

1957

My Native Grounds

Royal W. France
Rollins College

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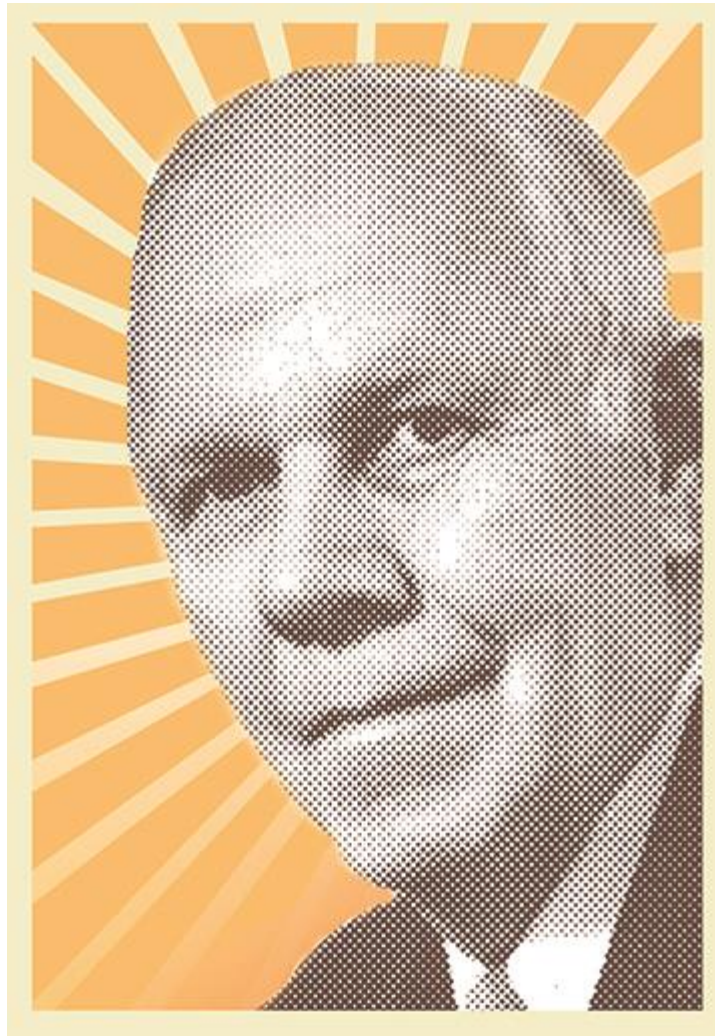
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Royal W. France's
My **NATIVE GROUNDS**



with PREFACE, INTRODUCTION, AFTERWARD and ANNOTATIONS

By

Jack C. Lane

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Cover design by Joan Zak '15

PREFACE

After leaving the corporate world and coming to Rollins College in the late nineteen twenties, Royal France became a committed advocate of radical social and economic reform in the United States. In the quiet confines of academia, he gradually formulated the ideas that led him see systemic problems with the social and economic structure of American society. The collapse of the capitalist economy in 1929 solidified these ideas. He (and thousands of others) began questioning the capacity of the competitive free market system to sustain a prosperous economy or to create a just society. "The competitive principle of dog eat dog," he wrote, "was not only ethically wrong but economically unsound." He flirted with socialism for a while but ultimately settled upon a kind of Social Gospel approach to society. Like early twentieth century proponents of the Social Gospel, France wanted to apply Christian ethics to the economic inequality created by the capitalist system, to the racial injustice inherent in the segregation system and to the perennial threat to civil liberties. As with the preeminent theologian of the Social Gospel, Walter Rauschenbusch, France argued that capitalism with its premise of "production for profit" inevitably created inequalities of wealth, leaving behind countless millions of hard working citizens. He supported the Marxist principal of "production for use," that is, production for what society needed rather than what producers, through advertising and promotion, encouraged consumers to buy. He called for a redistribution of wealth by strengthening labor unions and by the intervention of the national government.

Hamilton Holt was correct, therefore, when he once referred to France as a "radical." France did not disagree. He deeply believed that radicals were essential to reform in American democratic society. They occupied, he argued, the gap between American ideals and harsh reality—between what America promised in terms of equal opportunity and equal rights and what the capitalist system created in terms of unequal opportunities and unequal rights. Radicals, he insisted, challenged complacency and offered heretofore unthinkable solutions. In France's words: "Radicals in every age have said [that] things are not good enough. We demand changes here. If [throughout history] radicals had not agitated and acted we would still be living in caves and wearing loincloths, and if radicals were not challenging in our time we would not be prodded into making changes called for." Without radicals, he suggested, there would have been no abolition of slavery, no workers rights, no end to segregation, no women's equal rights, (and if he lived long enough he would say no gay and lesbian rights). All these transformations, he contended, were the result of radical activism and radical movements. France thus saw himself as one of those who filled that chasm between American ideals and socioeconomic reality.

Thus, to read *My Native Grounds*, is to observe American society through the eyes of a radical activist, to encounter the gritty consequences when an activist such as France pushes against the conventional beliefs of mainstream America and to experience the angry resistance when a radical challenges those beliefs. At a ceremony where he responded to France's critics, Hamilton Holt also provided a perceptive insight into role of the radical in American society. Yes, France was a radical, he wrote, but "what did that mean except that he was guilty of being ahead of his time." The radical, Holt continued, "may not see the whole picture at any one time, but he sees the light, and woe betide the society that martyrs him." I assume that Holt meant by the last phrase that radicals are the society's conscience, its moral compass and when Americans dismiss them or even worse silences them, the nation's ship of state has lost the benefit of that moral compass and is headed for potential disaster. Few filled the role of moral compass as well as Royal Wilbur France.

INTRODUCTION

A FAIR HEARING: ROYAL FRANCE, CRUSADER FOR CIVIL LIBERTIES

By Jack C..Lane

“Unwise ideas as well as wise ones must have a fair hearing, unfair as well as fair, dangerous as well as safe, un-American, as well as American. To be afraid of ideas, any idea, is to be unfit for self-government.”

- Alexander Meiklejohn

In mid-April 1920, Royal France, a lawyer by profession, arrived in Philadelphia to address a mass meeting protesting the expulsion of five duly elected Socialist representatives from the New York State legislature. That night at the Philadelphia Armory the first speaker began by quoting the Declaration of Independence. When he read the words “When any government becomes destructive of these ends, it is the right of the people to alter or abolish it,” a policeman sprang to stage shouting all were under arrest for advocating the overthrow of the government. France, along with the other speakers, was imprisoned in the city jail. The next morning they were taken before a judge who dismissed the case immediately after the officer had read the charge. France protested that he wanted the record to show that they had been arrested “within the sound of the Liberty Bell for quoting the Declaration of Independence.” Red-faced, the judge banged his gavel and declared “Case dismissed!” All speakers were released.

The episode in Philadelphia showed not only the mindless absurdity produced by the First Red Scare hysteria, it also marked the beginning of Royal France’s career as a lifelong champion of First Amendment freedoms. From this time until his death in 1962, he was in an almost constant struggle against those who would deny others the right of free association and the right to express freely ideas that prevailing society considered unconventional, if not dangerous. He did so with calmness, dignity, integrity and above all with great courage. He is one of America’s great unsung free speech heroes.

America’s past is replete with individuals who have remained relatively obscure despite their active and sometimes heroic engagement in events, issues and movements that have helped shape our society. Their names appear occasionally in scholarly accounts, but they are rarely given the recognition they deserve. This reality is particularly relevant to lawyers who defend their more famous clients. For every attorney like Clarence Darrow, whose renown far exceeded that of his client, there are the little known lawyers who risked their careers, their freedom, and often their lives, defending their more celebrated clients. Such is the case of Royal Wilbur France, lawyer, corporation and film executive, educator, scholar, and most importantly, indefatigable defender of civil liberties. Throughout his adult lifetime, France actively participated in some of twentieth century’s most pressing political, economic and social issues—Unionism, Progressivism, war and peace, Socialism, Communism, McCarthyism. Along the way, he befriended and was befriended by important national figures closely associated with these developments. His insights on these issues and these individuals are well worth our attention.

France was never a bystander who complacently distanced himself from important issues of his time. Whatever his profession, and they were varied, he found a public cause to champion. And whatever the issue he faced, one principle remained constant with him: he was convinced that the voice of the minority, the unconventional, the radical must be

heard and respected, and, most of all, must not be silenced. His involvement in unpopular causes was not easy for him and his family. He often suffered from the outrage of those who saw him as threatening to their conventional beliefs. He never wavered, however, in pursuing what became for him a personal mission to defend the civil liberties of those whose rights were most threatened.

In *My Native Ground*, written in a remarkably perceptive and readable style, France provides an engaged participant's insights on critical major twentieth century personalities and issues. In the "Forward" to *My Native Ground*, Alexander Meiklejohn, America's foremost spokesman for the link between free speech and democracy, commented on the significance of France's autobiography to his generation:

It is good just now, that Americans should realize that such a man is at work among us, should become familiar with the influences which have made him what he is, should be encouraged, by his example, to resist, with calmness but with unflinching determination, the attacks upon our Freedom which have been made by Federal government, by Board of Education, by social pressures of timidity and hate.

These observations are equally applicable to the present. The passage of the Patriot Act after the 9/11, which allows the National Security Agency to collect massive information on American private citizens, brings into question again the balance between national security and the right of privacy. The Muslim-American communities like the Communist earlier see themselves as targets of indiscriminate surveillance. France's autobiography, thus, reminds us that the endangerment to freedom of expression, of association and of privacy requires courageous defenders such as Royal France no less today than in his lifetime.

At first glance the adult Royal France's progressive politics and social and legal activism seems somewhat at odds with his childhood background. He was born in 1883 in the historic town of Lowville, New York, an upstate rural area populated primarily by dairy farmers. After high school he attended Hamilton College, an academically prestigious liberal arts school in central New York. According to his own account, he found nothing in his four years there that contradicted his conservative background, or, as he phrased it, nothing to awaken his "latent idealism." Economic courses, for example, "Were confined to teaching the classic concepts of an imaginary free-enterprise world." France's education may have been conventionally conservative, but his family provided him with a strong dose of social responsibility. His father, a Presbyterian minister, abandoned the fundamentalist wing of the church, and began to preach and practice a Social Gospel theology of tolerance, brotherhood and compassion. These principles ingrained from childhood would guide France for the rest of his life.

After college, he studied in a law office for a few years and later joined a law firm in New York whose senior partner, Charles Durell, was the Treasurer of the National Republican Party. The office practiced corporation law and France became deeply involved in procedures that, although perfectly legal, ran counter to the ideals he had inherited from his family. Morally ill at ease with the firm's practices, he found a way of expressing of his idealism in another venue: he helped in the formation of the Progressive Party and worked with candidate Theodore Roosevelt in the presidential election of 1912. Although he does not describe in detail his involvement in the third party movement, he spent enough time in the election to have become well acquainted TR. This association led to France's involvement in one of the most sensational trials of the early twentieth century: a libel suit filed against Roosevelt by Albany boss William Barnes. In a speech supporting a progressive candidate in 1915, Roosevelt had accused Barnes of political corruption. Barnes sued him for libel. When France informed Roosevelt that Barnes had tried to bribe him with a judgeship in return for his political support, the former president invited France to testify at the trial. France agreed. He remained in Albany for several weeks working Roosevelt's lawyers who ultimately won an acquittal verdict.

France's friendship with Roosevelt continued for several years but, he later admitted the relationship was a bit self-serving. "Roosevelt and I," he observed, "were in many ways at opposite poles. I hated war and when World War I broke out I was a pacifist. [On the other hand] Teddy gloried in war as bringing about the manhood in men." He became disillusioned with Roosevelt's pose as a reformer. A passionate progressive himself, France came to believe that Roosevelt's progressivism was "phony," a pretense that he projected for political gain. France conceded that he chose to ignore these differences because he "was flattered by [Roosevelt's] friendship and hopeful that he would advance my own ambitions." His reflection on the irrepressible colonel was unusually perceptive and generally accords with recent scholarship: "He was clever but not wise, human but not a humanitarian, patriotic but not enough to be a leader of the world." Like most scholars, France thought Roosevelt's crusade to save this nation's natural resources was his greatest contribution.

Although nominally still a Republican, France began to move to the left of the party on the issue of war and peace. When conflict erupted in Europe in 1914, Henry Cabot Lodge and Theodore Roosevelt led the Republicans in urging intervention against Germany. France, on the other hand, began making speeches opposing American Involvement. In the election of 1916 he voted for a Democrat for the first time in his life because President Woodrow Wilson pledged to keep American out of the war. Wilson's declaration of war message in April 1917 made France "sick a heart." Shortly after the declaration passed in Congress, a friend asked France to serve as a legal adviser to the Quartermaster General. As a committed and outspoken pacifist, the request presented him with a moral dilemma: should he stand on conscience and refuse to participate in what he called the "madness of modern warfare" or should "the pull of patriotism" put loyalty to his country ahead of his beliefs? With many "misgivings" he accepted an appointment as captain in the Quartermaster General's Office.

During the war France found himself again at odds with the Republican Party. Most of the members had supported the passage of the Espionage Act, a measure prohibiting any criticism of the government's war policy. A large number of dissidents, including former Socialist candidate for president Eugene Debs, were arrested and jailed for speaking against the government's war policies. France was concerned by the irony in Wilson's claim that the United States entered the war to save the world for democracy, while at the same time the government was placing severe restrictions on civil liberties. Even more disturbing, from France's point of view, was the Supreme Court's decision in the Abrams case to uphold the law. Oliver Wendell Holmes's "clear and present danger" doctrine, he thought, was too ambiguous and left too many opportunities to restrict freedom of speech. Later during the McCarthy era he would see his fears materialize. He watched as the clear and present doctrine "opened the wide the sluice gates for a flood of decisions which all but destroyed the Bill of Rights."

France left the military after the war with no means of income. Hoping to provide his family with a higher standard of living, he accepted the position of legal counsel to and later Vice-President of an international textile manufacturing company. It was a lucrative job but he sensed a disconnect between his beliefs and corporate policy. In his own words, "I had become a servant, even if a highly paid one, of big business, and I did not feel at home with myself. I was not doing the things I liked to do. I was working on matters that had no permanent value. I liked to work with people, not with things, and what I wanted to do was to teach young people." More importantly he wanted to research and study about the possibility of envisioning a more humane economic program than the present capitalist theories were able to provide. He and his wife wanted to move south but he wondered if he could find there a "liberal college" to fit his progressive philosophy. After a search through a national college directory he found a school in Florida that seemed to fit his purposes and philosophy. He had never heard of Rollins College in Winter Park, Florida but he knew President Hamilton Holt, a fellow liberal from the peace movement, and he understood that Holt had just instituted progressive

educational reforms at the college. He contacted the president and within a few months Holt hired him as a professor of economics.

When France arrived in Winter Park in January 1929, he found a charming little village that resembled very much the town of his birth in New York. Winter Park had been settled and developed in the late nineteenth century by New England entrepreneurs looking to build a winter haven for wealthy northern visitors and artists. New England Congregationalists had founded the college in 1885 (the first institution of higher education in Florida) to provide their children with a northern education. President Hamilton Holt, who arrived in 1924, immediately transformed the college into an experimental institution based on progressive educational principles. The college became a liberal oasis surrounded by the town's conservative, patrician culture and by a county of entrenched Southern conservatives. It seemed an unlikely place for a person with France's progressive views, yet, according to his own account, he settled into a contented teaching and social routine that lasted for over twenty-five years.

He did not, however, abandon championing unpopular causes, a predisposition that brought him immediately in conflict with the conventional culture in Central Florida. In his observation: "A college professor with liberal views in a community like Winter Park was not all honey and roses." He publicly criticized white Floridians for failing to condemn the unlawful practice of lynching. When he learned that a mob in Marianna, Florida had lynched an African American named Claude Neal, France sent a "blistering letter," excoriating Florida Governor David Scholtz for inaction and then had the letter published in the newspaper. Scholtz wrote Holt demanding that the president fire France for his "insulting" remarks. Holt replied that he could hardly do that since he agreed with France. In the deeply embedded segregation system that permeated the area, France could find little difference between the racial prejudice of residents from the South and those from the North. The New England founders of Winter Park made certain the wealthy citizens would have sufficient "help" by creating a separate "Negro" community called West Side across the town's railroad tracks. Tradition dictated that no one cross the social barriers of the system or even the symbolic tracks. France consistently ignored these social customs. He unsettled many of the town's residents by developing many close acquaintances in West Side and by often visiting their homes and attending their church services. Shortly after arriving, he formed a close friendship with the now-famous but then obscure novelist and anthropologist Zora Neal Hurston. Hurston often visited her birthplace in Eatonville, located a couple of miles from Winter Park, and frequently spent the night in the France home. This conventionally forbidden behavior caused considerable gossip. One irate resident, upon learning that Hurston was dining at the Frances, appeared at his front door expressing a "disgust so great it was almost tangible" At various times, owners of retail stores in the town were reluctant to serve him.

After the Stock Market crash in October 1929, France began writing articles and giving talks critical of what he called President Herbert Hoover's "stodgy and unimaginative" economic policies. In the presidential campaign of 1932 he looked for a positive program from Franklin Roosevelt but found none. "Seeing no lights emanating from either of the old parties," he voted for Norman Thomas, the Socialist candidate. After the election of 1932 France joined the Florida Socialist Party and a few weeks later, he accepted the leadership of the organization. Membership in the Socialist Party in any part of the United States was calculated to bring immediate opprobrium, but in Florida during this period it was downright dangerous. In November 1935, Tampa authorities raided a meeting of local Socialists and arrested the leaders. The victims were forced into a police car and later beaten severely. One of the members, Joseph Shoemaker, died of his injuries. The incident was reminiscent of African American lynching deplorably prevalent in Florida during this period. France rushed to Tampa and along with national Socialist leader, Norman Thomas, organized a protest of indignant citizens that filled Tampa's largest auditorium. The protests had little effect. In this era of periodic mob lynching, when lynchers were never convicted, the outcome was predictable. Authorities charged and tried several men but after years of legal maneuvers they were acquitted.

The incident left France with two lessons about American society: whenever a group attempted radical change in an unsettled community, it would be crushed “not through reasoned argument, but by force and violence”; and the First Amendment was no protection for those holding views contrary to conventional beliefs and traditions. Even though he would encounter and confront this reality over and over again in the next two decades, he remained hopeful, a characteristic reflected in his one (and only) novel, *Compromise*, published in 1936. *Compromise*, which France called “a novel with a purpose,” tells the story of an idealistic lawyer who is corrupted by his mentor, a politically savvy judge. The lawyer becomes a district attorney, governor, senator and eventually a promising candidate for a presidential nomination. He ultimately recovers his old ideals, and refuses to bow to the politicians but he loses his chance at the nation’s highest office. The plot probably came from France’s realization that he himself almost lost his own ideals by working for a large corporation. One reviewer noted that the novel aptly describes the moral contradictions of public life and the pressures often facing reform-minded elected officials.

One of France’s most serious clashes with conventional views occurred at the close of World War II. In June 1945, shortly after the surrender of Germany, he delivered the Baccalaureate address to the Rollins graduating class. He chose as his topic the nature of the Allied peace terms with Germany. Despite Nazi atrocities, France contended, the majority of Germans were ordinary people who had been duped by Hitler and intimidated and terrorized by the Nazi regime. Therefore, he argued, while the Nazi leaders should be held accountable, the German people as a whole should not be punished. The Allies should avoid exacting revenge on the German people because it would be both unproductive and even self-destructive. Harsh, revengeful peace terms after World War I, he reminded the seniors, had been a contributing cause of the rise of Adolph Hitler. If the Christian Allied nations believed in the principle of forgiveness, a punitive peace would be questionable on moral grounds as well.

A firestorm of criticism broke over France’s head the next day when the local newspaper, the *Orlando Sentinel*, printed the complete speech. Editor Martin Anderson wrote a stinging editorial criticizing France for underestimating the complicity of the German people in Nazi atrocities. “We think that Dr. France,” Anderson wrote, “who thinks that Germany is a great people should retire from his rather questionable glories at Rollins and join these ‘great people’ in what he would call a happy future.” Dr. John Martin, a prominent self-described authority in international relations, published a commentary in the *Sentinel* in which he excoriated France for his “namby-pamby softy stuff in dealing with any enemy who showed its enemies no heart, no soul, no mercy.” For several days angry letters to the editor condemning France appeared in the local newspapers. Many blamed the college for allowing France to fill young people’s minds with such misguided ideas. President Holt, who was in San Francisco participating in the United Nations Conference, received a letter from the college’s vice-president warning him that France’s speech had precipitated a crisis at the college. Several trustees wanted the college to issue a public statement denying any support for France.

