisonment—convictions which were disrelated from the original offences with which they were charged. I do not question the verdict in the case. I question the wisdom of allowing the police force a preferential form of protection against personal defamation and allowing the existence of a weapon available in retaliation against charges which in any civilized society no man should be deterred from making by the introduction of new penalties and new sanctions.

I made a solitary protest against this at the time when it happened. I am unrepentant about referring to it again. The practice has not been repeated and it is my earnest hope that it will not be repeated. The civil law of libel is clumsy and laborious and should be invoked only in circumstances where a man's reputation is in serious jeopardy if he fails to protect it—the rarest of occurrences—but it is the normal instrument used by the entire population to defend its character and it is as much available to officers of the police as to others; more so, since very properly in such circumstances the burden of expense incurred by a libel action—for which assistance by legal aid is not available—would be borne by the authorities on behalf of their police members.

Nor should I fail to mention what brings me directly to my second category of invasions of freedom, those which relate to personal character and personal privacy. This is no new development. On the whole we are better now than we were in the eighteenth century in the way of protecting the reputations of innocent people. The law of libel, although as I have said cumbersome and inartistic, is an effective deterrent when operating in proper circumstances. But it is important, in my view, to recognize its value in a free society to preserve freedom. The freedom from being traduced is as much a freedom as the freedom to criticize. No one would wish for one second to prevent the most vehement criticism and anyone concerned, even mildly, in public life is aware that this liberty is generously exploited, but on the whole the British Press has maintained an honourable tradition in distinguishing between a man's private life and his public activities. There are signs that in certain quarters the distinction might become blurred and the

healthy, moral effect of the law of libel ought not to be diminished in preserving the clear edge.

There is a vigorous campaign conducted on behalf of newspapers—and none the worse for that since there is no concealment of its origins—to mitigate the law of libel by introducing new defences. I will not in this talk enter in detail into a debate which has been conducted with energy and tolerable success elsewhere in seeking to resist these changes. The major change that has been proposed is that there should be added to the defences of truth and fair comment on a matter of public concern a further defence that, although the statement made in the event turned out to be untrue, it was believed to be true on reasonable grounds at the time of publication. The arguments for this defence are attractive and, of course, especially attractive to the newspaper. They are that where some public scandal is concerned a newspaper or journal will be deterred from disclosing information it possesses at a stage earlier than might otherwise be the case because at present it is at risk until it has doubly confirmed its accuracy and thereby the public may be injured because some malpractice is not stopped the sooner, some spy not apprehended in better time. This is an attractive argument but in my view specious. It totally disregards the position of the innocent victim against whom the charge is made precipitately and without final proof and who emerges thereafter as guiltless of it. There may be circumstances in which the public interest demands that a man's reputation be risked *pro bono publico* but in such cases is it unreasonable to ask that, if a newspaper is sufficiently convinced of its facts to be prepared to seek to destroy a man's reputation, it should be prepared to accept the financial responsibility if it perpetrated so gross an error? 'Publish and be damned' is a brave and worthy slogan: 'publish and let your victim be damned' is of more dubious moral quality, for it must be remembered that not least of the dangers to our liberties is the diminution in the number of newspapers, that a high measure of protection exists in a society which has multiple outlets for news and comment readily available to contradict each other's errors and opinions. But for reasons that are shrouded in mystery, even to those who closely investigate the situation, a national newspaper today can only survive with a mammoth circulation and papers selling upwards of two million copies a day to their readers are reported to be struggling against financial odds. We have lost several newspapers. We remain threatened with the loss of



several others. Certain it is that if more and more become vested in fewer hands, as has become the unavoidable situation, the rights of the individual are open to the risk of jeopardy even if the quality and integrity of the papers concerned afford a present protection. We are told that it would be a grave encroachment on our freedom to seek to support any newspapers from national funds. This may be the case. Certainly it would require the most careful investigation and the most cogent investigation of any such step, but we should I think at least keep open minds as to whether such a step—suitably regulated and placed for administration in the hands of disinterested people—is not to be preferred to further mortalities in the free Press. Again I pose the question. The answer is a difficult one.