The uproar caught France by complete surprise. He had given the same speech several times around Florida without experiencing this kind of negative reaction. He wrote a long letter to Holt, apologizing, not for his ideas, but for unwittingly causing trouble for the college. Holt replied that, while he was sympathetic with France’s views on the German peace terms, he thought it was not the appropriate time to express them. France was undoubtedly embarrassed by the episode because he makes no mention of it in his autobiography. He could have asked for apologies from his critics when a few months later Congress passed the Marshall Plan based precisely on the views France expressed in his Baccalaureate address. It was not France’s nature, however, to gloat.

By 1952 France had taught at Rollins and lived in Winter Park for over two decades. They were years of personal satisfaction and contentment but now he was unsettled: “I felt increasingly that I was too much at ease in Zion, while one of history’s great struggles for the preservation of free speech was taking place right here in our own country.” The “great struggle” was the effort to protect those threatened by the Anti-communist crusade conducted by Senator Joseph

McCarthy and the House Un-American Activities Committee. In the post-World War II period, the nation was in the throes of another Red-baiting hysteria. France had experienced personally the First Red Scare when he opposed the expulsion of New York Socialists and he had seen in the Shoemaker tragedy evidence of society's consuming, almost pathological, fear of radicalism. He was now witnessing how that hysteria was turning even more virulent in the emerging Cold War. "The witch hunters" he noted, "were riding high in Congress and a pall of fear had effectively silenced questioning and dissent. People were being hounded in a shameless fashion for opinions they held, or which they may have held. Those who attempted to speak out against the evil were being pilloried. More and more people, seeing what happened to those few, withdrew." France's epiphany came January 1952 when he read an article written by Supreme Court Justice William Douglas in the *New York Times Magazine* entitled "The Black Silence of Fear." The essay began with a dark observation: "There is an ominous trend in this nation. We are developing tolerance only for the orthodox point of view, intolerance for new and different approaches....Fear has mounted: fear of losing one's job, fear of being investigated, fear of being pilloried." Douglas's dire warning reinforced France's assessment that free speech and free association were under massive assault by the Cold War anti-Communist crusade. What most galvanized France was the Justice's additional observation: "Fear even strikes at lawyers and those at the bar. Those accused...have difficulty getting reputable lawyers to defend them" That observation "clinched" it for France. He resigned from Rollins in May 1952 and moved north where he joined a small group of lawyers already putting their careers and even their freedom at risk by defending individuals charged with subversion.

France entered the hazardous field of Cold War anti-Communism just as the Red Scare hysteria had peaked. American Communists and other leftist groups and individuals had come under the scrutiny of the Joseph McCarthy's Senate subcommittee as well as the House Un-American Activities Committee. Both Committees began gathering names of people, usually provided by FBI Director J. Edgar Hoover, who were considered members or former members of the Communist Party and several other left wing organizations. Those accused who refused to answer questions or to provide names were indicted for contempt of Congress and sent to prison. If they invoked their Fifth Amendment rights they were deemed "Fifth Amendment Communists" and their names were placed on a blacklist which caused them to lose their jobs or to have their reputations ruined.

During the period of the Red Scare, men and women accused of subversion were charged under the 1940 Alien Registration Act, commonly known as the Smith Act. The act provided for the conviction of anyone who advocated or organized any group that advocated the overthrow or the destruction of the government. The measure was a response to fear of German espionage as the nation drew closer to entering the war in Europe. The regulation of speech during wartime had a long history in this nation but the Smith Act went beyond the other efforts by criminalizing those having memberships in or having association with certain organizations. By the end of the Second World War, instead of prosecuting phantom Nazi saboteurs, authorities began using the act to arrest and prosecute American Socialists, Communists and other radicals. From the beginning France thought the act was a clear violation of the First Amendment free speech clause. He predicted that alarming consequences would result from the pre-war passage of the Smith Act. "If mere advocacy could be made a crime," he warned, "it would be easy to accuse—and to silence and destroy—any political movement critical of the *status quo*."

In 1950 he observed an even more alarming development. In that year Congress passed the Internal Security Act, commonly called the McCarran Act, which required Communist or suspected Communists to register with the US Attorney General. President Harry Truman vetoed the act, calling it "the greatest danger to freedom of speech, press and assembly since the Alien and Sedition Laws of 1798." Congress overrode his veto. France thought the act not only unconstitutional but one of the "most obnoxious doctrines" of the McCarthy era: guilt by association. If mere association was a crime, then no citizen was safe. The McCarran Act was so broad, France argued, it could be (and was) applied

to “anyone who worked for peace or welfare measures that paralleled the Communists.” He watched with alarm as scores were arrested under the act for having joined or having associated with organizations designated as “Communist Fronts” by the Attorney General

These were France’s thoughts as he prepared to leave the secure confines of Rollins College and Winter Park for the treacherous terrain of Cold War Anti-Communism. He was sixty-eight years old, the age when he could retire and play golf, which he loved, and lead a contented social life virtually free of care. Many thought he was making a serious mistake. An ACLU lawyer visiting Winter Park to talk to France about future cases wondered how France could leave such a paradisiacal place. Others told him that defending Communists in the toxic climate of the Cold War would destroy his career and his reputation. Later he would reflect on his motivations: “I could not be at peace with myself until I had genuinely and without reserve offered myself, at this crucial moment in history, to defend the principles which lay at the basis of my philosophy of life,” even if it meant defending Communists.

France had never met a Communist nor did he agree with all of their ideology. He told one member that he was defending him “not because I believe what you say but because I believe you have the right to say it. I am an old fashioned liberal who believes that the First Amendment means what it says and what it says is important.” When he later came to know many of them, he learned that most were not the dangerous ogres they were depicted to be but bright, ordinary citizens who were committed to their beliefs. He then came to defend them as “wholeheartedly good people and not merely as symbols of a principle.”

Shortly before leaving Rollins, France received a request from Frank J. Donner, who headed a law firm that specialized in defending progressive and leftist clients, asking him to handle the appeal of six Baltimore Communists who had been convicted for violating the Smith Act. When he arrived in Baltimore in June 1952 he found that one of the defendants was Dorothy Rose Blumberg, who like France, had abandoned her privileged background for left-winged politics. She was one of the “loveliest persons” he had ever met, again dispelling the conventional view of Communists. At the hearing in the court room of the US Court of Appeals, France came face to face with the difficulties he would later encounter over and over again. He found three Federal judges whose demeanor signaled an unfavorable outcome for his clients. They were led by Justice John J. Parker whose nomination to the Supreme Court in 1930 had been rejected by the Senate because of his vocal prejudice against labor unions and African Americans. When France looked into the “hard faces” of the justices he knew they “were doomed to lose.” The court rejected the appeal, sending Blumberg and the other defendants to prison. The failure reminded France, if he needed reminding, that he faced a difficult task. It would not be easy in this hysterical Cold War atmosphere to convince jurors and judges that free speech and free association not national security was under assault.

During the next four years, working with the ACLU and other civil rights groups, France was involved in cases ranging from an unsuccessful appeal of the death sentence of Julius and Ethel Rosenberg to the defense of a group of clergymen accused of Communist subversion. In France’s words, he was in “a whirlpool of court actions,” appearing before Congressional committees, working with the Emergency Civil Liberties Committee, the American Civil Liberties Union and the Religious Freedom Committee. In 1952 he was asked to defend a New York University professor named Lyman R. Bradley who had been dismissed from this teaching position for having earlier served as an officer in an organization created to help refugees of the Spanish Civil War. In 1947, a Congressional committee had declared the organization a Communist front and called Bradley before the committee demanding that he turn over all the organization’s records. He refused, was charged with contempt of Congress and served three months in prison. During the trial he had been suspended by the university with the support of the majority of the faculty and when the Supreme Court refused to set aside the conviction, Bradley was dismissed without financial recompense. For France, a former professor, the Bradley case hit close to home. Year after year, Rollins College’s President Holt had come under intense

pressure from donors and trustees to dismiss France for his political activities. Holt, also a free speech liberal, had refused, but France undoubtedly realized that, in the era of McCarthyism, the president would have found it difficult resisting those demands.

The Bradley case was indicative of the spread of McCarthyism into academia. Perhaps as many as one hundred professors lost teaching positions as the result of prior radical or even progressive activities. Most were then blacklisted and could not find other positions and, because of the charges, they could not get passports to travel out of the country to search for other jobs. Yet recent research has shown that the academic institutions could produce little or no evidence that a professor's political views permeated their classrooms. As France surmised, individuals were being dismissed solely for their beliefs.

France's last case was one of his most sensational and nationally significant but it was also the most disheartening. In 1953 he received a call from a friend, Willard Uphaus. He begged France to serve as his attorney in a subversive case brought against him by the New Hampshire Attorney General. Uphaus, who held a doctorate in religion from Yale, had for years come under suspicion for his work in social causes aimed at providing support for those in need—African Americans and white sharecroppers in the South, and laborers in the northern factories. He had also belonged to peace organizations that worked to improve the deteriorating relations between the West and Russia in the post-war era. He was often involved in several religious and peace organizations that ultimately appeared on the US Attorney General's Subversive List.

France thought at first the charge against Uphaus must have been some egregious misunderstanding. How could such a modest, unassuming, peace-loving man be charged with subversion? When he arrived in New Hampshire he soon found out. Uphaus had recently been appointed director of the World Fellowship of Faiths, an organization begun in 1931 that sought to foster understanding among all races and religions. The founders of the organization had acquired several hundred acres in the White Mountains of New Hampshire where they held conferences consisting of participants "with a social conscience." The organization had been convening summer meetings quietly for forty years when during the Red Scare it was charged with violating the New Hampshire State Subversive Act, a law which resembled almost exactly the Smith Act prohibitions. The measure was another indication of how McCarthyism had spread its tentacles into the heart America's social fabric. Many states passed anti-subversion acts and some even created investigating committees similar to HUAC. In New Hampshire the Attorney General alone was made responsible for investigations under the State Subversive Act.

During Uphaus's first month as director of World Fellowship, the *Manchester Guardian* sent a reporter to the Fellowship headquarters under the guise of covering the camp's activities. Afterward front page headlines screamed "Pro-Reds at World Fellowship," claiming the Center was a front for Communist subversion. The state Attorney General subpoenaed Uphaus to appear before a court to answer the charge of violating the State Subversive Act and ordered him to turn over a list of participants in the camp's summer conferences. Uphaus was more than willing to discuss the camp's activities but he refused to submit a list. He was charged with contempt of court and sentenced to prison. The State Supreme Court upheld the local court's decision and sentenced Uphaus to jail until he agreed to produce the list. The case ultimately made its way to the US Supreme Court which ruled in the state's favor. Justices William Douglas and Hugo Black issued blistering dissents arguing New Hampshire had blatantly violated Uphaus's First and Fifth Amendment rights and that the majority of the Court was contributing to that error.

Throughout Uphaus's ordeal, France had been at his side. From his point of view, the Uphaus case revealed the depth and the breadth of the cancerous spread of McCarthyism into the American body politic. The contagion had infiltrated the local areas of society, where the unreasoning fear of Communist conspiracy had infected small communities that had never seen, nor would ever see, a Communist. This fixation led local governments to condemn even

benign, pious religious communities. The ludicrous charge that peaceful, mild mannered Willard Uphaus and the Fellowship of Faiths would be plotting the overthrow of the American government was final proof to France that the McCarthyism was having a corrosive effect on the fundamental basis of American democracy. These witch hunts were leading authorities to trample not only on the Constitutional right of freedom of speech and association, but to suppress criticism by creating an atmosphere, in Justice Douglas words, of a "Black Fear." France found that even his liberal friends, who should have been vigorously and publicly fighting the spread of this cancer, were silenced by this Black Fear. While so many cowered in silence, Royal France put his career, his reputation and even his life in jeopardy to protect the freedoms essential to American democracy.

As France watched his friend Uphaus, this seventy-year old "peaceful man of conscience," leave for prison, he might have been pardoned for thinking that all his efforts were hopeless. But instead of retiring from the battle he accepted another challenge. In 1958 he was appointed Executive Director of the National Lawyers Guild. The NLG was created in the 1930s as a home for liberal lawyers who were disenchanted with the conservative leaning American Bar Association. From the beginning it was a lightning rod for conservative criticism, particularly when it accepted the membership of African American lawyers. During the Great Depression it supported Roosevelt's New Deal measures, helped organize labor unions and fought against racial segregation. The NLG was particularly active in the attempt to pass anti-lynching legislation. In the post-war period, the NLG, along with the ACLU, was the most active organization defending individuals against charges of subversion. The NLG's refusal to require loyalty oaths from members, many of whom were leftist radicals, left it open to charges of harboring subversives. In 1950 HUAC branded NLG the "legal bulwark of the Communist party." France became director of the organization when it was deeply involved in preventing the government from placing NLG on Attorney General's List of Subversive Organizations. The Guild brought suit in the United States DC District Court seeking to restrain such listing and, after years of litigation, the AG's office dropped the charges. But the effort to defend itself had cost the NLG dearly. The Guild's funds were depleted from years of litigation and hundreds of members dropped their membership leaving the organization a shell of its original self. It would be decades before the Guild recovered its former membership.

France's work at the NLG took a heavy toll on his health. He was seventy-three years old when he agreed hesitantly to head the organization and the struggle against the Justice Department charges was "strenuous and in many aspects difficult." In his words, it "concluded my life's endeavor." His sacrifice did not go unrecognized. At a gathering held to honor France's service, one of his NLG colleagues told an audience of four hundred people:

We came to pay tribute to a great teacher, trained economist, courageous defender of religious and civil liberty, a fearless peacemaker, and above all a warm-hearted humanitarian. Among his friends are those who have been sustained by his legal and moral strength. The dignity and depth of this man to spend his life in defense of our freedoms took courage beyond the call of duty.

Perhaps more than anyone, President Hamilton Holt understood and empathized with the courage and sacrifice it took for France doggedly to stand by his beliefs despite withering criticism. In the face of yearly demands that he fire France for his radical views and social activism, Holt rebuffed the criticism and instead awarded him an honorary degree. In his presentation Holt provided an astute insight into the true significance of Royal France, and those like him, to the survival of American democracy.

Not a few people have told me that you were too radical. This charge, when analyzed, has meant little but that you are guilty of the crime of being ahead of your times. The radical, of course, may not see the whole picture at any one

time. But he sees the light, and woe betide the society that martyrs him. I, therefore, state publicly that Rollins honors you today for your unblemished moral character, and above all, for your never-failing tolerance, even of intolerance. You are one who is as radical as is truth and justice, because that is the kind of radical you are. Rollins honors you with a Doctor of Humanities which, by its very name—humanities—symbolizes your whole social and economic thought and action.

France's life story is an inspiring one but it is also a cautionary tale. He once wrote a friend: "When I feel that injustice is being done, I cannot be silent without becoming a party to the wrong." The uncomfortable subtext of this statement is that we all become personally complicit when we remain silent in the face of injustice. Throughout his life he was troubled by the American public's unwillingness to realize that an injustice to one was a threat to everyone. Where, he asked, "has been the protest that ought to have been raised here in America against infringement of the people's right under the First Amendment? Where has been the demur against flagrant violations of the Constitution?" Most of his attempts to protect freedom of speech were met with public indifference, an apathy that led him to recall reading how a great crowd had gathered in London to extol Thomas Erskine's unsuccessful defense of Tom Paine's right of speech. France mused on the irony of how, when he left the courtrooms, he was invariably met with "a world of silence. There was no expression of interest, one way or another." How, he asked, "could men and women nurtured in the great tradition of civil liberty, not realize the danger to that tradition, and to themselves?" France might also have ruminated on Edmund Burke's forewarning that "all tyranny needs to gain a foothold is for people of good conscience to remain silent." No one who reads *My Native Grounds* will accuse France of the sin of the complicity of silence.

In July 1962, France died while undergoing heart surgery. As a testament to his national reputation, *The New York Times* commemorated his death with a featured article. *The Times* headline perfectly summed up how France himself would have wanted to be remembered: **Royal Wilbur France, 78, Crusader For Civil Liberties, Dies.**

Royal W. France

My
NATIVE GROUNDS



New York

1957

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This book is dedicated to

Ethel Camp France

my beloved wife, comrade, and strong support for forty-five years, whose unfailing love and loyalty contributed so greatly to the meaning and direction of our lives that this book is as much her story as mine.

Acknowledgments

For this book I owe a special acknowledgment to my good friend, Ruth E. Crawford, but for whom it would not have been written. Following a dinner given in my honor at a New York hotel at which I had spoken of people and events that had influenced my life, she said, "Roy, you must write your autobiography." I shrugged the idea off. I was about to enter a trial as one of the defense counsel in a Smith Act case which would take several months. "I have no time," I replied. "You must find time," she insisted. I explained my situation. "Well, whenever you have a free hour take a pad and pencil and write down your recollections as they come to you. Send them to me and I will edit them and have them typed. Soon you will have a book." This I did. I often found it relaxing after a hard day in court to sit down for an hour or two with my memories. I engaged in no research, and if there are any inaccuracies in my account they must be charged to lapses of memory such as occur when one tries to recall long past events. The book as a whole is true.

I should also acknowledge a debt to Miss Sally B. Geohegan for her readable biography of my late brother, Joseph Irwin France, one of the finest liberals ever to occupy a seat in the United States Senate, and to Mrs. H. S. Merrill for checking events in his life in the library of the University of Maryland.

Foreword

I have not yet read *My Native Grounds*, written by Royal France. But I am eager to do so.

Royal France is a friend for whom I have warm affection and high admiration. His undaunted courage in making, and remaking, and remaking again, his professional career, as the needs and opportunities and perils of his country have required, amazes me, and thrills me. He has wisdom and daring, critical understanding and loyalty, shrewd inventiveness and unwavering integrity.

It is good, just now, that Americans should realize that such a man is at work among us, should become familiar with the influences which have made him what he is, should be encouraged, by his example, to resist, with calmness, but with unflinching determination, the attacks upon our Freedom which have been made by Federal government agencies, by Boards of Education, by the social pressures of timidity and hate.

The writer of this book is a good man to know. Every American who is disturbed by the current threats against our Constitutional Freedom should get acquainted with him.

ALEXANDER MEIKLEJOHN

Berkeley, California
April 18, 1957

My NATIVE GROUNDS

One who wishes to be credited with having tried to live the good life should first choose good parents. This I did. The biographies of my father and mother would make interesting stories in themselves but here two incidents will have to suffice to show what manner of people they were and the kind of people from whom they came.

Prior to the Civil War my mother's father, William James, was a wealthy resident of Richmond, Virginia. Like many worthy Southerners he had never faced squarely the issue of slavery. People are inclined to accept the mores of their time and place without critical examination. Many good people today accept the building of armaments, including nuclear bombs, and invasions of civil liberties and civil rights as though they were normal aspects of human existence. So it was with my grandfather until he was forced to a decision. Virginia seceded. After lonely vigil and prayer—he was a deeply religious man—he assembled his wife and children. He told them he was convinced that slavery was wrong and that the Union should be preserved. He gave the other members of the family complete freedom of choice and they all agreed with him. When the first parade of Confederate troops marched down the principal residential street of Richmond, the Stars and Stripes hung in front of his home. The house was mobbed. The family made its way to Washington. My grandfather entered the service of the Federal government. My Uncle Samuel became an officer in the Union Army, and Aunt Jennie married a Union officer, Colonel Ira Ayers, who distinguished himself at Gettysburg. My mother, Hannah, the youngest of the family, although only in her teens at the time, became a nurse in a church which had been converted into a hospital for wounded soldiers.

In the early part of this century my wife, Ethel, and I were vacationing near Bar Harbor, Maine. An old man by the name of Davis and his wife were staying in the same hotel. They were from Virginia and he had been a colonel in the Confederate Army.

When I mentioned that my mother's family came from Virginia, he wanted to know at once who and from where. I told him that my grandfather had been William James.

He stared at me for a moment in silence. Then he asked, "Do you mean the William James who lived in Richmond and had a summer home in Ashland?"

When I said yes, he held out his hand. "I want to tell you something," he said solemnly. "Bill James was my best friend. We had a difference of opinion. For years I would not allow his name to be spoken in my house. But I have lived long enough to know that he was right and I was wrong, and I am proud to shake his grandson's hand."

My mother was a worthy daughter of a worthy father, combining sweetness with indomitable courage, and idealism with practical sense.

My father, Joseph Henry France, came from an old Maryland family. Our first France ancestor came from England and settled in Baltimore in 1707. The first identifiable France was a Norman squire named Guillaume Français, who came to England with William the Conqueror. There was later an admixture of Scottish Presbyterian and English. Later, from my mother's side, came Welsh and from my grandmother France an admixture of Irish.

The earlier Frances were among the wealthy upper crust of Baltimore society, but by my grandfather's time the family fortune had petered out and he had to go to work. He was a government employee. One of my father's earliest memories was of sitting in on an interview between his father and Abraham Lincoln. The President's expression of great kindness made a lasting impression.

My father started out as a lawyer. He and my mother had gone west to Missouri, where he had become assistant United States attorney. But as a young idealist he felt another call and in the early 1870's he became a Presbyterian minister. While serving as pastor of the Presbyterian church in Kalamazoo, Michigan, he was brought face to face with the need for decision. He, like most, had taken many things about his religious life for granted. Now he read Darwin's *Origin of Species*, Tom Paine's *Age of Reason*, and a number of books on higher criticism of the Bible, as they were called. Then, on a visit to Chicago he went to a lecture by Colonel Bob Ingersoll, who ridiculed orthodox beliefs. My father was profoundly dis-

turbed, so much so that he felt he might have to give up his ministry. One night, he told me later, he walked the streets until morning. As the day dawned so did his light. Whatever might be true or false about creeds or stories in the Bible, what Jesus taught was eternally true: tolerance, brotherhood, compassion for men, peace. These truths he could preach.

He became a militant member of the modernist group in the Presbyterian church, and was a doughty and happy warrior. His hearty laugh at funny stories, including his own, was a thing to hear and remember.

I remember his coming back from a meeting of the General Assembly in Philadelphia, chuckling all over. A Fundamentalist, huge of stature and with a powerful voice, had made a speech attacking those who contended for a figurative interpretation of much of the Bible. "I have no patience," he had thundered, "with those who would water down the Holy Word." Patting the Bible before him, he had exclaimed, "As for myself, I have no difficulty in believing every word in this good Book just as it is written."

When he had ceased, a little man with a quavering voice rose and said, "Mr. Moderator, I was much impressed with the brother's remarks. Indeed, so eloquent was he that I was almost convinced until I thought about that passage, 'And the woman was arrayed in scarlet and seated on the seven hills.' It occurred to me, Mr. Moderator, that if we must take that passage literally, the lady must have had an extraordinarily large seating capacity."

We may laugh about these contentions now, but the argument was serious in those days.

My father and mother were compassionate people. Tramps were never turned away. One son of the road stayed with us as a member of the household for over a month. When the wanderlust claimed him again we were all out on the veranda waving farewell.

From that kind of home I went to Hamilton, a fine old college in Clinton, New York.¹ The ivy-covered buildings set on a high hill overlooking the valley of the Oriskany, the paths shaded by lovely oaks and elms, combined to make a campus which remains a nostalgic memory in the mind of every alumnus. But Hamilton, like many other colleges of that day, was an ivory tower. There were no courses in sociology, and economics courses were confined to teaching the classical concepts of an imaginary free-enterprise world. The ser-

mons in the chapel would lull us into slumber more often than they would voice any prophetic protest to waken our latent idealism.

From Hamilton I went to George Washington University, which was a little closer to reality. I then studied law in the office of County Judge Walter H. Knapp in Canandaigua, New York, where my father and mother were living, and in the Albany Law School. I was getting still closer to reality. For a short time I was Judge Knapp's partner.

Canandaigua, at the foot of the Finger Lake of the same name in western New York, was beautiful but stifling. A larger world called me and I secured a job with a New York law firm. Charles H. Duell, who had been Commissioner of Patents and a judge of the United States Circuit Court of Appeals, was the senior partner. At the time he was treasurer of the Republican Party.

In that move I took a cold plunge from idealism to reality. Duell, Warfield and Duell was one of the largest patent law firms in the country, and it had also a large general and corporate practice which after a time became my responsibility.

We played the game according to the code of ethics of the legal profession, but the game itself ran counter to the ideals in which I had been reared. It is no reflection on the firm to say that I was shocked. There was no thought of love, or even of justice in the pure sense. We were paid to use our brains to get the better of the other fellow and this we did by every trick of the trade that we could supply.

I realize now that I was naïve in expecting to see the Sermon on the Mount practiced in Wall Street, but then I had to put blinders over my eyes the way they do with scary horses. To salve my uneasy conscience I worked in settlement houses and in the Big Brother movement.²

The Big Brother movement, which was new then, was an attempt to meet a problem now dealt with by the juvenile courts. Children who committed offenses against the law were paroled in the custody of older men or women, many of them lawyers, who volunteered to try to steer the children straight. The secretary of the Big Brothers, who distributed the cases, was what we used to call a prize prune. He came into my office one Saturday morning with a long face and said, "Mr. France, I have a terrible case, a perfectly terrible case. A young boy was arrested for highway robbery. When I went

to his home to investigate, his father was a perfect beast. He physically ejected me from the premises."

The boy, he told me, was named George Frederickson and he was ten years old. He had picked up a paving block and with a threatening gesture demanded a passing woman's purse. The woman gave it to him, and he was in a drug store treating his friends to ice cream when he was arrested for robbery.

I promised to see what I could do, and that afternoon went after George. The address I had been given was in a Brooklyn slum, and there a number of boys were playing in the street. When I asked if any of them was George Frederickson, a freckle-faced kid stepped cockily forward.

"I'm George," he said. "What do you want?" He had evidently been badgered enough.

"I want to see the Dodgers and Giants game at Ebbets Field," I told him. "How about you?"

"Let's go," he said and we went. We had a good time and the Dodgers won, which made things even better.

When we returned to his home I went in. First let me describe that home. It was on the first floor of a tenement and consisted of three rooms. There was a living room in front, followed by a large middle room which had no access to light or air except through the front or back room. In that dark room slept the Norwegian immigrant Alexander Frederickson, his tubercular wife, and ten children. The back room was kitchen, dining room, and bathroom combined. There are not many darkroom tenements like that left from "the bad old days," but disgraceful housing can still be found in every large city.

It was for such a home that Alex, as I came to call the boy's father, risked his life day after day in one of the most dangerous trades in the world. He was a structural iron worker. Often when people hear of the hourly wages paid to skilled workers they are unable to understand why many of them are so poor, especially now when we have had a long period of high employment. The cause of misery for workers in the building trades and in many others was, and is, unsteady employment, and unemployment benefits were then unknown. A stretch without a job meant debt that, when work came again, had to be repaid.

Recalling the other Big Brother's ejection from the Frederick-

son home, and realizing all at once that I should have asked the parents' permission to take George to the game, I entered with some trepidation. I poked my head through the doorway of the living room. A square-headed man with reddish blond hair, bright blue eyes, massive chest and shoulders was seated at a table with a stein of beer before him.

"Mr. Frederickson," I said timidly, "I took George to the ball game. I hope you don't mind."

He gave me a hard stare.

"Do you want a glass of beer?" he exploded.

I decided quickly to want a glass of beer.

We sat and talked of Norway and of sailing—in his early years Alex had been a deep sea sailor. George's "crime" was not mentioned. I could see that Alex was a man as proud as Lucifer, who would resent interference in his family affairs, undoubtedly the reason he had kicked out my predecessor.

Alex and I became close friends. I had a sloop on Long Island Sound. He hadn't had a tiller in his hand for years. He became my regular week-end companion. He loved to do the things about the boat to keep her shipshape that to me were a chore.

Nowhere do you come closer to a man than when cruising in a sailboat. We discussed labor problems, among others, and I learned what his union meant to him. I learned about good and bad bosses. I learned, as much as anyone can who has not done it, what it means to walk the streets looking for a job, with a sick wife and ten children at home. We discussed philosophy, politics, economics, and religion and he had ideas on all. He was an agnostic and liked to discuss the absurdities of some beliefs.

I stood by Alex's side when he buried his frail wife. Years later, when I left New York to become a professor in Rollins College in Florida, he stood waving me good-by. But he had no hands. He had been working a steel girder when a trolley wire fell on it. He took the heaviest charge of electricity a man ever received and lived. His hands, thereafter, were stumps.

I learned more about life from Alexander Frederickson than I ever learned from any professor in all my years at college.

2

The next move along the way of a good life is to choose good brothers and sisters. Mine were remarkable, especially my brothers.

There were four children born ahead of me who were living. One, my parents' oldest son, had died before I was born. Joseph Irwin, whom we called Irwin, was ten years my senior. He gained fame as a United States Senator.³ Then came Mary, who became a foreign missionary. Clemens J., or Clem, who was next, was a teacher, lawyer, candidate for the United States Senate, and head of a mission to Ireland to expend several million dollars in relief funds raised in America. He participated in the writing of the constitution of the Irish Free State. For many years he was director of public welfare of Rhode Island. Clem is a dyed-in-the-wool radical, his last try for public office being on the Progressive Party ticket in Rhode Island, where he ran for Governor in 1948. Even now, in retirement at 80, he gives lively support to progressive causes and to defending civil liberties.

Ina came before me and Marguerite after me. Ina, in addition to being a lay preacher, raised a fine family. Marguerite is noted for her good works in her home city, Johnstown, New York, where her husband, Alfred Dennison, is a leading lawyer.

After Ina was born, five years before me, our next-door neighbor and friend, Royal Wilbur, told my mother that Providence was discriminating against him. She had five children and he and Mrs. Wilbur had none. Mother's sense of humor was always quick to bubble over. "Well, Royal," she laughed, "if I have another baby you will be welcome to it."

When I appeared on July 27, 1883, Royal Wilbur arrived to claim "his" baby. I was named for that good friend and neighbor. The name has led to many a joke at my expense about French royalty, but I never have minded the jibes because at his death Royal Wil-

bur left the money to me which paid for most of my college education.

Irwin, or Joe, as most of his friends and his fellow Senators called him, was a tall, handsome college boy as I first remember him. He was a fine athlete and a brilliant scholar, but the Hamilton College of his day was too confining for his questing spirit. He was rather a wild boy until he came under the influence of Professor Albro David Morrill—"Bugs," as the boys called him—who was professor of biology. "Bugs" awakened in Irwin the scientific spirit that remained with him until his death: Irwin sought first to know the facts and then to apply them. He became so immersed in his studies after that course in biology that he shocked the college by failing to report for football in his senior year. On graduation he was awarded the Elihu Root fellowship in science, which provided a year of study in Germany. It was a rewarding year.

He became a science teacher in Tome Institute in Maryland, and while teaching there went to the Baltimore Medical College. Those were grueling years, but he became a doctor and was on his way to success in his profession when moral indignation led him to run for the State Senate.

The reasons for his going into politics are no longer important. Sufficient now that he was a good campaigner, then and ever after. For the first time in history Cecil County sent a Republican to the State Senate.

It was a muckraking era. Lincoln Steffens, Ray Stannard Baker, Lawson, and others were exposing political corruption. Theodore Roosevelt had climbed on the band wagon as a reformer. Irwin led the fight for clean government in Maryland. Few of his measures, such as his demand for an investigation of the relations of the Baltimore & Ohio Railroad with members of the legislature, passed a fear-ridden Senate, but he became famous throughout the state as a battler on the side of right. The Republicans, who had not elected a United States Senator from Maryland in many moons, seized the opportunity his prestige afforded, and in 1916 he was nominated. Although President Wilson carried the state for the Democrats by a huge majority, Irwin, running about 100,000 votes ahead of his ticket, became a Senator. He was his own man and he voted his convictions.

Those convictions were profound. He believed in capitalism but

he also believed in freedom of speech for those who opposed it, as well as for all others. He was one of two Senators to vote against the Espionage Act, legislation that, in the opinion of many, let down the bars protecting the freedom of speech guaranteed by the First Amendment. He was the first Senator to demand amnesty for Eugene Debs and others convicted under the act, and his personal appeal to President Harding, with whom he had been friendly in the Senate, played a large part in obtaining Debs's pardon in 1921.

His uncompromising forthrightness on two issues cost him reelection. He was opposed to the Eighteenth Amendment—the "Prohibition Amendment"—believing that it would do more harm than good. His speech against it was prophetic of the lawlessness and gangsterism that it did subsequently create. It was the good people, the churchgoing Christians, who had swung the balance for him when he was elected to the Senate and he was warned by the heads of the Anti-Saloon League and prominent church leaders that to vote against prohibition would be political suicide. He was one of eighteen Senators who did so vote. After the vote many Senators said to him, "Joe, you were right. We wished that we had your courage." The progressive group—Norris, Borah, La Follette, and others with whom he had worked closely—was dismayed. They were honest believers in prohibition.

Even more serious in conservative Maryland in terms of votes was my brother's trip to the Soviet Union. Fears engendered by the success of the Bolshevik revolution were intense. Irwin, though, was convinced that the future peace of the world depended on good relations between the Soviet Union and the United States. He believed that capitalism could hold its own in peaceful competition with communism. He maintained that there was a vast potential market for American products in the Soviet Union. He wanted to see for himself whether conditions under the new regime were as horrible as the American press was painting them.

In 1921 he set out for Moscow, in an arrangement whereby he was to write for an American newspaper syndicate. The immediate object of his journey was to obtain the release of a correspondent, Mrs. Margaret Harrison of the *Baltimore Sun*, who had been imprisoned in Russia on a charge of espionage.⁵ He had already been acclaimed by the left and liberal press for a resolution, the first of its kind to be introduced in Congress, calling for resumption of

diplomatic relations with Russia. They had been broken after the revolution and were not to be re-established until after Roosevelt became President.

Irwin was the first American legislator to visit Russia after the revolution. On the afternoon of his arrival Lenin, no less, sent word that he would like Irwin to have breakfast with him the following morning. An official car called for him and on arriving at the Kremlin he was ushered into the simple apartment where Lenin made his home.

Lenin rose and greeted him with a hearty hand shake and a chuckle. "We thought you would get here sooner or later," he smiled. "We've been waiting for you."

The breakfast was Spartan. Lenin believed that while food was short in the country he should not eat any better than the average worker. But if the food was plain the conversation was of a quality unsurpassed.

Irwin had several interviews with Lenin and also talked with Trotsky and other prominent leaders. Trotsky's dynamic personality impressed my brother, but Lenin won his immense admiration. It was not good politics, but nevertheless he wrote home, for the newspaper syndicate which was paying the expenses of his trip, that Lenin was a man of deep and profound insights who would go down as one of the great figures of history.

In one of his talks with Lenin, Irwin said: "There are millions of liberal-thinking people in America who would sympathize with your desire to raise the standard of living of your people, to educate them, to improve their health, and to guide them into a better future. But we know what the tyranny of the Czar was and we cannot understand your setting up another, your refusal to hold free elections, your one-party dictatorship, the execution of political opponents—all these things shock the American conscience."

Lenin leaned forward in his chair and placed his hand on Irwin's knees. "Listen, Senator France," he said, "you are an intelligent and farsighted man or you wouldn't be here. I would like you to put yourself in my position. I believe that the party which I head holds the key to the future welfare of mankind, not only in the Soviet Union but in the entire world. But we live in a country where 85 per cent of the people cannot even read or write. They have been kept superstitious and ignorant by a corrupt church which

was the tool of the Czar. They have been enslaved by selfish land-owners.

"We have gained a precarious power. We face a continuing threat of counterrevolution. What little industry our country had has been wrecked by the war. Our people will have to undergo great hardships before we can build a socialist country.

"You are thinking of the United States of America, but if you were in my place would you submit the question whether we are right or wrong to an ignorant and superstitious populace, many of them still under the influence of the church? I don't believe you would.

"We have to take the people of Russia as we would an army," Lenin went on, "and discipline them for progress. But I will tell you this: Dictators who wish to remain dictators keep the people ignorant. The measure of the sincerity of our purpose to build not merely socialism but democracy will be the amount of money and effort that we put into education."

"But are so many executions necessary?" Irwin asked.

"Senator," Lenin replied, "I have been a revolutionary all my active life because I love people. I was not born a member of the working class. I could have made a success under the old regime, but I have endured hardship and exile because I want to help build a better world for human beings. I hate to see people killed but your President Wilson did not hesitate to kill Germans, to sacrifice the lives of Americans in a war that he thought was important. So with us. We believe that we are engaged in a great struggle whose outcome involves the future well-being and happiness of mankind. If there are those few in our country who are engaged in espionage or treason they will be eliminated. I am sorry if you or your countrymen do not understand."

Through one of the many newspapermen he knew, Irwin had obtained an interpreter—a fateful circumstance, as it developed. She was Madame Tatiana Dechtereva, widow of a prominent member of the Czar's official family. At the time the Czar was overthrown, later to be killed, she and her two daughters were enjoying the balmy airs of the coast of Crimea, and were advised to stay there until things quieted down. After the October Revolution she received a wire from her husband telling that his properties had been seized, that he had been arrested, and that she would have

to manage as best she could. She and her two daughters made their way to Moscow. Every morning her daughter Tania, who later became Irwin's wife, took food to her father in prison. One morning the guard told her not to come any more. Her father had been shot the night before.

Madame Dechterevea, who was an accomplished linguist, had subsequently been employed as interpreter for an American correspondent. He had returned to America. So it was that she became Irwin's interpreter.

One day Madame Dechterevea asked Irwin whether he would like to come to her apartment and meet her daughters. It was then for the first time that he met Tania. He was in his late forties. She was nineteen, tall, slender, with black hair, classical features, and eyes that were dark and deep. He was attracted by her charm and beauty.

Meanwhile he had obtained the release of Mrs. Harrison on his promise to take her with him when he left the country. As his stay in Russia was nearing an end, Madame Dechterevea entered a plea. The American journalist for whom she had worked was writing unfavorable articles about the Soviet Union. She was worried, for, being the widow of a Czarist official, she might be accused of having influenced his reports. She asked Irwin to take her and her daughters out of the country with him. He promised to see what he could do.

On his last visit to Lenin he told him of the Dechterevas and asked if he could take them. Lenin's eyes twinkled. "Bless you, Senator France," he answered. "I wish you could take not only them but all of their breed out of Russia."

He called an assistant and gave instructions for the necessary exit papers, and Irwin left Moscow with four women in tow. He took the Dechterevas to England, where he found a position for the mother as a language teacher in a girls' school. On the eve of his departure for home Madame Dechterevea told him that Tania had fallen in love with him and wished to marry him. He dismissed the proposal, as it were, as being a young girl's fancy, and besides he was happily married. But, following his wife's death, he did marry Tania a year or so later.

It was the most tragic mistake of his life. Tania had an almost hysterical hatred of Lenin and all associated with him. Her devotion to the Greek Catholic Church was unreasoning and candles ever

burned before an ikon in her room. She was unable to adjust herself to American ways. She claimed that her hardship in Russia had ruined her health so that she could not perform the usual functions of a wife. She spent most of her time being waited on in bed. She insisted on her mother's living with her, which proved to be a source of constant trouble.

The marriage ended in divorce. The unpleasantness of the affair and the attendant publicity injured Irwin both personally and politically.

The next step toward the good life is to choose a good wife. This I did. Ethel Camp lived in Upper Montclair, New Jersey. Her father was a Wall Street broker and she lived the social life that might be expected of a broker's daughter. Early, though, she stepped out of the usual round of interests there to teach in a settlement house in lower Manhattan. She has an active social conscience.

Ethel was brought up in the belief that all good people were Republicans. Democrats were evil or, at best, queer. She had no idea what a Socialist was although after our marriage and presumably under my influence she became one while I was still an active Republican. She was also a militant suffragette. One of her closest friends was Theresa Benét, wife of William Rose Benét, and Theresa was an ardent advocate of woman suffrage.⁶

For all these other interests, Ethel has been primarily a wife, mother, and homemaker. She has a genius for homemaking and could have made a success as an architect or interior decorator; so at least one admirer believes.

Our first child died in infancy, but we have a fine son and daughter and four grandchildren. This, though, is not their story.