The one certainty is that fewer newspapers mean fewer liberties. With a concentration of ownership, there are fewer editorial desks where a disgruntled or dissatisfied editor—determined to take his coat off the peg and seek employment elsewhere—can find such employment. To constrict that choice too closely is to damage liberty in its most vulnerable kind. It is to damage all our conceptions of freedom of speech and freedom of expression. Nor does it suffice to point out that any particular owner does not interfere with editorial policy and that the multiple ownership of newspapers in one proprietor can be regarded as equivalent to dispersed ownership because of the individual discretions bestowed on each editor. This is self-deception. The proprietor may regard the editor as free but no editor capable of ordinary speech can regard himself as free if he does not set eyes on his proprietor from one year's end to another. The comfortable shadow continues to inhibit the real freedom that a free Press demands, and how inhibiting and how frustrating and galling to the young that no new newspaper and no new periodical can be established from independent resources. The cost is so formidable, the risks so great, that unless one of the great publishing organizations is prepared to subsidize and support the venture, its prospects of being launched are slender. Very occasionally a brave band of pioneers will produce a publication in blurred print which somehow stays alive in defiance of all economic laws. To them, almost regardless of the contents of the publication and almost regardless of any penchant for defamation that its circulation may demand, I extend my hearty congratulations. The survival of any paper unsubsidized which is not a subsidiary of another paper, itself a subsidiary of yet another, is a contribution to free life.

But in the field of personal reputations the most startling and least remarked upon phenomenon of recent years was the Denning Report following upon the security alarms and excursions arising from the rather ubiquitous activities of one young lady.

All this is ancient history and even to revive the recollection of the facts would be distasteful to me and to everyone present, but the Denning Report is an incident in itself which historically will be the subject of scrutiny and comment for generations to come. It will, I hope, be remarked upon by historians that some people in this generation regarded aspects of it with astonishment, considered it to be a precedent that ought not to have been established, and hoped with urgency that we should never see its like again. None of this in the least reflects on the extraordinary brilliance and social judgement of the author of the report, Lord Denning. On the contrary, the document might well have been historically infamous but for the matchless skill, discretion, and good taste with which he conducted a task which no one should have been asked to conduct. He saw to it that the document did not erode the liberties of the individuals concerned more than was indispensable for the proper discharge of his duties, but in other hands I shudder to think how the matter might have been conducted or what damage now and in the future it could have done to our political institutions.

I do not, of course, allude to the bulk of the report which was concerned with investigating very properly whether or not there had been a security situation created out of facts established sufficiently to give rise at least to a *prima facie* case for anxiety, but I do refer to the second part of the report, which although of commendable brilliance has no parallel in English published public documents, for it was an investigation of rumours circulating which affected the honour and integrity of public life. Many of us may have forgotten the low point of public morale which had been reached at the time of these matters, the multiplication of rumour upon rumour, the whispers that were going around about almost everyone under the sun, the whispers that were going around about this or that alleged scandal. It is precisely in such an atmosphere of moral vulnerability that robust public institutions stand their ground. At some stage, someone should have said with firmness and even violence, 'It will be a sorry day when public men are exposed to the investigation of any rumour that any scurrilous tongue cares to invent. No House of Parliament is going to instruct any tribunal to engage in such an investigation. The public in-

vestigations will be restricted to situations where a *prima facie* case exists to establish that there are matters that may cause public mischief and which need to be followed up.' This and this alone should be the scope of public inquiry and such inquiries should be and must be conducted in the cleansing air of publicity. A man may keep his private life to himself but the ventilation of a public scandal must be by public scrutiny.

I had the honour to be a member of a Royal Commission brilliantly chaired by Lord Justice Salmon to report upon tribunals of inquiry in general. We produced a report in record—almost Olympic—time, but we might have spared ourselves our exertions, since of all the matters that the Government appears concerned to expedite, this one seems to lack any attraction. We produced what I believe was a simple, straightforward document. We recommended that no Denning-type inquiry should ever be conducted again; that no inquiry should take place except into matters which on the face of them justified inquiry, for the investigation of rumours is a grievous invasion of personal liberty. No one has known this better than the late Titus Oates and the late Senator McCarthy and at that point in our history we came very near to reproducing almost ideal conditions for these expert practitioners in calumny. But we have created a precedent that I believe we need publicly to expunge. There ought not even historically to be suspended over the heads of British public men the threat that at some time another government may decide to involve them in investigations about reports or rumours that are quietly put about. I hope some means is found of effacing this precedent by such public pronouncement. I think it is a matter that touches liberty at its very heart. It is to nobody's credit that the inquiry was not vigorously challenged, but we can, I think, regard it as a species of midsummer madness that we can all fervently hope that we shall not encounter again, for the corollaries of such products of hysteria and frenzy are bound to be no less discreditable. After the inquiry there ensued a trial which did no credit to British justice. The episode demonstrated once again the unshakeable axiom that the practices and procedures of generations should not be changed through a momentary panic.