We were married on June 13, 1912, and settled in a small home in Port Washington on the north shore of Long Island because we both liked being around the water. A canoe and a sailboat were among our first material possessions. Later, as I prospered, we built a large house on a hill overlooking Long Island Sound and Ethel put her best creative effort into making this a home of which we were proud. But when some years later I decided to become a college professor she left that home without demur and put her personality into another one in Florida. When, twenty years later, I decided to return to New York to practice law as a specialist in civil liberty cases, and we had to live in a small apartment in Manhattan's lower East Side, she again offered no complaint. My people

were her people, my causes were her causes, and we shared our ideals and problems with complete understanding.

In the years immediately following our marriage we were too happy and I was too busy in my law practice—I had become a member of the firm—to have much time or thought to give to public affairs. However, that first year I was very much involved as a Bull Moose in the campaign to elect Theodore Roosevelt President again. The Progressive Party, whose members got the title "Bull Moosers" because of some hunting exploit of Roosevelt's, was formed when he walked out of the Republican Convention in Chicago after it had nominated Taft. I thought Taft an archconservative and sympathized with the revolt.

When Roosevelt came to Port Washington to address a meeting at which I presided we met and became friends. I later came to know him well and was a frequent visitor at his home in Oyster Bay.

At that first meeting I learned something of why "Teddy" was so successful as a politician. I made a brief speech in introducing him. Before starting his own speech he dwelt for two or three minutes on mine, praising what I had said and the way I had said it. This flattered me and pleased my friends and won friends for him.

At the close he urged me to come to Oyster Bay to see him. I took this as a polite remark, not a serious invitation, and forgot all about it. Nearly a year later, as I was walking through the Long Island station a heavy hand slapped me on the shoulder. I turned and there was "the Colonel," as Roosevelt was often called.

"Hello, France. I thought you were coming over to Oyster Bay to see me," he said, with the famous grin which bared his square teeth. This time he made the invitation for lunch on a definite day and I went.

Later I was one of the witnesses for him in the famous libel suit for \$1,000,000 damages brought against him by Boss William Barnes. Roosevelt had accused Barnes of operating the Republican machine in cahoots with Grady, at that time the boss of Tammany Hall. I had been fighting Barnes. He had tried, in a conversation, to attract me to the side of the organization with the promise of a judgeship and had let slip a remark about his relations with Grady. My testimony was of use to Roosevelt in proving the truth of his charge.

The case was tried in Syracuse and for nearly two weeks I lived in the same hotel with Roosevelt, ate with him, was in evening conferences with him and his lawyers, and came to know him as well as one could know so extroverted a man. He was a combination of overgrown boy, smart but not wholly intelligent man, shrewd politician, and supreme egoist.

I have never known a man of such boundless vitality and such eagerness to be admired. He really enjoyed living. He enjoyed consciously, actively, and vividly the beauties of nature; and he likewise enjoyed playing his own rôle in history in his contacts with people, even at cost to his own peace. As we sat in the dining room in the Hotel Yates people—many of them I am sure perfect strangers—came up to our table. He would always rise, respond with his wide smile, hearty laugh, and an appropriate word. I remember one man especially who came up to him and said, "I wonder if you remember me," and he gave his name. "You spoke at a meeting in Oshkosh way back in the early nineties and after that meeting I told you that some day you would be President. Remember?"

"Of course I remember, Mr. Drake," Teddy exclaimed, patting him on the shoulder and picking up the name. "I often thought in later years what a good prophet you were."

"What a liar!" my mind said, "but what a genuine liar. He probably believes himself that he remembers."

One man who approached him was a former Rough Rider. I think Teddy really did remember him, since, to T.R., the hour when he led his regiment up San Juan Hill in Cuba during the Spanish-American War was always his greatest.

After two weeks of being with a man who was stared at by crowds in the hotel, in the streets, and wherever he went, and of living like a fish in a goldfish bowl, I decided that I never wanted to be President. That is one resolution I have stuck to but I cannot help wondering what kind of a life I would have had if Teddy had lived and become President again, as he fully expected to do. He was sure, after his reconciliation with the Republicans in 1916, that he would be nominated in 1920. "I will want you close to me . . . a member of my official family," he told me. He died in 1919.

Roosevelt and I were at opposite poles in many ways. I hated war and when World War I broke out became a pacifist. Teddy gloried in war as bringing out the manhood in men. His liberalism, to me,

had a phoniness. I considered him immature and, while not consciously insincere, incapable of believing anything that would conflict with his ambitions. Yet I accepted our relationship and did not argue our differences because I was flattered by his friendship for me and hopeful that he would advance my own ambitions. I was still immature myself. In later life I became better able to resist the blandishments of the "big shots."

Two or three incidents about T.R. are worth recalling.

He was a great poser. Often he would lead a discussion around to what I feel sure was a planned point and then say, "Wait a minute. I think Lord McCauley had something to say on that. I believe I remember the exact page—267." He would go to his well-stocked shelves, pull down the volume he had mentioned, and exclaim, "Ha! I was right. Here it is."

He was also quick at repartee. Once I was seated at the breakfast table in Oyster Bay with him and Mrs. Roosevelt. He started to eat his grapefruit. She said, crisply, "Theodore, you are using the wrong spoon."

He grinned at her and the spoon, and said, "Like democracy, my dear, the spoon may be wrong but it seems to work."

Irwin never ceased laughing over one incident. We visited T.R. together one gasless Sunday during World War I. The Roosevelts were coming out of church as Irwin and I rode past on an old lumber wagon we had commandeered to take us to Sagamore Hill. We invited them aboard but T.R., with his hearty vigor, declared that they would walk.

During and after dinner T.R., Irwin, and I discussed many things. With me T.R. was inclined to orate but on this occasion he seemed really to be listening to us.

"Irwin," I said, as we were on the way home, "if only we could spend enough time with Teddy I believe we might make quite a man of him."

At that Irwin roared with laughter. *We* would make quite a man of a world figure like T.R. But, I hope without conceit, I have wondered whether if Roosevelt had lived and if I had become a member of his Cabinet, as he had indicated, I could have made him see more clearly than he ever did the shape of world events and the role that America should play. Perhaps it was an overoptimistic speculation. Roosevelt died as he had lived: the Wild West cowboy, the

great hero charging up San Juan Hill. He was clever but not wise, human but not a humanitarian, patriotic but not big enough to be a leader of the world to peace and abundance. His love of our country was a physical love for its vast plains and mountains, forest, lakes, and rivers and his most lasting contribution was his work for conservation of the country's natural resources.

So much for my friendship with Theodore Roosevelt.

One of my most interesting experiences as a lawyer during this period was my interlude as a moving picture magnate. The old Triangle Film Company had been formed and distributed the pictures of the three great directors of the time, Thomas H. Ince, D. W. Griffith, and Mack Sennett. They were the Triangle. Two factions in the corporation could not agree on anything except, at one point, that I should run the company as vice president and general manager until some solution could be found.⁷

Among the stars employed were "America's sweethearts"—Douglas Fairbanks and Mary Pickford. To one person, though, and to his directors Fairbanks was no sweetheart.

In those days the big stars, knowing they could not be discharged because of their box office value, were often ruthless. Once when Fairbanks was making some scenes in a studio in New Jersey he announced that he was tired of working and was going to a ball game. One thousand extras had been engaged at \$10 a day, but that made no difference. It cost the company \$10,000 for Douglas Fairbanks to see that particular ball game, to say nothing of the upset to more than 1,000 other people's plans.

The motion picture industry in those days was a weird combination of genius, stupidity, and corruption. It was still in flux. When Triangle was finally absorbed by Paramount and my work over, I had opportunities to remain in the business but was not tempted. I did see in it, however, great possibilities as a medium of culture and education, and to that end tried to interest John D. Rockefeller Jr. in investing enough to gain control of Paramount, Triangle, and Selznick. He was intrigued but would not do it alone, for the reason that he was sensitive to public criticism and feared that the Rockefellers would be accused of trying to get hold of the industry to influence public opinion. He was probably right, which raises the question as to who is to control the media of public information and for what ends. The contributions of wealthy men

have often been used for good ends but more often still to create public opinion favorable to their views.⁷

Rockefeller would have gone into the venture if I could have found nine others with a million dollars each, which, of course, I could not do. I had to content myself with a venture I went into with friends. We produced *Ten Nights in a Bar Room* one summer in the Adirondacks. We had a lot of fun and we made some money. There my career as a movie magnate ended.⁸

I have known, more or less well, all the men who have been President in the present century except Eisenhower. I also met, just once, the man who thought for a night that he was President, Charles Evans Hughes. The outcome of the 1916 election depended on the vote in California, where Senator Hiram Johnson, whom Hughes had offended, was a political power. The vote there was close and the returns, as they came in even late on election night, indicated that Hughes had won. He was acclaimed as the President-elect. By morning, though, Wilson, not Hughes, was the winner: Hughes had lost California.

In that campaign I called on Hughes in his New York office on Irwin's behalf, to try to have him speak in Baltimore. Although he was burdened with the weight of the campaign he agreed to do so. He detained me. He was troubled by the fact that Wilson's campaign slogan—"He kept us out of war"—was putting him in the position of being the "war candidate." Indeed, Theodore Roosevelt and other leading Republicans were actually urging him to take a stand in favor of prompt intervention on the side of England and her allies.

Hughes asked me Irwin's position and my own. I knew that Irwin believed we should not get into the war, not at least until we had made an all-out effort to arrange a cease fire and to get the combatants to sit down at a council table to arrange peace terms. My own position was that Hughes should come out as the peace candidate, the man who would throw America's whole weight on the side of terminating the war. I believe that had he done so he would have been elected. I think that was his own inclination but his unwillingness to offend powerful elements in his party led to an equivocal course which made him appear weak and uncertain. I liked Hughes, but cast my vote for Wilson in the hope that he would keep us out of war.

How wrong I was! It has always been cause for speculation on

my part as to what history would have been had Hughes been elected. Would he have taken us into war and, if he hadn't, what would the twentieth century have been like?

When despite Wilson's implicit promise to keep us out of war it became evident that he was going to take us in, my feelings and my judgment revolted. I was still an officer of the Brooklyn Young Republican Club. I asked Darwin James, president of the club, to call a meeting at which we could debate the issue. He favored entering the war. "I won't debate with you," he laughed, "but I will call a meeting at which you can state your views."

On the night of the meeting the hall was packed. Since I had some prominence and Irwin was a United States Senator and people were curious about how Congress was thinking, reporters were present.

I think that I made a good speech. "President Wilson was right, everlastingly right," I said, "when he told us that the only enduring peace would be a peace without victory, that a complete victory for either side would result in terms being imposed upon the vanquished that would lead to new wars. Now he has changed. His 'He kept us out of war' banner has been put away and he is bringing out new banners with new and misleading promises. This is not a war to make the world safe for democracy, as he will claim. It is a war between rival imperialisms. The victory which we achieve will not make democracy in Europe safe."

I predicted that the humiliations which would be imposed on Germany and the failure to solve her needs would cause democracy to fail there. Instead of a war to end war, as President Wilson promised, the results of our victory would be new wars. We should not assure victory for either side but should use our great power to insure a just peace. The combatants should be brought to the council table to write the terms of a righteous peace before complete victory for either made such a peace impossible. I have always felt that what I said was prophetic.

The newspapers gave the speech good space. The following morning, as I was reading with satisfaction what they said about it, I was summoned to the council room of the firm. My partners, all older than myself, were seated around the table. At its head was Judge Duell, whom I have previously described—a former judge and at the time the national treasurer of the Republican Party. Although

he was a small man physically he had a dignity about him which made him impressive.

"Roy," he began, "that was an unfortunate speech you made last night."

"How unfortunate, Judge? I thought it was a good speech."

"We will not argue its merits," he replied sternly. "Obviously we wouldn't agree. But you must realize that some of our most important clients will not like such a speech."

"Then you wish me to resign?" I asked.

"No," he replied, his voice kindly again. "We have talked it over. We all like you. You are a fine lawyer. All we ask is that you agree to make no more such speeches."

"Judge Duell," I replied, "I love you like a father but I wouldn't, in times like these, make such a promise to any man for any price. You have my resignation."

With expressions of regret and good wishes all around I walked out. A chapter was ended.

I boarded the train for Washington. President Wilson was to address a special session of Congress and Irwin had obtained a seat for me on the floor of the House of Representatives. Wilson, dapper and sure of himself, made his speech, reciting the attacks by German submarines on our shipping. He then raised his hand and demanded "war without stint and without limit until we achieve a complete victory over this ruthless foe."

I glanced up to the gallery where Margaret Wilson, whom I knew slightly, was sitting and caught her eye.⁹ I shook my head and she bowed hers. Some years ago, in the midst of World War II, Margaret Wilson died in a Buddhist, pacifist convent in the heart of India. What had she been thinking of her father's promise that the war into which he led us would end war and make the world safe for democracy? War is the destroyer of democracy and you do not end war by making war. You end it by making peace.

I was walking away from the Capitol, sick at heart, when I met a lawyer from New York, a friend of mine named George Savage. He was impressive in a shiny new officer's uniform.

"Hey, Roy," he exclaimed, "you're just the man I want to see."

"Why?" I asked.

"The Quartermaster General has commissioned me to get a staff

of lawyers together to handle contracts for the army. I want you on that staff."

"But, George," I protested, "I'm against this war."

"I know that," he replied, "but you aren't against saving money for Uncle Sam, are you?"

"No," I agreed, doubtfully.

"Well, that is what I would expect you to do. How about it?"

"Will I have to be togged out in an officer's uniform?"

"That's right."

"Well, I'll think it over," I said.

I talked it over with Ethel, always my wise counselor, and with many misgivings I became a captain in the army.

Mine was a common dilemma for people who hate war and consider modern warfare a form of madness. No matter how much the pacifist may wish to stand aside he cannot. Even the taxes he pays or the postage stamp he buys or the food he helps to grow contributes to the war effort. Moreover, although I feel the futility of war and that the nonviolent path of Jesus, of Gandhi, and, here in America, of the Negroes who refused to ride the buses in Montgomery, Alabama, is the right one, I have never felt sure that there have not been wars in which I would have had to take part. Would I have remained on the sidelines when Washington's troops were starving and freezing at Valley Forge, when Lincoln was leading a war to preserve the Union and end slavery, or when the embattled Republicans of Spain were resisting the ignoble Fascist, Franco?

Besides, there are difficult personal questions for the pacifist. The pull of patriotism and of group loyalty is not easily ignored and the bread-and-butter question is there—how he shall support his family is involved in every dissenter's doubts as to his right to put his beliefs ahead of his personal responsibilities.

I knew many people who hated the war as much as I did, ministers, educators, even members of Congress. They were compromising with their convictions by silence or, in other instances, by active participation. For one example only, just before we entered the war I heard William Jennings Bryan make a magnificent speech opposing the war to a packed audience in the Brooklyn Academy of Music. Yet when war was declared he became an ardent supporter of it. When, in 1920, I saw him and asked him to use his influence

One night in Washington, as the war was nearing its end, I went with my friend Karl Kirchwey to call on Supreme Court Justice Holmes. Karl was a true liberal like his father, George W. Kirchwey, for so many years the beloved Dean of Columbia University Law School, and like his sister Freda, so beautiful then and still so beautiful in body, mind, and spirit, the retired but still crusading editor of *The Nation*.¹⁰

Despite Holmes's reputation as the great dissenter I have never felt that he was. His opinion upholding the conviction of Debs and the doctrine, given form at the time, that the First Amendment does not mean what it says when there is a "clear and present danger" have opened wide the sluice gates for a flood of decisions which have all but destroyed the Bill of Rights. The "clear and present danger," as we have seen, needs only to be *declared* to exist and the silencing of all questioning follows.

Something should perhaps be said here about that decision, which has become so generally accepted a part of our judicial thinking. Debs had been convicted under the Espionage Act, a wartime measure, for making an antiwar speech after the country had entered the war. The inherent danger in the act had been foreseen by Irwin at the time of its passage, for, as I have said previously, he was one of two Senators who voted against it. I believed then and still believe that Debs was exercising his Constitutionally-protected right of freedom of speech in stating his opposition. After all, Lincoln had been just as forthright in opposing the war against Mexico after we were in it. Holmes, in the Abrams case, involving a draft resister, had declared that the First Amendment's protection of freedom of speech did not apply when the speech constituted a "clear and present danger" to the government. In the Debs case he drew the false analogy to someone crying "Fire" in a crowded theater. Debs's speech had caused no panic and would not even have stirred a ripple if the government had not publicized it by jailing him.¹¹

It is perhaps understandable, then, why Justice Holmes was something other to me than the great liberal he is held to be. I prefer the forthright Justice Hugo L. Black who believes that words mean what they plainly say, and Justice William O. Douglas, whose words of warning in 1952 as to the state of the Bill of Rights summoned me back to the practice of law after an absence of many years. These men I proudly call my friends, and if democracy survives and thrives as a way of life it will be they, not Holmes, who will be honored as the truly great dissenters.

Holmes, on the night of our visit, was gracious to two young lawyers but I was uncomfortable. Perhaps one has to have been born in Back Bay Boston to be at home with a Holmes. I have no doubt that he was genuine and that he had a robust sense of humor, but there is a way of talking about literature and life, and it was his way, that for me and most of my friends is artificial. Perhaps I was ill at ease because I felt that I had to pretend to a knowledge of literature and art and music beyond my modest scope or sound like a country bumpkin. I hate pretense, but then I was still immature. If I met Holmes now I would probably laugh at him or at myself or both. At least I am no longer in awe of him. I have met and defended bigger men than Holmes. They were before the bench, not behind it. Holmes would do for a polite tea, but if I were in a tight spot and needed a man beside me of clear vision and dauntless courage I would choose Hugo Black.

On our way back to our rooming house after the visit, Karl and I talked about the ending of the war and our future plans. I had none. I told him how and why I had severed my partnership with Duell, Warfield and Duell. Karl was a partner of two other young liberals, Geoffrey Konta and Jerome Michael. The latter later became a distinguished professor at Columbia University Law School; Konta was that indispensable man to a law firm, a business getter. I never was much good at it.

Karl, on that occasion, told me that the firm had an extensive practice. Among its clients were William Randolph Hearst and Selznick, along with others from the motion picture industry. Karl thought I would fit well into the partnership. So, when we returned to New York I became a member of the firm of Konta, Kirchwey, France and Michael, although I held a reservation about how Hearst and I would get along. As it turned out I had little to do with him.

Most of the work was interesting and I was, for the first time, with congenial men of my own age.

My first assignment took me to Europe and I was able to see the devastation of France at first hand. Years later I saw the devastation of Western Europe from World War II. I have never changed my view that war is sheer insanity, and it is hard for me to feel at home with admirals and generals who make war their business. The warrior is a throwback to the savage and an anachronism in the atomic age.

The political climate in the country in 1920 was one of disillusionment. Wilson had promised peace to the Germans on the basis of his fourteen points if they would overthrow the Kaiser, and those fourteen points would have constituted a fair and just basis for a desirable peace. They said nothing about wresting territory from the Germans or imposing unbearable reparations on them. The Treaty of Versailles, which they were forced to sign after they had overthrown the Kaiser and disbanded the armies as Wilson had asked, was, as I had prophesied in my speech on the eve of the war, a treaty vindictive in its terms and bearing within it the seeds of a new war.

A review of the situation then might be in order now, since we are still paying, even here in America, for the Treaty of Versailles.

As a result of the overthrow of the Kaiser the Social-Democrats had come to power. They were the people with whom we would have to work out the conditions under which the German people could live in peace and amity with the rest of the world. If a democratic rule was to be achieved it would have to be through them.

The delegates sent by Germany to the peace table at Versailles represented the very elements who had overthrown the Kaiser. They should have been supported as being the ones who had the trust of the German people. Instead, they were not invited to the peace conference until the onerous terms of the treaty had been agreed upon by Wilson, Lloyd George, Clemenceau, and Orlando, and instead of being partners to the discussion they were treated like animals behind barbed wire, to be stared at by the populace.

The treaty finally presented to them for signature was the very sort of "peace imposed upon the vanquished" that Wilson had declared would lead to new war. They were made to sign the humiliating statement; it placed the responsibility for starting the war on

Germany and Germany alone, and that was something no German believed, nor did many non-Germans. That the German signature was put to the treaty was later made the basis for Hitler's overthrow of social-democracy, but at the time those asked to sign had no alternative. They had done what was asked on the promise of a just peace and now without armies they were at the mercy of the Allies. There was no mercy.

H. G. Wells, in his *Outline of History*, puts the tragic events at Versailles into pithy sentences:

"The aims of M. Clemenceau were simple and in a manner attainable. He wanted all the settlement of 1871 undone. He wanted Germany punished as though she was a uniquely sinful nation and France a sinless martyr land. He wanted Germany so crippled and devastated as never again to be able to stand up to France. He wanted to hurt and humiliate Germany more than France had been hurt and humiliated in 1871. He did not care if in breaking Germany Europe was broken: his mind did not go beyond the Rhine to that possibility. . . . He wanted indemnities to recuperate France, loans, gifts and tributes to France, glory and homage to France. . . .

"In much the same spirit Signor Orlando seems to have sought the welfare of Italy. . . . Mr. Lloyd George brought . . . an urgent necessity for respecting the nationalist egotism of the British imperialists and capitalists who had returned him to power.

"Into the secrecy of that council went President Wilson with the very noblest aims for his newly discovered American world policy, his rather hastily compiled Fourteen Points, and a project, rather than a scheme, for a League of Nations."

Wells then quotes a statement by the eminent British economist John Maynard Keynes, who had attended the conference and given a devastating description of Wilson's helplessness in the face of Clemenceau's brutal truculence. "There can seldom have been a statesman of the first rank more incompetent than the President in the agilities of the Council chamber," Keynes said.

From there Wells goes on to add, "From the whispering darkness and fireside disputes of the conference . . . , he [Wilson] emerged with his Fourteen Points pitifully torn and dishevelled, but with a

little puling infant of a League of Nations which could die or might live and grow—no one could tell. But that much, at least, he saved.”

So Wilson had come home, early in 1919, with a bad treaty inextricably tied in with the Covenant of the League of Nations. Lodge and a majority of the Republican Senators were willing to go along with him and ratify the treaty if he would consent to some reservations to the Covenant of the League of Nations making clear that the United States was not in all events obligated to go to war at the behest of the League.

Irwin, who was in the Senate at the time, was not an isolationist. He was an internationalist and had, in fact, introduced a resolution favoring a concert of nations. To his mind, though, the treaty Wilson had brought home was unutterably bad. It held the seeds of a new war. So, after much heart-searching, he became one of the Senate group whom Wilson described as the “fourteen wilful men” who were opposed to ratification, even with the Lodge reservations. In that group were some of the wisest and most progressive men in the Senate—Norris, Borah, La Follette, and others who commanded the respect of liberal men. Their opposition has been greatly misunderstood. They have been branded in history as isolationists.

The verdict of sober historians, I believe, will take into account a speech my brother made in the Senate on October 8 and 9, 1919,* the best, in my opinion, in the entire debate. He began with a reference to his resolution of January 14 of that same year for an immediate peace treaty with Germany, the return of our army to the United States, and the calling of conferences to develop a concert of nations. He then reviewed the faith of the founding fathers and Washington’s philosophy of foreign relations. He attacked the treaty as being fraudulent because it provided spoils for the victors and would bring about injustices and resentments not conducive to permanent peace. He listed specifically twenty-five defects in the Covenant of the League.

The treaty was rejected by the Senate and, partly because the League of Nations was tied in with a bad treaty and partly because of Wilson’s rigidity, the United States did not join that world body—all that was left of the fine promise. All the shibboleths for which

* Geoghegan, *The Political Career of Joseph I. France of Maryland*, p. 104.

we had been told we were fighting went overboard in a scramble among our allies for the spoils of victory. The Russian revolution, portentous and menacing to Western capitalism, was red in the East. Wilson was a sick man. The reins of the Presidency were in the hands of his secretary, Joseph Tumulty, and a second wife whom the country neither knew nor trusted. That the Democratic Party would be repudiated at the polls was evident.

I went with Irwin to the Republican Convention in Chicago in 1920. Because a deadlock developed between the two leading contenders for the nomination, General Leonard Wood and Governor Frank Lowden of Illinois, a compromise candidate was needed. To many Irwin seemed to be the ideal man. He was a conservative in economics but a liberal in defense of civil liberties and the rights of racial minorities, and although he had opposed the League of Nations he was outspoken in favor of an international organization which would not exclude, as the League had done, Germany and Russia.

As the convention went on it was evident that the compromise candidate would be named by a clique of Republican Senators, and since Irwin was popular with his fellow Senators that was another reason why he might be chosen.

Boise Penrose, the senior Senator from Pennsylvania and the most powerful man in the party, was ill in Philadelphia but in constant touch with the proceedings by telephone. Irwin, convinced that there would have to be a compromise, drafted a letter to Penrose pointing out the need and suggesting that he (Irwin) was one who might be acceptable to both the conservative and liberal groups of the party. He asked me to take the letter to Penrose and I did.

It was late in the evening of the next day when I reached Penrose’s home and, as I learned later, the conference in the smoke-filled room in Chicago, which was to name Harding, was then in progress. The old brick house in Philadelphia, with long narrow halls and furnishings which dated back to Revolutionary times, seemed to hold the quiet of death as I waited for Boise Penrose’s answer. I pondered there on how history is made.

The secretary who had taken the letter—the Senator was too ill to see me—returned. I was to tell Irwin that the Senator had the highest regard for him and would discuss the possibility with the

leaders at the convention. Indeed, he did ask the conferees to consider Irwin, and the fact that Irwin would appeal to both wings of the party was considered but the big oil money was behind Harding, and the coming Republican victory was a certainty in the minds of the leaders, regardless of the candidate. Irwin, moreover, was a maverick. The politicians could not control him or predict what he would do. Harding, on the other hand, was an amiable puppet who could look like a President; he would offend no faction because he had never stood for anything positive and he would be a good "party man."

I was also told later that Harding, who liked Irwin and felt that he would bring progressive support to the ticket, would have preferred him as a running mate to Coolidge, who was a conservative like himself. I believe that if Irwin had indicated that he wanted the Vice Presidency he could have had it, but he preferred to stay in the Senate. He felt no enthusiasm for Harding. How different history would have been if Harding's successor had been Joseph Irwin France instead of Calvin Coolidge! Henry Mencken, a great friend and supporter of Irwin, once wrote an article which posed some fascinating possibilities along that line. And, in the *Baltimore Sun* for May 21, 1920, the acidulous Mencken said of him:

"The State has so long been served by jellyfish and asses that the appearance of a man is disconcerting and even paralyzing. As a Senator in Congress Joseph Irwin France has committed the amazing offense of being a diligent, an independent, an alert, a courageous and self-respecting man. . . . Of all the 96 men in the upper body there is not one, during the great debates of the war and after, who has displayed a better temper, a shrewder understanding of the essential problems of the time, a more patient industry, or a cleaner and decenter independence."

In any event, I had some fun trying to be a "kingmaker."

Of Irwin's intimates in the Senate, I liked La Follette and Norris best. Borah was a liberal and a fine orator, but too much wrapped up in Borah. Hiram Johnson was moody and unpredictable. La Follette had boundless courage, was never afraid to be in a minority, even of one, and had vision in advance of his time. Norris was modest, not eloquent, but was almost always on what I felt to be the right side. He had a remarkable tenacity. He was the father of the

Tennessee Valley Authority, one of America's best achievements, but it was not until Roosevelt, a Democrat, came to power that Norris, a Republican, was able to get the project through. Harding, Coolidge, and Hoover had scorned it as socialistic.

Among the conservatives, one of Irwin's intimates, strangely enough, was Coolidge. Mrs. Coolidge was Irwin's wife's best friend in Washington. She had warmth and charm, but Coolidge was a cold fish. How he ever succeeded in politics is a mystery.

Mrs. Coolidge told my sister-in-law the story which might now seem apocryphal, since it has been told so many times, of Coolidge's answer when asked about a sermon he had just heard.

"Was it a good sermon?" Mrs. Coolidge asked.

"All right."

"What was the subject?"

"Sin."

"What did he say?"

"He was against it."

Another story current in Washington was that a lady made a bet with a friend, who was going to be hostess to a dinner party for the Coolidges, that if her friend would seat her next to Coolidge she could get him to talk to her.

After they had been seated at dinner, she told Coolidge of the bet. He glanced at her sideways. "You lose," he said, and resumed eating his dinner in silence.

In 1920 five Socialists were elected to the New York State legislature. When they presented their credentials the Assembly refused to seat them. The reason given was that if they were Socialists they must be atheists, and if they were atheists they could not sincerely take an oath to uphold and defend the Constitution. The time was like the present: Wilson's Attorney General, A. Mitchell Palmer, was conducting a witch hunt on a tremendous scale. A Red scare had been whipped up and, in the "Palmer raids" on union and Socialist headquarters, hundreds had been jailed.

The action of the New York Assembly stirred up a turmoil and a mass meeting of protest was called for old Madison Square Garden. All political parties were to be represented: Irwin, as an outstanding defender of civil liberties in the Senate, was to speak as a Republican; Senator Hardwick of Georgia as a Democrat; Gifford Pinchot of Pennsylvania as a Progressive; and one of the ousted Assemblymen as a Socialist. On the day of the meeting Irwin, who had an attack of laryngitis, called from Washington and asked me to pinch-hit for him. I agreed.

My speech was greeted with tumultuous applause from the crowd which filled the auditorium. After the meeting three men approached me. They represented a civil liberties committee in Philadelphia and had arranged for a meeting there at which the five rejected Socialists were to speak. They asked me to be one of the speakers. I consented.

When I reached Philadelphia I told the taxi driver to take me to the armory where the meeting was to be held.

"Oh, that's where they're going to pinch the Reds tonight," he told me.

"That's interesting," I replied.

The armory was jammed. The first speaker was Joseph Cannon, a well-known labor leader. He spoke in a guttural tone, without inflection or facial expression. Without telling what he was quoting

he began: "Ladies and gentlemen. We hold these truths to be self-evident, that all men are created equal and are endowed by their Creator with certain unalienable rights, that among these rights are life, liberty and the pursuit of happiness."

Continuing, he uttered the words "When any government becomes destructive of these ends"—and then, raising his voice, exclaimed—"it is the right of the people to alter or abolish it."

A plain-clothes detective sprang up onto the platform and shouted, "Now you've gone too far."

"How do you mean, I've gone too far?" asked Cannon.

"You have advocated the overthrow of government," said the detective. He started toward a master switchboard.

"You are not going to put out the lights, are you?" I asked, realizing his intent. "There will be a panic."

"Are you going to stop me?" he demanded belligerently.

"I am as long as I can," I answered, and called out to the audience, "The meeting is adjourned."

When he moved toward the switchboard I seized him and we engaged in a tussle. A squad of blue-coats jumped onto the platform and put all of us, except the detective, under arrest.

We were herded into the Black Maria and taken to the city jail. There all eight of us were put into one large cell. We talked and sang songs, one of them being, I remember, "Nearer My God to Thee." I have never felt nearer to the spirit that was in Jesus than I did that night.

About midnight the warden came to our cell door and said, "Boys, I'm with you. I can't let you out but I have bought you a feed." What a feed it was! All kinds of sandwiches, coffee, cakes, and apple pie.

In the morning we were taken out of the cell and walked slowly before the assembled police under glaring lights so that any dangerous criminals among us could be spotted. When the detective who had arrested us took us into a room to be fingerprinted I was boiling mad.

"You're not going to fingerprint me," I told him.

"Oh, yes, we are."

"Not unless you do it by force," I replied. "You committed the crime last night, not I."

He started toward me. "If you lay a hand on me," I said sternly,

"I'll not only have you broken from the police force. I'll sue you for damages."

He turned from one to the other of us, and all joined in my refusal. We were then led into the court room.

Unbeknownst to me the morning papers had carried news of our arrest under banner headlines. Irwin had called up the mayor of Philadelphia, a friend, and had been told not to worry, that the matter would be taken care of. He had also called Ethel, who had not yet seen the papers.

"Ethel," he said, "don't be alarmed."

"Is Roy in jail?" she asked.

"Yes, but don't worry, I—"

"I'm not worried, Irwin. I'm proud," she answered.

Our brother Clem wired to her that he was more proud to have a brother in jail under the circumstances than one in the Senate.

Irwin's call to the mayor had evidently had effect. When we were brought before the judge the first witness was the detective. He testified that Cannon had advocated the forcible overthrow of government and that I had attacked and manhandled him. When he finished, the judge, to our surprise, said, "Case dismissed!"

I rose. "No, your Honor!" I protested. "I don't want the case to be dismissed."

He repeated in a loud tone, "Case dismissed!"

"No, sir!" I shouted in an equally loud voice. "Not until it appears on the record of this court that men were arrested last night within sound of the Liberty Bell for quoting from the Declaration of Independence!"

The judge, red-faced, banged his gavel and repeated, "Case dismissed."

Later I sent a detailed account of the proceedings to the mayor. He replied that the detective had been publicly dismissed from the force.

However, for me the damage had been done. Although on our return to New York the five Socialists and myself were greeted by a cheering crowd and taken to Cooper Union where a victory celebration was held I felt that I must resign from my firm.

The next day I did so. My partners all protested. "We're all in this together," they urged.

"No, we are not. It was my decision and my action. You know very

well that Hearst and many of our large clients won't like this business. I'm through."

Karl, my closest friend among them, was almost in tears but I was adamant. Once again I was on my own. I had not accumulated important clients of my own, though, and Ethel and I had an expensive establishment and way of living which I thought I must maintain. So I set out to do what I had never done before, hook a wealthy client.

Frederick E. Kip, whom I determined to get for a client, was president of Salts Textile Company. It had been founded in England by Sir Titus Salt and in his time had been one of the first big concerns to try out welfare plans for workers. Saltaire was known throughout the world as a model workers' village.¹²

The company manufactured pile fabrics. It had a sales agency in New York, and Frederick Kip had been employed there as a stock room boy. He was smart, ambitious, and aggressive, and in time he had become the head of the concern.

Under his management the American company outgrew its parent. Sir Titus was dead, and the men who had succeeded him in the management were stodgy and unimaginative. The company was slipping and Kip bought it out. He kept the English mill operating but built new and larger mills in Bridgeport, Connecticut. Later he established mills in Darby, Pennsylvania, and two in France, one in Lyon and the other in the Vosges country.

He was a creative genius and many new fabrics were developed under his leadership. He was also an aggressive salesman and built up a sales organization which he drove with a sharp lash. The company grew to be the largest of its kind in the world and Kip became rich, very rich. He built a medieval-type castle on the heights overlooking Montclair, New Jersey. It was a monstrous and forbidding affair, known in the community as "Kip's Folly."

He had ideas that drove him to the point of mania. One of them was the necessity for a high protective tariff. I personally cared little for a protective tariff; indeed, I was, if anything, opposed to it, but lawyers sell their brains. That is one reason why later I gave up the practice of law. More and more I came to feel like an intellectual prostitute. But I am getting ahead of my story.¹³

Now to return to an account of how a client was cultivated. Mr. Kip had written an argument in favor of a protective tariff and had it printed in pamphlet form. A copy of it fell into my hands. I

called him up, complimented him on it but said that I had some suggestions that might go well in any future issue of it. He promptly invited me to lunch with him.

He was a small, wiry, high-strung man with a pointed black beard that seemed fairly to bristle when he was excited. We talked. He liked my ideas and asked me to rewrite the pamphlet, embodying them.

We had several luncheons together. One day he said that he would like Ethel and me to spend the week end with him. He drove us to some fabulous place on the west side of the Hudson, the name of which I do not now remember. It had been the country estate of the proprietor, who had fallen on evil days, and in order to hold on to it he had to make money out of it. No guests were allowed except those especially invited. For some fabulous sum the "guest" was a real guest. He could use the horses, play on the private golf links, or otherwise make himself at home. The meals were lavish and the wine cellars were at the guest's disposal for any wine that appealed to his taste.

Ethel and I had a room adjoining Mr. Kip's. During the afternoon of the second day he broached the idea of my becoming more closely associated with him. I was jubilant, and in our room exclaimed, "The fish is hooked!" She rejoined, "I'm sure of it—just sure." Then we looked at each other aghast. Suppose Mr. Kip had heard us. We had to reassure ourselves.

We waited until we heard him go downstairs. In a place where all were honored guests it would have been vulgar for anyone to lock his door, fortunately for us. Ethel went into Mr. Kip's room and I spoke in the same tone as before. She came back smiling. She hadn't heard a thing.

Sure enough, I became vice president and general counsel of Salts Textile Company. I needed no other clients and left those I had to my former partners, as a parting gift.

Financially I was saved, but I had not known into what a barbed-wire entanglement I was stepping. Mr. Kip, while a genius in his own way, was opinionative and old-fashioned in his business ideas. His treatment of his subordinates was atrocious. When something went wrong he raved like a madman. His sales practices were bad and his cost accounting a system of self-deception. For two years the company had lost a million dollars each year. Worst of all for

me, when I was under him Mr. Kip would no longer take my advice.

The company had issued bonds that were a first mortgage on all its property through the W. A. Harriman Company, of which the then young Averell Harriman was president. Investment bankers do not like to have bond issues which they have sponsored go sour.

My office adjoined that of Mr. Kip. I had been with him for over a year and could see the company drifting for a plunge over the falls, but I felt impotent. My suggestions for radical changes fell on deaf ears.

One day my office door was opened and a stocky, ruddy man with a keen eye and a jutting jaw came in.

"Who in the hell are you?" he demanded.

"I'm Royal W. France, vice president of Salts Textile Company," I replied. "Who in hell are you?"

He liked that.

"I'm William T. Smith, vice president of W. A. Harriman. What the hell do you know about this damn concern? You're losing money hand over fist. I've talked with Mr. Kip but he doesn't seem to know a thing, or if he does he successfully conceals it. Do you know what's wrong here?"

"I know quite a good deal that's wrong," I told him.

"Well, give me a report on what's wrong and what you think should be done about it." He turned as if to go.

"Just a minute," I said. "I don't know that I wish to do that."

"Why not?" he growled.

"I was put in here by Mr. Kip," I answered. "If I made such a report it would contain statements that might reflect on him. I don't know that I care to do that."

"But, good God, man," he almost shouted. "He's the biggest stockholder. Anything that you can do to help the situation will help him. Think of the other stockholders and bondholders who have put their savings into this concern. Don't you care about them?" He paused, red in the face from his vehemence.

"Yes. I care about them. But I'll have to think this over," I said.

"How long do you need to think?" he demanded.

"Until tomorrow."

"O.K. I'll be back in the morning," he said, and stalked out. The next day he returned.

"Have you decided whether to make a report?"

I had given the question a good deal of thought and discussed it with Ethel. "Since the report may reflect on Mr. Kip," I told Mr. Smith, "I will make it only if he, knowing that, gives his consent."

"Fair enough," Smith replied, and we went together to interview Mr. Kip. He really had no alternative to assenting. What I was doing was ethical in business terms. Indeed, there was much in Smith's argument to justify it. Still, I did not feel comfortable. I knew that Mr. Kip was deeply hurt. I wished then, as I have wished many times, that I had had no part in the affair, a part I had gone after so deliberately.

I prepared a careful report on what was wrong with the company and what should be done, with the result that Mr. Smith demanded that Mr. Kip resign and that the directors elect me president. If they refused, the bondholders would petition for a receivership. Thus I became president of a great but badly shaken concern, but under the circumstances I could feel little elation. I did not admire Mr. Kip but I did owe fealty to him. I was really helping him, I argued to myself, and went ahead.

Mr. Kip was a broken man. Some time later he went into his garage, shut the doors, and turned on his engine. I had contributed to his death. I was left with the sad realization of how difficult are life's choices. Had I chosen rightly in accepting the role of his nemesis, a role which led to his suicide?

No sooner had I been installed than I learned that the workers in the largest of the company's plants, at Bridgeport, were threatening to strike. Their demand for a union some time before had been put down by Mr. Kip in bloody strife and a union organizer had been bribed to leave town. Reports from stool pigeons were on my desk daily, telling of the activities of workers and whether there was still talk of a union. Soon after coming into authority I dispensed with the spies and their reports. I would have to handle the situation in my own way now.

I went to Bridgeport and asked the superintendent of the factory to bring in some of the leaders of the strike movement. A delegation of about ten men and women was shown into my office.

"I hear you are thinking of striking," I said.