I have spoken up to now of matters of a public nature arising from public actions of a legislative or political character, but one of the most serious aspects of the present-day uncertainty and insecurity, felt not only by the young but principally by the young, is the limitation imposed by the development of our

social pattern upon their system of choice of activity and employment. I spoke a short while back about the falling off in the numbers of newspapers and the near impossibility of establishing a new newspaper. How sad this was and what unfortunate consequences it had on freedom as we understand it. The same is true or nearly true of other vital media of communication. The British Broadcasting Corporation is a great organization which can pride itself upon achievements of world stature, but it has been devised on monolithic lines as one single corporation, and recent attempts to create even minor corporations for secondary broadcasting purposes were unhappily defeated. The desire to see other corporations is not unfriendliness to the B.B.C. or a failure to recognize what it has contributed to the culture, entertainment, and education of this country. It is a recognition that, in a healthy society, choice of employment must be a vital feature. To have a single employer for this vast range of broadcasting activity is socially undesirable and a restraint on freedom of employment. It is true that the restriction may be more theoretical than real, but if it exists in the mind of a person unable to find employment in the B.B.C. and having no alternative public corporation engaged in similar activities to which to appeal, it is as real as if the facts indeed confirmed it. The situation is, of course, improved by the Independent Television circuits and the multiplicity of contractors, but their multiplicity is on a geographical basis. There is one only for each area. Whatever the merits or demerits of increasing the volume of broadcasting—and the arguments against it at this moment must be formidable—there can be no two opinions about the merits of increasing the range of employment and of employers and one would hope that this factor will be much in the minds of those persons responsible for reshaping broadcasting policy when the time comes. But it is not only in public matters that these restrictions exist. It is a sad commentary on our affairs today that, while splendid appointments boards exist within universities and are available to other young people after training, the one suggestion that can and will never be made to them is that they should set up on their own. They will be offered a choice of public employment in the civil service, the diplomatic corps, of employment in great industries, of employment in a large number of substantial corporations where they can work their way up if sufficiently talented and fortunate to positions of authority and power and might become members of the mystical establishment; but they are offered at all times

a certainty of working for other people. No one today would be advised that it was possible to open a bicycle factory or a tyre factory or a sausage factory, or that with safety he could even open a tobacco kiosk or a small groceries shop. The ostensible protections of the public in the way of the abolition of retail price maintenance may well have sounded the death knell of the small trader. We live in a world regulated by massive cartels and corporations. Their undeviating benevolence and social virtue cannot conceal their character as lifeless and spiritless in relation to the free individual. We live in a world where he cannot take flight to a tent on the hills, even if he procures planning consent, for the need to make a livelihood dominates all other considerations to a point far beyond its relevance in previous generations and precisely for the reasons that I have indicated. Nor is the liberty of an individual in vital matters necessarily safeguarded if he submits to corporate employment. The amalgamation of the takeover bid, beneficent as it may be in commercial, corporate and industrial terms, is nevertheless a real invasion of personal choice of employment. Quite recently in a free society by a board-room decision some 70,000 people found themselves transferred from the employment of one company to the employment of another for which they had never opted. The other company may be as good and better than their original employer, but should changes of this magnitude be effected by a board-room decision, even if mildly recommended by government intervention?

In the Communist countries the citizen knows that the political principles under which he is living consciously and deliberately trammel and curtail his liberty. In a free democratic state such as we believe ourselves to live in, it is the unperceived and unconscious intrusion of authoritative notes which must create an atmosphere of unease and ultimately an atmosphere of profound discontent. Such matters belong to the science of government, but the science of government, however closely and carefully investigated in the universities, proceeds piecemeal and *per saltum* in its actual practice in the workshops of democratic society.