"That's right," replied a tall man, with an intelligent look and a manner that veered between apology and truculence.

"What for?"

"For higher wages."

"You ought to get them," I replied. "Your wages are disgraceful. I wouldn't work for such wages myself."

They looked at me to see if I were joking. When they saw I was not, they asked the next question. Were they going to get a raise?

"Not so fast," I replied. "You don't represent anybody but yourselves. I can't talk with the hundreds of workers in this plant individually. Why don't you form a union?"

They answered that they had been told that they could not and reminded me that they had had a fight over it. I told them that they should form any kind of a union they wished and then see me again.

They were still uncertain, suspecting a trick or I do not know what, but they formed a company union, and about the same committee waited on me as before. They indicated the wage raises they wanted, and their demands were reasonable, I told them. But I had to go on to explain that I had been put in my position because the company was losing over a million dollars a year and if one of the first changes I suggested was to raise their wages above the level of the industry I would lose my job.

"I like my job," I told them, "and it wouldn't do you any good for me to lose it because I am just as much on your side, maybe more so, as I am on the side of the bondholders and stockholders. The man they put in my place might not see your side at all."

Their looks were changing.

"I know you have heard all this about the company's not being able to pay higher wages before now. I don't want you to take my word for it. You hire a firm of certified public accountants. We will give them access to all the company records. After you and they have studied the situation you let me know how I can raise your wages without losing my job and I'll be for it."

They hired a firm of accountants. Occasionally I ran into the leader of the union in the shops and asked him whether they were ready with a report and he always replied, "Not yet."

Finally the committee returned. They were a dejected lot. They had no solution, the spokesman said. At that point I told them there was a solution, but I did not recommend it. When they asked what I meant I explained that we could install time and motion studies

along the lines of the Taylor system that was then receiving a great deal of attention. Efficiency engineering, it is called today, when it is not called something else by the unions.¹⁴

I explained that we could get more production but that they might not like such a system. I was not sure I would want to work under it myself. If, however, they voted to install it I would see that they got their fair share of the increased profits.

They voted in the Taylor system. Time studies were made of every operation and an average was found for each operator to produce in a given time. Those who exceeded the average got a bonus. Those who fell too far below were not using the machines efficiently. If other jobs could be found for them they were kept. Otherwise they were fired.

After a time, although the efficient workers were making more money, there was discontent, for working to beat the time was hard. One of the workers was agitating for a strike. The superintendent, who had also been put in by the Harriman people, fired him. There was an uproar.

As soon as I heard of the firing I hurried up to Bridgeport and called in both the superintendent and the discharged worker. When the latter arrived I asked him whether he remembered that it was the union that had asked us to install the system. He did.

"Was it fair for you to agitate for a strike without speaking to the superintendent or to me?"

"No."

"All right. I am going to have you reinstated. If you succeed in getting the union to vote to take out the Taylor system I will put it up to the directors, but let's have no more talk of strike. Is that fair?"

He agreed that it was fair but the superintendent was angry. He said that I had gone over his head in a matter of plant discipline, and I said that he had gotten out of line in firing the man without consulting me. From then on there was friction between us. A long time later, when we had brought the company out of the red and I saw daylight ahead for the stockholders, the Harriman people engineered a deal for consolidating the company with Sidney Blumenthal & Company, a deal which I felt sacrificed the interests of the stockholders to those of the bondholders. I resigned. Word got around among the workers that I had been fired and they went on

strike. I had not been able to improve their wages or working conditions to any great extent, but they knew that I was their friend. I went up to the plant and urged them to return to work.

The sort of dilemma in which I was placed in dealing with the workers ultimately caused me to refuse an offer of further reorganization jobs by the Harriman crowd and become, instead, a college professor. As an executive, working for the stockholders and the bondholders, I could do no more than I did. I was in a competitive system. We were paying as high wages as, or higher than, our competitors. I could not, if I would keep my job, urge the workers to join a national union and strike for higher pay and against the speed-up. I have heard a great deal of talk about benevolent employers, and some have been better than others. But most gains have had to be fought for. Even the most powerful unions have been unable to break wage differentials in the textile industry between North and South, or remedy the essential dangers of wage-cutting and unemployment. When, later, I defended Communists with whom I disagreed on many things, I knew what they meant when they talked about the class struggle. I had been an unwilling part of it on the side of the capitalists.

There is much that I might tell of my experiences as an executive but as this is not a business story I will tell only two incidents.

A main reason for the Salts Textile Company's difficulties was that velvets were out of style. The eight companies in the United States that produced velvet were all in trouble. After much difficulty I brought about a meeting of the heads of all the companies. Each was suspicious of the other. When I pointed out the difficulty, which they already knew, their answer was that styles come and go. They had been through trouble like this before.

"Did you do anything about it?" I asked.

"What do you mean?"

"What makes style? Where does it originate?"

Paris, of course, was the answer, and I then asked, "Why not go to Paris and make the style?" I outlined a plan whereby the velvet manufacturers would put up a fund of \$100,000. I would go to France and there try to induce the French velvet manufacturers, who were also in trouble, to contribute a like amount. With this we would create a style for velvets.

I went to Lyon, center of the French velvet industry, talked with the heads of the leading concerns, and with some of them went to Paris with \$200,000 to spend. We visited the leading creators of women's dresses and asked them to make up fine velvet gowns. We would give them the material and guarantee the sale. Why not? Then we saw leading actresses and women of fashion and offered them free ensembles of dresses and hats if they would agree to wear them to tea at the Ritz, to the races, and other places where people of fashion go. Even a wealthy woman likes a free costume.

Soon notices began to appear in the American style publications saying, "It looks like a big velvet year in Paris. Everywhere one goes one sees velvet gowns and hats." It did turn out to be a good velvet year.

The other story relates to plush. The Salts company had originated fabrics that imitated sealskin. These imitation furs were soft and beautiful and in great demand by the cloak and suit manufacturers. A practice had grown up among them of placing large orders in the spring. If the fall and winter proved to be cold they took the goods, but if the seasons were warm they canceled their orders. This was a ruinous practice for the company.

The fall season was mild. Anticipating the usual practice, I told the sales manager to connect me with the first large customer who asked to cancel an order.

Such a call came, from one Henry Rubin, asking that we cancel a \$100,000 order. I invited him to have lunch with me. He was an interesting character, the type who has given Jews in general the reputation of being unscrupulous in business. I have had many close friends among Jews and my experience is that the percentage of idealism and fair dealing is higher among Jews than among non-Jews, but Henry Rubin was an example of what life does to a shrewd and ambitious man, and he happened to be a Jew.

He started life in a Russian ghetto and came to this country as a poor immigrant boy. He sold neckties from a pushcart and, from that, had become a clerk in a cloak and suit factory. By aggressiveness and ruthless drive, he was now head of a large company.

On the occasion of our meeting we had a fine lunch. As it neared the end I said, "Mr. Rubin, I want you to O.K. this bill for payment."

"I will not," he replied testily. "I can't eat the stuff."

"Neither can I. You ordered the plush and you will have to take it and pay for it."

"I will not," he stormed.

"Oh, yes, you will. You are a big operator. You think we are dependent on you but it is the other way around. If you don't pay for the material, so long as I have anything to say in the Salts company you will never get another yard."

"I don't care," he replied. "I'll get it from Blumenthal."

The Blumenthal company was the only other one that made the quality of material he used.

"Oh, no, you won't," I told him. "After talking with you this morning I called on Mr. Blumenthal. He told me that he had had all kinds of trouble with you on this score and that if you did not pay our bill he would stop supplying you with material."

"Did he say that?" Rubin sputtered.

"Don't take my word for it. Call him up and ask him."

He did. I could see him through the glass door of the telephone booth talking vehemently.

He returned crestfallen. "Well, how much is it?" he asked.

We settled the account. He lit a big cigar and leaned back comfortably in his chair.

"Last night after dinner," he mused, "I was sitting in my magnificent house on Long Island. I was wearing a dinner jacket. My wife was wearing an evening gown. The butler was bringing us and our guests our liqueurs. I looked around at my beautiful room, at my wife's expensive pearls, and I thought of my poor comrades in Russia struggling in the snows to make a better world, and I said to myself, 'Henry Rubin, you are a God-damned son of a bitch.'"

With what judgment shall we judge Henry Rubin, the poor immigrant boy who made a success?

8

Not once, but many times, friends who had known me as a successful New York lawyer asked me in a puzzled way what made me give up that profession for the much less lucrative business of teaching.

There is no simple answer to such a question. True, the technicalities of the law bored me. I had become a servant, even if a highly paid one, of big business and I did not feel at home with myself. I was not doing the things I liked to do. My life was going along and I was working on matters that had no permanent value. Above all, I liked to work with people, not with things, and what I wished to do if I could was to teach young people.

There came a day, toward the end of 1928, when I came home to our beautiful Long Island house, threw my brief case into the air, and exclaimed exultantly to Ethel, "I'm through!"

"What do you mean, you're through?"

"I'm going to give up the practice of law and become a college professor."

She thought at first that I was joking but I was never more serious. Ethel listened. When she saw that I was serious she looked around our home into which she had put so much of herself and said, "Whatever is right for you is right for me."

"Well, then, since no college has invited me I will select my own."

I would have preferred to live the later years of our lives in the South. Being a liberal, though, I needed a liberal college and I had never heard of such an one in the South. Still, there might be one.

The next day I went to the New York Public Library and obtained a directory of colleges. I looked under Florida and saw "Rollins College, Winter Park, Hamilton Holt, president."¹⁵

I had never heard of Rollins College, but I did know of Dr. Holt as an outstanding liberal and a leader in the peace movement. I wrote to him telling him about myself and what I had done. "I

think that one who has majored in economics and law in college, university, and law school and has practiced both ought to be able to teach those subjects better than someone who has just read about them in books," I wrote. "I am inviting myself to become professor of economics in Rollins College."

My letter appealed to Dr. Holt and he replied that he would see me the next time he came to New York. He did, and in 1929 I became professor of economics in Rollins College.

I loved it. I enjoyed having to relate practice to theory and theory to practice. I felt the glow of life in teaching young people. We sat informally around large tables and engaged in the consideration of subjects through the give and take of discussion—the conference plan which Dr. Holt had initiated. My classes were heavily elected and I learned as much from the students as I taught.

There was more to my decision, though, than liking to deal with young people. I became a professor of economics in January, 1929. I considered Hoover's complacency and talk about a car in every garage and a chicken in every pot fatuous. The inflated balloon that was our economy was bound to burst with a bang. I talked with leaders in a number of industries trying to bring about cooperation to halt or at least cushion the coming disaster. I was an unwelcome Cassandra.

I had studied economic theory and I had seen economic practice at first hand. But—*now*—I wanted to get out of the main stream of business and do more studying and make more objective observation. I believed that as a college professor I would have more time to think and to confer with others who were pondering economics not merely as a means to make money but as a study that might lead to a better management of social wealth. And, before leaving Rollins, I had made a blueprint of the kind of social structure that seemed to me to be desirable, one combining the best elements of competition, socialism, and democracy into a pattern of life for America. I knew the socialism of Russia could never be that. I had planned to write a book on it but there have always been pressing problems close at hand demanding my attention. Perhaps the book will yet be written. Perhaps it is not yet sufficiently gestated.

The third reason for wanting to become an educator was my interest in education. I felt and still feel that with all the money that we spend on public education we have done a poor job in prepar-

ing young people to meet life's problems and to assume intelligently and with social awareness the responsibilities of citizenship in a democratic society. At the time, a controversy was raging in academic circles between the conservatives, believers in the old methods, and the progressives led by John Dewey. I was on the side of Dewey. I had been one of the group of parents who had started a progressive school in Port Washington for our own children. So my interest had been long in the making when I gave up the law to take a job teaching.

Rollins College, which I had picked out from a college directory that day in the library, was a progressive school. Dr. Holt was seeking to break away from tradition and open new paths. As I learned more about his purposes I was excited at the thought of being part of a great educational experiment. The monetary reward was a purely secondary consideration. I knew that we would not live on the same scale as in the past, but I knew that we would eat, wear clothes, live in a house, and have enough left over for friends and simple fun.

Education, I was to find, is a complicated business involving not merely theories but the human beings who try to apply them. I hesitate to state my conclusions, even after the wealth of twenty-three years of experience in the art of teaching and in dealing with administrators, fellow teachers, and students. Any observation by me, not buttressed on the reader's part by similar experience, might mislead rather than clarify.

Certain things I can say with some assurance. One of Dr. Holt's aims was to break down the barriers between teachers and students—to stop professors from pontificating from on high through lectures to bored students. He described the lecture system as one in which words went from the notebook of the professor to the notebook of the student without passing through the mind of either.

He was equally opposed to the recitation system in which the professor became sort of a detective to discover whether the student had learned his lesson and to record results for the inevitable final grade. Indeed, he was against grading altogether. You don't hand out report cards to people in real life, he argued. People in a business or in any kind of office either make good or they don't. If they don't they go somewhere else.

I was one of those who backed him, in a close vote in the faculty, on abolishing grades altogether. A large part of the faculty argued that grades were a necessary prod to study and achievement. In practice we found that the best students were the ones who wanted grades—they wanted to know how well they had done—and the poorest students and teachers were the ones who needed them. In the end we made a compromise with a report card that told much more about the student, including effort and aptitude, than the old A,B,C cards could.

Essentially, the progressives believe that if from the beginning the child is not forced but interested—and life is interesting—the fear of examinations and report cards and the artificial stimulus of competition for grades could be replaced by enjoyment in learning. It was as wrong to make the bright child feel superior as it was to make the dull child feel inferior. Each should learn according to his abilities without the invidious comparisons of grades.

The progressives at the same time recognized that the teacher who could stimulate interest or, still more, raise excitement over his subject without the necessity for grading or attendance records was a rare bird. So Dr. Holt, in administering Rollins, had set out to get a faculty of “golden personalities.” We of the faculty did not always feel that we measured up to his glowing specifications, and indeed were embarrassed when we learned that in lectures across the country about Rollins he spoke as though he had achieved his goal and that we actually were golden personalities. Many a time we would greet each other wryly, “Is your golden personality glowing this morning?”

Dr. Holt did secure, I think, a better than average faculty. We were, at least, a hard working group who tried as far as lay within our power to make Rollins a good college. I felt that it did shine out like a lighthouse in the rather murky air of higher education in the South.

One thing was achieved. By students and faculty sitting around tables in the classrooms or under a shady tree on the campus discussing the assignment, by students coming to our houses for evening group discussions, by the hour-long personal conferences which we had with each student, barriers were broken down. Teachers and students were both human beings bent on a quest for more knowledge and understanding, and if any professor thought he knew all

about everything he must soon have been disabused in the free give and take of the Rollins classroom where a student knew that his grade would not be affected by his telling a professor where he was all wrong.

Dr. Holt himself was indeed a rare personality. He entered perfectly naturally into the work and play of the students. He seldom went wrong in his approaches to students and I doubt whether any other college president ever knew so many of them by name and trait and was as popular as he. Moreover, through his connections he was able to bring not only every living President of the United States to Rollins but also the most distinguished foreigners. I doubt whether any other college has conferred honorary degrees on such a galaxy of the great—or of notables.

Dr. Holt was a great raconteur and his stories included jokes on himself. He was, among other things, a collector of ship models. Hearing that an old sailor living on the coast near St. Augustine had carved some fine models of the ships of the War of 1812, he went to see him. The models were excellent—six in all, as I remember it. The sailor was willing to sell them but had no idea of their worth. Dr. Holt gave him a thousand dollars.

Now President Franklin Roosevelt, a close friend of Dr. Holt, was also a collector of ship models. Dr. Holt wrote and told him that he had four splendid models that he could let him have for a thousand dollars. F.D.R. sent him the check and received his models, but Dr. Holt was troubled. He had two fine ships that had cost him nothing.

The next time he was in Washington he called on the President. He told him that he felt somewhat embarrassed because he had paid only \$1,000 for six models and had sold the President four for the same price. F.D.R. roared with laughter. “Don’t worry, Hamilton,” he said, “I sold two of the models for \$1,000 so I, too, have two for free.”

So far as I had any single teaching method or ability above another it was the stimulation of discussion. The hour in my classroom on any day was all too short for what we wanted to say and do. My aim was not to get students to think my way but to face facts and think.

I always opened a course in economics by saying, “Economics is, in many of its aspects, a controversial subject. Given the same facts

economists themselves disagree as to the conclusions to be drawn. Therefore no teacher has a right to tell you what to think. He has a right, though, to tell you how to think."

The way to think of any problem, I told my students, is first to get the facts. Knowing what is a fact is in itself difficult. Different observers, viewing the same situation, report on it differently. Some observers are better qualified than others. I, for instance, could look at a stalled motor and not see at all what a skilled mechanic would see. On the other hand, I might observe a group of students and see things that he would not see. So even honest observers may differ.

Another difficulty, I went on, is that not all observers, not all writers about labor or the Soviet Union or farm problems or whatever are honest. Journals pay high prices for opinions they like. Men seek political preferment. So in determining what is and what is not a fact a person must learn to discriminate, and the more complex the problem the more difficult it is to know the facts and the more sure he may be that he does not have all the facts.

The next step after having done one's best to get the facts, I would tell my students, is to consider with open mind the arguments on both sides or all sides of the problem. Only after doing this is a person in a position to make a *tentative* judgment.

Why only a tentative judgment, I would ask.

Some bright young person would say, "Because you may not have obtained all the facts or heard all the arguments."

From there we would go on to the quality of the one making the judgment. Not all judges are alike, I scarcely needed to point out. Even the highly trained members of the Supreme Court, having examined the same facts and arguments, disagree. Men make their judgments in accordance with their philosophies of life.

Then, in an oversimplification of my own philosophy of life, I would relate it to three great men. First was Aristotle, who, in an age of myth when men thought that gods and goddesses were hovering around directing human affairs, said, "Let's get the facts!" Out of that determination to get the facts came the scientific method which, because it has been vigorously pursued down through the years, has given us the marvels of our age. It has unlocked, for good or ill as we choose, the secrets of the universe.

The second of the men to whom I referred was Socrates, who

went about the streets of Athens asking men to examine their biases and get rid of their preconceived prejudices. "Know thyself!"

"Last and greatest of all," I would conclude, "I rate the son of a Galilean carpenter who was himself a worker, living in a backward province of the Roman Empire without, as far as we know, great educational advantages. Yet in a time of doubt and confusion he was able to express eternal truths about the good life that will never be said better. Jesus' teaching was profound but simple: He taught the need for and value of sympathy, understanding, the ability to put one's self in the other fellow's place, and love—not some sentimental love but the ability to share with others their joys and sorrows and work with them for a better world."

Trying to get students to face facts and draw logical, even if unpalatable, conclusions from them was, I think, only a minor part of my goal. I was constantly pointing out that there is no such thing in the modern world, if there ever was, as a "rugged individualist." No man lives to himself or by his own efforts. Our ability to live is an ability to live together. No society can long endure if its members have no sense of values. If truthfulness, honesty and honor, respect for human dignity, and a desire for fair play for every member of the society are lacking, the civilization is doomed.

We must first of all be honest with ourselves. "If I steal privately and am able to get away with it, is any great harm done?" I would ask. The question answers itself. The transfer of property from someone else to me is not where the evil lies. If I am dishonest, I am helping to turn society into a den of thieves in which no man is safe. If I am cruel and intolerant, I am aiding and abetting tyranny. If I deny anyone's right to dissent, or fail to come forward to defend that right, I am preparing the way for the destruction of my own right to state my case. We are, as the Apostle Paul put it, "All members of one body." In order for the body to be sound, the parts must be sound.

When we love our neighbors as ourselves in the sense of demanding justice and fair play and protection of their welfare, we are loving ourselves. The ideals expressed in the Sermon on the Mount are not a luxury to be put into living by a few but a necessity for us all. Art, history, religion, science, economics—all human studies—point to the inescapable conclusion that while

religious and scientific beliefs have changed, the values of love, justice, tolerance, and the honest search for truth are the eternal ones upon which all progress rests. If such teaching fell on good soil I am not concerned if all that I taught my students about economic theory has long since been forgotten.

I might, however, add a few words as to my own economic thinking. There was no doubt in my mind that Adam Smith and the classical economists had correctly stated how the law of supply and demand would work in a society free from monopoly and government control. In a completely free-enterprise society the adjustment would be made through business failures, but, as capital goods have become more complex, the loss in economic and human terms of adjustment through supply and demand, through failures, is too great to bear. "Free enterprise" is, and for a long time past has been, a myth.

I accepted, as proved by events, the boom and bust periods of a capitalistic society predicted by Karl Marx. We had seen the business cycle operate. I was deeply interested in the attempt of the Soviet Union to iron out the ups and downs through government ownership of the means of production and economic planning. I would have liked to see the United States help rather than hinder this great experiment. At the same time I was convinced that such a solution was not possible for this country. The degree of force required to make such a system operate would be greater than our people would permit. Indeed, I feared as time went on that the Russians were carrying repression of dissent and the element of coercion beyond the safety point; in any event, freedom, of itself, has a value. The problem of a complex modern society like our own is to secure a workable balance between control and freedom.

As a practical matter, therefore, my thinking went along with that of Keynes, Alvin Hanson, and others that deficit spending would lift us out of the depression which had settled on the country in the early 1930s. What none of us appreciated when we defended Roosevelt's injection of more purchasing power into the economic bloodstream through government borrowing and spending was how massive the spending would have to be. It was not until the Second World War, when the Federal debt was increased by \$40 billion a year, that we came fully out of depression into boom and full em-

ployment. The first W.P.A. appropriation to "prime the pump" was \$4 billion.

Neither did we realize that the other side to Keynes's proposal, which was that the government's debt should be reduced during boom periods so that we would be ready to meet a new depression, could not be put into practice. Only by a constant expansion of debt, either public or private or both, could our economy keep operating. The Federal debt, which was \$19 billion in 1932 and \$72 billion in 1942, is now over \$280 billion and appears to be a permanent fixture. No one talks seriously of paying it off. Even since 1945 it has grown by over \$30 billion.

That national debt would have had to grow faster if there had not been in the past decade a vast expansion of private indebtedness in the form of bond issues for new plant facilities and mortgage and installment indebtedness of individuals. Already consumers are committed to pay nearly 15 per cent of their disposable income to meet past indebtedness. At some point, obviously, the consumer will have to hold back on his purchases. Serious economists say that when this withdrawal takes place, business must take up the slack by creating more capital goods. To me, this sounds like chasing a rainbow. When demand is not great enough to take the goods produced by our present capital plan, will businessmen, operating for profit, willingly build more plants? If not, can and will the government expand the already huge national debt enough to stop a major depression?

I am no longer watching economic trends as closely as I did when I was teaching economics. I read statements by Treasury officials and experts in finance that we may expect things to go on at the present levels, or higher, with the government able to handle any minor dips. I find myself unconvinced. Another war would not help capitalism, as wars have done in the past, but would destroy it, nor can preparation for war—the sustaining of the "cold war"—go on forever to keep factories supplied with orders. War, then, is out as a solution to the present difficulties, except to the suicidal. The only way I see of warding off a major depression, given the necessities of capitalism, is through vast loans to Asian and other countries to enable them to purchase our capital goods. But even that has a catch in it, or perhaps many. One catch is that our own natural resources are not unlimited. Far from it! If we try to

make machines for the whole world we may find ourselves, before long, unable to make them even for ourselves.

What is urgently needed is an end to the waste of material for war and for meeting the threat of war as we have been doing in these cold war years. The end of that colossal waste of not only our own limited resources but those of other countries is imperative as a part of socialized planning. Malthus's direst predictions proved mistaken only because the industrial revolution vastly increased production in the western world while population growth was slowed down as prosperity rose, but basically the problem he tackled remains to concern others.

The population is not only increasing steadily; people are living longer. Population growth can be checked through planned parenthood, and foreseeably food enough can be produced for all through the properly planned use of irrigation and other means of bringing more land into production and by making the land more productive through the use of synthetic chemistry. But the world's resources of iron and other metals that go into making steel alloys, its resources of lumber, oil, and, in the long run, even coal, are not inexhaustible, and as far as we now know they are not replaceable. Meanwhile we waste our precious time and valuable materials in stupid concentration on the production of armaments. Real problems press for solution while governments concern themselves with senseless bickerings. Difficult problems are a challenge if we work toward their solution, as might be done through the United Nations. If we do not, the future may hold disaster.

In planning for that future, one great fact of our time must be taken into account: The people of the Western world, and Americans in particular, cannot expect to have the major benefits of a civilization based on the use of such materials forever. The people of Asia and Africa and other economically underdeveloped parts of the world are refusing to play the secondary role into which they have been forced. They are refusing, as poorly paid laborers, to be party to the exploitation of their own resources for others' benefit. If we continue to rely on force for our salvation against those who are asking now for their fair share of the world's wealth, we may be overwhelmed as have other great civilizations of the past that counted on superior might to save them.

The future is not without its interesting problems.

Yes, I loved teaching. I loved looking into eager young faces and minds and trying to give guidance and direction and purpose to lives that would outlast my own.

Before going to Rollins I had heard much about the younger generation's going to the dogs. I suppose every generation, in the view of many of its elders, is headed there. This impression, though, was particularly strong in the decades following World War I. I found the truth to be otherwise. The students were more interested in and better informed on questions of social importance than were those with whom I went to college. The younger generation had a freshness of attack and an eagerness to learn the truth that were refreshing.

Each faculty member was "adviser" to a group of students and the student was encouraged to discuss his personal problems. I considered "advising" one of my most interesting and important functions. Indeed, during my last year in New York I had given as much time as I could spare to being vocational adviser at Columbia University. I had met with student groups and my office had become a consulting room for young men and women seeking guidance in the selection of careers.

I had a formula. "What interests you?" I would ask. "What would you like to do? It is much more rewarding to earn a living doing things you enjoy doing."

Later, at Rollins, I gave a course in vocational guidance until I became so swamped by young people anxious to find their future courses that I had to give it up or give up teaching economics, which I did not wish to do. I carefully searched for the young person's interest. Sometimes strange ones developed. One boy professed that nothing in school or college had ever interested him.

"Isn't there anything in the world you like to do?" I asked him. He looked sheepish.

"I have always liked crabs."

"Crabs? To eat?"

"No. I like to watch them and study their habits."

"Fine," I said. "Your vocation should be crabs."

He stared at me incredulously. "Are you kidding?"

"Certainly not. Crabs are an important article of commerce. They are becoming scarcer. Why not have a crab farm just the way people have poultry farms?"

He suddenly came alive and we began to plan. The last I heard from him he had a crab hatchery, or whatever you would call it, on a small key off the Florida coast and was making a go of it.

As faculty adviser, too, I was up against the problems that have beset young people of marriageable age from the beginning of time, or at least since the responsibility for finding their own mate was left to them. I think, in particular, of one girl, a tall, somewhat gawky, and, until you knew her, not good-looking blonde, out of the "dating." She was a senior. All through college she had seen other girls having dates. "I'm not pretty and I'm not popular," she told me sadly. "I don't want to discuss a career with you" (ostensibly her reason for being there before me). "The career I want is to be a wife and mother—and that I'm not likely to have."

"You wish to find someone to love and to get married?"

"Yes."

"Will you do exactly what I tell you?"

"Yes."

"Well," I said, "you are a lonely girl. But I can tell you that there are lonely boys on the campus, too, boys who for one reason or another think girls don't like them. Keep your eyes open. You will see some boy who never has a date. Sidle up to him. Get him talking about himself. Everyone likes to talk about himself."

"But I want to talk about me, too," she protested.

"Be patient. That will come. Find out all about him, his home, his family, his hopes and fears for the future. After a while he will be so interested that he will want to find out about you."

"But suppose I don't love him?"

"Why, then, you don't marry him. You don't have to marry every boy you talk with."

"I'll try it," she promised doubtfully.

A few weeks later she called me up. Her voice was charged with

excitement. "Prof, it worked," she exclaimed. "We're going to be married in the chapel in June."

I knew the boy. He was far below normal height, sensitive and shy, but with a fine mind and personality. And in June, my tall girl friend and my short boy friend marched proudly down the aisle of the Rollins chapel duly united in what has turned out to be a delightfully happy marriage.

There was, too, the problem of young love, driven to expressing itself in a society that has said "Thou shalt not" until compliance with its requirements has been duly adhered to at a marriage bureau. Yet that same society makes early marriage difficult for those young people who would enter a profession or otherwise spend years beyond high school fitting themselves for more responsible roles in that society. We have yet to come to grips with this problem, except as it was met, to a degree, under the G.I. Bill of Rights, which made it possible for young men to marry and go to school.

I was often hard put, when my opinion was sought by boy or girl. I remember one young man's coming to me for an answer. He was going on to graduate school.

From me he wanted the truth, as he put it. Was there any reason, aside from old taboos, why he and his girl should not enjoy each other the whole way?

To that I answered, as I would have to answer today, that they would have to find the answer for themselves. I could point out what he and the girl both knew, that our sex mores are based on protecting family life against adulteration by children born out of wedlock. The very word adultery conveys this thought. With knowledge of birth control and new mores the situation has changed, but if there is any general answer to the boy's question I do not know what it is, and I could do no more than honestly tell him so.

"I can put up certain stop, look, and listen signs," I went on. "You are in love and intend to marry, but after graduation you will separate and you may not marry. The girl should ask herself whether, if she meets and loves another man, she will feel sorry because of her relations with you."

Furthermore, contraceptive methods are not sure. The girl might become pregnant. Could she face that possibility? Then, too, adjustment in the sex relationship is not always easy, even under

the best of circumstances. And they had to face the possibility of expulsion should their relationship become known.

It all sounded negative as I was telling it, as I am sure it must sound to others of us who are called upon for advice of this kind. I do not know the answer, but I do know that, despite their freer discussion and attitudes toward sex, most of my former students have learned, as their parents did before them, the values to be found in marriage and in building homes. Liberalization of sex mores has its dangers, but it has also its positive advantages in terms of a healthier discussion of a problem that has been and will be with mankind for a very long time.

The third question that was frequently brought to me was the young person's perennial one as to what to do about his or her parents. The parents, they complained, were trying to control their lives. "You can give love and respect to your parents," I would say, "but your lives are your own."

I did not always have the answers the boys and girls sought, but being with them, and teaching, was a happy and rewarding experience. Only a call to what I felt was a duty to my country and my own integrity made me return to the practice of law.

Being a college professor with liberal views in a community like Winter Park was not all honey and roses, however. My refusal to adopt the mores of the South on racial questions brought me into frequent conflict with local Southerners, and my liberal views on economics and international problems often clashed with those of the elderly conservatives from the North who made up the bulk of the winter colony.

A few instances will illustrate the difficulties.

One afternoon when I was out playing golf a telegram came to me from Will Alexander, Atlanta representative of the National Association for the Advancement of Colored People. A mob had seized a young Negro accused of raping and murdering a white girl and had advertised that he would be lynched in the public square in Marianna at 10 o'clock that night. Ethel, unable to reach me, saw Dr. Holt. He called Governor Scholtz on the phone. The Governor was not in his office, but his secretary said that he knew about the situation in Marianna and that everything was under control. I accepted the statement.¹⁶

That night, as was advertised, the Negro was hung to a tree in the public square and his body riddled with bullets. I was outraged. I wrote a blistering letter to the Governor asking him what more pressing duty he had had in Florida that night than to see that the law was enforced. I gave a copy of the letter to the press and it was widely printed. Governor Scholtz called up Dr. Holt, said that I had insulted him, and asked that I be dismissed. Dr. Holt, who told me about the call, replied that he did not see how he could do so since he agreed with me. The denouement of the story was that later a degenerate uncle of the girl confessed that he was the one who had raped and murdered her.¹⁷

On each of the many occasions when I flouted the taboos on race and spoke or acted publicly for equality for all Americans I was subjected to attacks and sometimes to anonymous threats of personal violence. Although these worried my family and friends, I paid no attention to them. People who write anonymous letters are cowards and I felt sure that they would never dare do violence to a man in my position.

Once, though, an attempt was made through a telephone call in the early morning hours. Its purpose was to lure me out of the house, on word that a mob was threatening to lynch a Negro outside of town. I checked with the police and found that there was no truth to the story. It may be that had I gone I would have been given "the treatment," but for the most part even the local Southerners were personally friendly, though they deplored my shaking hands with Negro friends and my addressing them as Mister, not Tom or Joe, and my speaking, as I often did, at meetings or school commencements in the Negro section of town.

I recall one amusing exception. Zora Hurston, a graduate of Columbia University, a student of Negro folklore, and an author of some distinction, was one of our friends. One rainy afternoon she appeared at our door, having just arrived from New York for a brief visit in Florida, which was her home. The time passed rapidly in conversation and the dinner hour arrived. Ethel, with no thought of the racial barrier, invited her to stay to dinner. While we were eating, a member of the faculty, a dyed-in-the-wool Southerner, called. When he saw my family at the table with a Negro his disgust was so great it was almost tangible.¹⁸

Zora spent the night with us, and the news spread rapidly. We

had committed the sin of sins and were to be punished for it. Thereafter, as an instance of the way displeasure is shown, the druggist, a pleasant person ordinarily but a man steeped in the Southern tradition, would walk away when I came into the store and call a clerk to wait on me. The owner had been my friend.

On Christmas eve, as I was coming from a party at the Hungerford School for Negroes in nearby Eastonville, I passed the store. I saw that the druggist was alone and about to close up. I went in. "Mr. Gary," I said, holding out my hand, "I just stopped to wish you a merry Christmas."

He hesitated, looking at my outstretched hand. The pause was painful, but finally he said "Merry Christmas!" and shook my hand.

"Mr. Gary," I told him earnestly, "I meant what I said when I wished you to have a good day tomorrow. I know that we differ and that you deplore many of the things I do and say. But that doesn't prevent me from being your friend and wishing you well."

He had no words beyond a mumbled "Thank you." A short time later he died and I called on his widow. When I expressed my sympathy she said, "Mr. Gary thought the world of you, Dr. France."

I wonder whether he did, whether deeper than his prejudices was a feeling of our common humanity, a desire to be friends. I understand the feelings of men and women like Gary. Their fear goes back to Reconstruction days when the whites were disfranchised and the Negroes had the vote. The newly emancipated had not been prepared for that responsibility and there were some excesses. The whites suffered humiliation at their hands and reacted to it. The great fear was that "unless the Negro was put back in his place" intermarriage would result. I did not share the fear. I welcomed every step toward integration, but, I trust, I was able to understand why Mr. Gary and others like him acted as they did.

One other incident of the many in my relations to Negroes is worth recounting. I was driving North one time, with one of my students. On Sunday morning we were traveling through Georgia and I asked my companion how he would like to attend a Negro church. He thought well of the idea, so at the next town I drove into the segregated area. A Negro woman was sitting on her veranda with several children. I asked how to get to the church. She

said to a boy of about ten, "Jimmy, you jump on the running board and show the gentleman—and God help our preacher!"

When we arrived at the church, a barnlike structure with a coat of graying white paint, services had already begun, as we could hear. We opened the door and walked in. A sudden silence descended. I doubt whether white men had ever before visited that congregation. The preacher stood silent, eyeing us with a puzzled stare as we took our seats in an empty pew. Then he rose to the occasion: "Now that the white brother has arrived we will hear an address from him."

Before he spoke himself he needed to know why we were there; hence his invitation. My talk met with a hearty response. We were asked if we would like to hear some spirituals, and on our expression of interest the Negroes sang in their own inimitable style. I asked if they could make up songs, as I had heard they sometimes did. They then started a spiritual about the day the white brothers came to the dark brothers' church. Soon we almost felt like joining in ourselves.

I often feel that it is not the Negro alone in the South—and in the North, too, for that matter—who suffers from segregation and apartness. So often in Negro meetings when they knew I was their friend I have felt a warmth of friendliness and an inner glow that has made America, the America I love, a better land for me. For that moment, in that little Georgia church, it was the "sweet land of liberty," its good crowned with brotherhood, our land that is to be.

Until 1928 I remained a Republican. I held Herbert Hoover, the Republican Presidential candidate of that year's election, in low esteem. Among the reasons for my attitude was the report my brother Irwin had brought back from the Soviet Union as to how Hoover was using Red Cross funds to foster counterrevolution against the Bolsheviks. Colonel Raymond Robbins, head of the American Red Cross Mission who was in Russia at the time, confirmed the report. So in the election I supported Al Smith.¹⁹

The economic crash of 1929 was not, of course, of Hoover's making. The forces that precipitated it had been building up for a long time. But his stodgy and unimaginative approach to the impending depression, his easy optimism that "prosperity was just around the corner," his *laissez-faire* philosophy, and his seeming indifference to the plight of the millions of unemployed confirmed my estimate of the man.

Irwin had pleaded with a number of important Republican leaders to contest Hoover's bid for renomination in the campaign three years later. He pointed out that Hoover could not be re-elected and that to renominate him would be to court disaster for the party. The tradition of according the incumbent a chance for a second term was too strong for any other argument to prevail. No one would throw down the gauntlet.

Irwin, however, decided not to let Hoover have an uncontested nomination. It is a little-remembered fact of history that Irwin, although he had been out of political life for a decade, entered the Republican primary in every state where primaries were held. Hoover, relying on the machine, refused to enter the contest; primary decisions by the voters are not binding on the delegates. As large numbers of Republicans turned out in every primary to vote for Irwin, Hoover doubtless felt he had to meet the challenge and accordingly entered in Oregon where he thought he could win. That state, moreover, was the one state where the primary results

were binding on the delegates. Irwin stumped the state and won by a large majority. He thought that his victory would open the eyes of the party's leaders to Hoover's weakness, but it did not.

When Irwin tried to present his credentials as a delegate at the subsequent national convention, the chairman refused to recognize him and he was forcibly ejected from the hall. An account of this incident is in the previously mentioned book about my brother's career—*The Political Career of Joseph I. France of Maryland*. Robert St. John, a well-known political commentator, also has an interesting account of the affair in his book, *This Was My World*.^{*} He was at the convention as a reporter.

Had the preferential primary results been followed Irwin, at the start of the balloting, would have been entitled to more than half of the votes necessary for nomination, whereas the only votes he received in the convention were those from Oregon. The correctness of his prediction to the party leaders, however, was shown in the election that followed when Roosevelt got all but fifty-nine of the electoral votes. In 1934 my brother was again nominated for the Senate by the Republicans but was defeated by Senator Millard Tydings, and in that year Irwin retired from the political scene. He died four years later.

As for my activities during this period, from 1929 to 1933 I wrote a number of articles for leading magazines suggesting steps that should be taken to halt the ravages of the depression. With many others during the campaign I had waited for some announcement of a positive program by Franklin Roosevelt. Those who recall his vivid and positive action from the moment of inauguration would be astonished at the aridity of his campaign speeches. Seeing no light emanating from either of the old parties I had come out for Norman Thomas.²⁰

I was thereupon promptly elevated to the leadership of the Socialist Party in Florida. Fear had intensified reaction there, and my political activities were made the basis of many attacks on me by wealthy supporters of the college, but Dr. Holt, although surprised at my stand, stood nobly by my right to dissent. Even when I was a Republican, and later, when as a result of the New Deal program I became a Democrat, my views on politics, economics, race ques-

^{*} Doubleday, Doran, 1953.

tions, and international relations were always unpopular with the comfortable, the complacent, and the conservative.²¹

There was seldom an interval in which I was not engaged in some rough-and-tumble fight with the defenders of the *status quo*, yet I take it as a matter of credit that many of my conservative ideological enemies were my personal friends. I respected their right to their views and often invited them to state those views in my classroom.

In the small but interesting group of Socialists in Florida was Joseph Schumacher, head of the Tampa local, strongest in the state. During the Presidential campaign it staged several sizable meetings. I spoke at one held at Tampa University. Among the indefatigable workers was a woman who had made a substantial fortune as a manufacturer of bread. The recollection leads to the observation that in every contact I have had with the American left I have been impressed with the fact that Marx was wrong in his belief that only the workers could be counted on to get rid of capitalism. Many of its wealthy beneficiaries, including Malcolm Forbes, Ethel Clyde, and Corliss Lamont, all friends of mine, have been strong advocates of socialism.²²

Another observation forced upon me was that whenever a radical movement gains strength in a conservative community an attempt may be—in fact, is likely to be—made to crush it, not through reasoned argument but by force and violence. That happened in Tampa in 1932, a year which those who lived through it will recall was a time when radical changes were being advocated everywhere, to the fright of the defenders of the *status quo*. The police, acting on orders or in a reflection of that fear, broke into a home in Tampa where the Socialist leaders were meeting and hauled them off to police headquarters for questioning as to what they were doing and advocating. No charges were preferred, but as each of the Socialists came out of police headquarters he was grabbed, thrown into a police car, and “taken for a ride.” The ride included a beating by police.