It may be that these observations will be regarded as the dyspeptic afterthoughts of near senility, that those robust and young would see no challenge or threat in them and take them in their stride as the everyday manifestations of human life. I hope so, but I doubt so. For the problem we are confronted with is really the problem of the ambit of government, for what

purpose government exists and to what ends it should be directed. Governmental enthusiasm can be more dangerous than lassitude and indolence where it works in isolation and without a given direction and a given plan. One could multiply *ad infinitum* the instances of undue paternalism and seemingly unwarranted interference in private life by well-meaning governments. Spasmodic regard is paid to our health. We are urged not to smoke cigarettes—very properly, since all information should be available. We are prevented by regulation from having that quality demonstrated to us on television but not in newspapers. In my early youth I thought I had lost touch with the vocative case after early classical conjugations, but it enjoys a new and unwelcome lease of life. Every morning a benevolent authority directs me to drink a pint of milk, to go to work on an egg—admonitions arising from a warmth of heart but nevertheless they send a slight chill down the spine. No great harm comes of them, but they are redolent of a society which is determined to tell all its members what they ought or ought not to do and to regard the exercise of personal liberty and discretion an unwonted eccentricity.

Perhaps the best or worst illustration of the most recent trends towards extreme paternalism and domestic interference is to be found in the newly proposed domestic legislation, the Divorce Reform Bill. This in many respects is an admirable measure in so far as it brings the prospect of liberation from intolerable matrimonial bonds to many people upon whom much misery is inflicted by preserving an appearance without a reality. But the price that has had to be paid to seek to procure support for this Bill is an unwelcome one, for in theory the Bill replaces the present doctrine of the matrimonial offence whereby a marriage is dissoluble if one party commits adultery, deserts the other, inflicts cruelty upon the other or behaves in some other intolerable fashion, for a comprehensive doctrine that the sole ground for divorce is that the marriage has irretrievably broken down. It is true indeed that when examined this is to be regarded, and the draftsmen clearly hope that it will be, as a formality, but it is the enshrined principle upon which the Bill is founded; and although normally the establishment of a matrimonial offence is to be regarded as proof that the marriage has broken down irretrievably, nevertheless there is reserved to the court a right to refuse a divorce if it is not satisfied, on the evidence, that the marriage has broken down irretrievably. I shall vote for this measure if the occasion arises, because of its

over-all benefits, but I cannot view, without deep concern, the notion that it is the business of any public official or public body or government to investigate in detail the most intimate of all human relationships and that any government should be entitled to scrutinize for the purpose of a divorce law the whole of the subjective human relationship and require it to be exposed in detail for such scrutiny even if this is maintained to be a theoretical possibility alone.

We could not have a more dramatic demonstration of how far we have gone in assuming responsibility for the lives of other people which they have not sought to introduce to us.

I have in these observations selected at random and seemingly in disjointed fashion a few instances of matters which in my view encroach on liberty where previously there was no such encroachment or not such gross encroachment. I believe that they add up to a code of conduct on our part which is not in the best interests of human society.

Parliamentary government in the form in which we enjoy it is long-winded, pompous, ritualistic and in many ways open to criticism as being out of touch with the age in which we live. But it has a supreme merit in that over the centuries it has evolved a system which can, if operated by men of determination and courage, protect the liberties of the people for whom it works. But if a democratic legislature does not protect liberty it serves no purpose. That fundamental requirement is the justification for all its anomalies and anachronisms, a sufficient justification, without which other more efficient systems could be designed to do the job as well and better. We do not want any such systems because we want to preserve our liberties. The essential features within the parliamentary machine for the preservation of liberty are the opportunity for reflection and the opportunity for protest. Hence if the machine operates helter-skelter one of these essentials is destroyed. We saw very recently a tragic instance of how unrepresented people might have their liberties invaded, where the parliamentary machine was deprived of the opportunity of reflection and worked under the alleged pressures of time.

Let us willingly accept all the weariness associated with the system of government that contains these vital safeguards. Let us be wary indeed to tolerate any excuses for abandoning them even in isolated instances.

I am grateful to you for the patience with which you have listened to me. I hope that what I have said may have aroused

something of the feeling which inspired me to say it, that in a good and well-ordered society things might be better and better ordered and that in a community of men who are deeply conscious of the need to preserve their liberties and freedoms for themselves and their colleagues there are aberrations and moments of forgetfulness that seem to recur more frequently than previously and are in need of gentle discouragement.