The consequences in Schumacher's case were fatal. He was taken to a lonely spot by four policemen, beaten with a heavy chain, and left unconscious in the woods. When he regained consciousness, although his arms and legs were a mass of bleeding ribbons, he managed to crawl to the highway. A passing motorist picked him

up and took him to a hospital where, after gasping out his story, he died.

A mass meeting of protest was held the following Sunday in Tampa's largest auditorium, and it was crowded to overflowing, for public indignation was high. Norman Thomas and I were the principal speakers. The mayor, before the meeting began, called on us, and almost on bended knees asked us not to place the blame on him. At the time it seemed as if something might be done to bring the perpetrators of the crime to account, but interest died out as dilatory court actions prevented punishment.

What happened in Florida happened elsewhere in the country, sometimes noted and sometimes not. But then something happened that changed things greatly: Franklin D. Roosevelt took office as President. I was agreeably surprised by the speed, vigor, and sense with which he acted, following up his fine inaugural address—“We have nothing to fear but fear itself,” he had told the country. He called in trained economists to guide him, and one New Deal measure followed another in rapid succession. They were along lines which I approved and had advocated. I became an ardent New Dealer. I do not believe, though, that the capitalist system can, in the long run, serve the needs of a mechanized and highly productive economy like our own. Essentially the profit system is an economy of scarcity. We are living in an age of abundance.

I used to illustrate the problem to my class in this way: “What is most necessary to our existence? What would you pay most for if you were deprived of it?”

Some would reply bread. When I shook my head someone would say water.

“No,” I would reply. “Suppose I were to put John D. Rockefeller in a vacuum tank and begin to exhaust the air, and say, ‘How much for some air, John?’ He might reply, ‘Ten thousand dollars.’ I would say, ‘Oh, no, you haven't begun to talk yet.’ I would exhaust some more air. ‘How much?’ ‘One hundred thousand.’ ‘Oh, come on,’ I would say, ‘you haven't said anything yet.’ As I went on he would gasp a million, ten million, a hundred million, and if I kept on pumping, then ‘All I have.’ In short, the most valuable thing in the world is air, but it has no price because there is so much of it.”

High prices and profits come from things that are scarce. But as science makes possible production in greater and greater quantities with less need for labor, what will happen? Mass production demands mass consumption and there is no way out of that necessity. Automation will produce more and more and employ fewer and fewer men. Prices will fall below the profit level in industry after industry, and depression will follow. Ultimately, competition for profit will have to give way to production for use.

So I believed, and do believe. The competitive principle of "dog eat dog" is not only wrong ethically but also unsound economically. At the same time I believe that in a democracy one must consider not merely what is ultimately desirable but what is immediately feasible. That, in sum, is my guiding philosophy or premise.

The New Deal seemed to me to be the sound approach in America for getting things done. The people were not, and are not, ready for socialism. So I left the Socialist Party and became an active Democrat.

We had in Florida the Democrat who, perhaps above all others, stood for that sound approach to our economic problems—a favorable program for labor, vigorous defense of civil liberties, and a realization of the necessity for peaceful coexistence with the Soviet Union. That Democrat was Claude Pepper, who was twice elected Senator and had much to do with pushing through the New Deal program.

I became a close friend, and campaigned for him vigorously in 1950. The du Ponts and others poured millions into the state to defeat him, and a shameful campaign was waged by his opponent, George A. Smathers, whose political career Claude had sponsored. The charge of Communism was used, along with Claude's friendliness to Negroes, to rouse all the fears and prejudices of the voters against him. His labor and liberal support held firm, but in the backward rural counties the majorities against him were large.

I was saddened by his defeat. He has returned to the practice of law, but I hope that at some future time his voice may again be heard in the United States Senate, speaking for peace and freedom.

In the spring of 1938 Mexico's attempt to take over its own oil industry from foreign interests by the exercise of its right of expropriation had led to talk of intervention and war. Even sober papers like the *New York Times* were speaking in favor of such measures, if necessary, to force Mexico to return the properties of Standard Oil and other American interests.

I wrote an article in *Southern News Almanac* defending Mexico's right to do as it had done and I also supported Mexico's contention that the Mexican courts had the authority to fix the compensation.

I ended the article by saying, "The American people want no war to establish some selfish trade monopoly, but will the issues be made clear to them? Our whole policy in and toward Latin America needs careful watching."

That article in a small, liberal journal was read by President Cárdenas of Mexico, surprisingly enough, and thereupon opened up to me one of the most interesting experiences of my career.²³

At the time, the University of Mexico was in the control of reactionaries who were using it to oppose Cárdenas's liberal and socialistic policies. The university was a government institution. The question was, why should a liberal government support a reactionary group of men who opposed it at every turn? A troublesome question that many other governments have had to ask, and answer if they could, but as often—if not more often—the question has to be put the other way around.

President Cárdenas, who felt that the situation could not be tolerated, was nevertheless advised against a direct attack. Should he dismiss the administrators and faculty members the cry of dictatorship and destruction of academic freedom would immediately be raised, and it would be likely to win wide support for those dismissed, even among liberals.

Why not, then, create a rival institution of higher learning supported by the government with a faculty of liberals?

The President saw the point, and at his request the Mexican Congress appropriated the funds. Thus the Centro de Estudios de Mexico was born.

I received an invitation to teach at the summer session of the newly created institution! And all because of that article in the *South-ern News Almanac* which had been my introduction to the President.

The plan was to get a number of liberal American professors to come down to offer courses, in English, for American teachers who might like to get credits toward a master's degree and at the same time visit Mexico. We who had been invited were not long in accepting. Next, I received a letter from President Cárdenas expressing pleasure that I was coming and asking that when I arrived I come to see him.

Our summer in Mexico was an unforgettable joy. Ethel and I and our children, Boyd and Hannah, drove from Tallahassee along the clear blue waters of the Gulf of Mexico to New Orleans and, after visiting friends in the old Cajon country, went on across the border up to the mountains to reach Monterey. From there the National Highway leads through the thick jungle of a steaming valley fragrant with sweet-smelling flowers and brightened, now and then, by the plumage of parrots and other tropical birds. From the jungle valley the highway starts its climb, circling up and up over 8,000 feet within sixty miles, to reach the plateau on which Mexico City rests. On that climb, all in the midst of majestic mountains, we dropped at times through deep gorges and at other times followed perilously along the edge of precipices.

Like others, we were surprised, on that entry into Mexico, to discover that it is still a land of Indians. The men we passed walking on the side of the highway were wearing serapes; the women were carrying their jars or packages on their heads and their babies Indian-style on their backs. The villages, stuck up on the hillsides or back from the highway, most of them utterly primitive—these were Mexican. We were seeing a land which was, and is, the real Mexico, the Mexico of the masses, ninety per cent of whom are either wholly or partly Indian.

A full day's drive from our first stopping place on the plateau brought us to Mexico City a little before six in the afternoon. In our broken Spanish we asked directions to our hotel from a traffic policeman. He bowed and smiled, unmindful of the confusion

growing around him, and tried to get us to understand the complicated directions. Impossible! He threw up his hands in despair. Then an idea struck him: "I have to leave here in half an hour anyway. I'll leave now and go with you." So, leaving his unguarded post, he climbed into the driver's seat beside me, and with police escort we entered the city in state.

When we reached the hotel he led us through the spacious lobby to the desk. "This is a very important North American," he said, without waiting for any word from me. "You must give him and his family the best suite in the hotel."

The clerk did as he was told, as I well knew when I saw the magnificence of the rooms, and as I knew even better when I paid the bill.

With the help of Dr. William Zeuch, director of the summer school, we found an apartment in an old nunnery in Coyoacan, an easy drive to and from the city. The nunnery had been sold by the government to a Señor Villada, who with his wife lived on the first floor. They rented out the second floor as an apartment with meals and maid service for what in dollars was a modest sum. So, there we settled.

Soon after our arrival I called, as requested, at the office of President Cárdenas. He was out, but the pleasant young secretary, telling me that he knew of the President's wish to see me, said that he would notify me when I could have an appointment.

While I was out playing golf on a fine Saturday morning at the Mexico City Country Club, a handsomely uniformed officer arrived at our apartment. Our hosts, the Villadas, learning that he had come with a message from the President, were duly impressed. We must indeed be very important people. Being told by Ethel where I was, the messenger proceeded to the country club. I was in the midst of the game when he arrived with the caddy master, followed by a dozen or more curious spectators.

I hastily returned to our apartment, changed my attire, sought out Dr. Zeuch and Solomon de Silva, another of my colleagues—de Silva was a Nicaraguan and, of course, spoke Spanish—and went to the huge building which houses the government offices. We were quickly escorted through the courtyard into a large outer office where a score or more of politicians were cooling their heels,

and from there into a small office where Cárdenas himself rose to greet us.

Seldom have I met a more impressive man or one to whom I was so instantly and warmly attracted. He was tall and straight. His high forehead and his straight black hair recalled his Indian ancestry. His eyes were bright green—I have never before or since seen eyes the color of his. Altogether he was a man of noble appearance.

He opened up his mind and heart to me that afternoon. He was, he reminded us, part Tarascon Indian. He had been brought up in a small town where, while still a boy, he became sort of a combination sheriff and jailer. When the revolution broke out in 1912, he entered the army. A man of such brains, character, and impressive personality was bound to rise. He became a general, and in 1934 was "hand-picked" to become the Presidential candidate.

He was chosen by Plutarco Calles, former President and at that time still the power in the National Revolutionary Party. The expectation was that like his immediate predecessor he would be a rubber stamp for Calles. The latter, who had been President from 1924 to 1928, had observed the letter of the Constitution by not being a candidate to succeed himself as he might well have done, but he had not given up the authority. Under him many of the revolutionary gains had been consolidated—a national army had been built, a public works program undertaken, schools established, and agrarian and land reforms initiated. He had, though, turned conservative, and in choosing Cárdenas, the handsome and popular general who had never been active in politics and had no known views, he must have thought he had another who would do his bidding.

Cárdenas, though, soon showed that he was his own man. Although his election was assured he toured the country, and in every village gathered the people about him, inquired about their needs, and in this way ascertained for himself the conditions in every part of Mexico.

When Calles, after the election, sent him a list of persons to be named to the cabinet, he tore it up and named his own men. Calles, outraged, summoned the leaders of the party to a meeting at his home. Cárdenas, hearing who had been invited, sent each one a note which said, "I strongly advise you not to go." No one went. Cárdenas then sent a note to Calles telling him that a plane was

ready to take him to Los Angeles, and "I strongly advise you to leave the country and not to return." Calles did.

Cárdenas understood the poverty, ignorance, and needs of the Indian people. His hope, he said, was to change Mexico from a land of a few privileged and many underprivileged to a land where all could have a full life. He spoke feelingly.

He then told us of the difficulties that were developing over an experiment in cooperative farming in the Laguna, the great cotton-growing region lying between two rivers in northeastern Mexico. The area had been owned by about 200 landlords, most of them absentees, who lived in Mexico City or Europe while harsh overseers exacted the last effort of toil from the underpaid (about 2 cents a day), undernourished, illiterate peons. The land had been taken over with compensation promised to the owners. They also retained the right to keep their own haciendas and 150 acres. The expropriated lands were now being farmed cooperatively by the peons with government aid and under government control.²⁴

The reactionary papers in Mexico City were reporting the plan as a complete failure. The peons were said to be starving, miserable, and ready to revolt. The President's reports from government officials, on the contrary, were highly laudatory of the venture. So now, Cárdenas asked, would we take a group of American professors from the Centro de Estudios summer school, visit the Laguna, and give him an objective report. We consented at once.

As we were taking our leave I thought I would like to pay President Cárdenas a compliment in his own tongue, despite my extremely limited command of Spanish; he spoke no English. I intended to say that he was a man after my own heart, but when I spoke a puzzled expression came over his face. Then he smiled and put his arm around my shoulder, knowing that I had not meant to insult him, whatever it was I had said. I was told later that I had said he was a "finished man."

One of the most virulent critics of the government undertaking in the Laguna was a writer for the *Excelsior* of Mexico City, a person named Concepcion Leal. After our investigation we located this hard-faced and unscrupulous woman in a hotel in Torreón in the Laguna and interviewed her. After that meeting we dubbed her "Miss Conception." Here, though, I am getting ahead of our story, except to say that readers of the *New York Herald Tribune* and of

Country Gentleman and *Atlantic Monthly* were being dealt with no better through articles by Henry J. Allen and Arthur Baum—no better, that is, if truth be the criterion of news reporting.

Our investigating committee comprised besides myself and Boyd, who went along as an observer, Dr. Zeuch, at the time head of the Department of Anglo-American studies at the Centro as well as being director—he has since been a Guggenheim Fellow and more recently a professor at Black Mountain College; Dr. Louis R. Gottschalk, head of the Department of History at the University of Chicago; Professor Paulette Benning, formerly a professor at McGill University and then professor of English at the Centro; and Mary Louise Doherty, formerly a social worker in New York City, and then connected with the Mexican State Department.

We were given every opportunity to study the vast program of cooperation at Laguna, in both its business and human aspects, through talks with officials at the bank, or administrative center, where we also examined the books; talks with the *ejiditarios*, as the members were called, and visits to their homes; interviews in the villages—this last included an opportunity to see a report from a hacienda owner about whom I shall have more to tell later.

Assuming that Concepcion Leal, Mr. Allen, and Mr. Baum meant to see and tell the truth, I was left wondering whom they could have seen in the Laguna region and how they could have obtained their information. Certainly they could not have gone over the books of the Nacional Credit Ejido, which had the only authentic figures anywhere available on the experiment. Neither could they have talked with the Indians who were living on the expropriated lands of the region and carrying on its work. In fact, when I read the journalists' descriptions of Torreón and the surrounding regions, I might have wondered whether they had been there at all, except that I saw the lady from *Excelsior* there myself. True, she had not bothered to go to the bank, where the facts about the situation could have been obtained from a group of hard-working officials and accountants, nor to the *ejidos*, as the farm villages are called, where the Indians themselves live, but her pen could be kept busy without too much exercise under a sub-tropical sun with the plenitude of gossip from expropriated owners and other disgruntled persons in Torreón.

At the time, Señorita Leal's articles, besides being featured in *Excelsior*, were being syndicated to 180 newspapers throughout Mexico and Central America. She had stated that the representatives of the Ejido bank in Torreón were driving ostentatiously around the town in Lincoln and Packard cars, that they never left the bank to visit the *ejidos*, that they engaged in shocking debaucheries, and that they were guilty of double bookkeeping. We found the officials established in modest quarters on a side street, and working under them was a staff of financial experts at salaries ranging from about sixty American dollars a month to \$200 a month for the chief executive of the Torreón branch of Banco Nacional Ejidos. The bank's program over the vast Laguna area was in operation and finishing its second year under the searching test of experience.

We were taken out to the *ejidos* in a second-hand Oakland and a Chevrolet, which were represented to us as cars of the bank's officials. "Where could we see the Lincolns and the Packards?" we asked the lady, on our visit at her hotel. *Excelsior's* correspondent replied that she had not considered the names of the cars important: the fact was that these officials had cars while the *ejiditarios* did not. She would not discuss whether the officials might have had to have cars to carry on their business. Asked whether she had ever seen the debaucheries, she replied that these debaucheries were matters of common gossip. As to the double bookkeeping she refused to disclose what she meant, saying darkly that she would give details at the proper time.

This woman, on whose word so many were forming their opinion or having their hatred bolstered, had filled herself up with the mean gossip of a lot of self-interested people in Torreón and was broadcasting it to the world at so much a word. Thus is news made—at least thus was it being made in Mexico at the time—and in our own country Mr. Allen's articles in the *Herald Tribune* likewise proceeded by innuendoes, unsupported by facts. As for Mr. Baum, whose article in *Country Gentleman* the editors of *Atlantic Monthly* found worthy of reprinting, he shamelessly reported a deficit of 40,000,000 pesos for the last year's operation, whereas over 4,400,000 pesos in profits had been distributed to the *ejiditarios* after the National Credit Bank had reimbursed itself for an

outlay of more than 22,000,000 pesos for seed, fertilizer, labor costs, and other current expenses.

Luckily for another American, a salesman for Simmons beds, he had not read Mr. Baum's report, or, if he had, had given it no more credence than the reports of the correspondent for *Excelsior* deserved. He was on hand, taking orders, prior to the distribution of the cash; it amounted to about \$200 per *ejiditario*, a fortune to the recipients. We saw the beds, beautifully cared for beneath pictures of the Virgin Mary and President Cárdenas, in the workers' homes. We were told the owners still slept on the floor, the beds being too highly prized for use—maybe it was that they were too soft—but the beds were there, with other newly acquired possessions, as symbols of a new life, or one that they believed was on the way.

A reporter searching for truth might also have come upon the owner of *La Paz*, a hacienda we were invited to visit. His properties had been taken from him, so far without definite provision for compensation. The village of the same name, on which he had spent much care, money, and thought, now belonged to the *ejido*. Yet there was not an Indian but spoke well of him. "He is our friend," said one. "Yes, he often comes out to see us," added another. "He said he was glad we had gotten a break," said a third, "and that if we ever wanted any advice or help to call on him. He would help any way he could." A salute to him! I suggested to *Excelsior* that it have him interviewed and publish his point of view. So far as I know, it never did.

In *La Paz*, the first village that we visited, we met its elected president, an old Indian, and the executive committee, all Indians, in conference. The old Indian told us proudly that, although they would have done better if they had not suffered from drought, they had distributed profits, above wages, averaging about \$200 a family—verification of the figure given by the bank.

At one point Dr. Gottschalk, probing the Indian, said, "I notice that your church has fallen into ruins and that you are doing nothing to repair it. I wonder whether you see a connection between your failure to rebuild your church and the drought?"

The old Indian's face was wrinkled by puzzlement. He didn't know whether Dr. Gottschalk was being probing or facetious. Finally he pointed out of the window to a new stucco building.

"Do you see that building?" he asked. "That is our new school-

house. We never had one in *La Paz* before. We decided that if God was watching he would rather see us build a schoolhouse than to repair the church."

As for the *Laguna* system itself, it was designed to combine cooperative ownership and operation of the land with the largest possible degree of individual incentive and reward. Each worker's monetary return was in direct proportion to the work he expended. If he did not do his fair share of the work he was brought before the Vigilance Council, given a warning, and put on probation for fifteen days. If at the end of that time he had not made good, he was deprived of work for ten days and his advances of money, which were made each week to enable the workers to keep living, were automatically stopped. He was then given still another chance. If he still failed to perform his work satisfactorily he was brought before a meeting of the *ejido* assembly, which could give him another chance or expel him. If expelled he lost all rights in the *ejido*, including his home and the garden which went with it, and his share of future profits.

When there was a vacancy a person from outside the *ejido* could apply for membership. His qualifications were carefully examined and if he was elected he became a member on the same terms and conditions as the rest.

I told the legal representative of one of the *ejidos* that it looked to me as though they had a good life and asked him how I could become a member. The old Indian, with a wide grin beneath his clipped gray mustache, replied, "You will have to prove that you are a good farmer." Everyone laughed.

"I can prove that I am a good teacher," I countered. "Won't that do?"

His answer, "No, you will have to work," brought amused assent from the assembled *ejiditarios*. I had received my proper comeuppance, as had Dr. Gottschalk before me.

We were impressed by what we saw and heard, all in such contradiction to what was being reported about the *Laguna*. There was, though, the other side to be considered, the claims of the former owners of this property; but to talk merely, or solely, in terms of their rights and the wrongs done them, as most who had access to the press were doing, was not enough. A solution needed to be found.

Our committee of inquiry believed, and we so reported to the President, that quite apart from the abstract question of whether ultimate justice lay on the side of giving the land back to the descendants of its ancient owners—the people through whose toil it was made fruitful—as a practical matter definite provision should be made for the settlement of the claims of those who were expropriated. True, provision for payment was promised: Officials of the Ejido bank stated that in three years, when the dam at Laguna was completed and difficulties attending the inception of the plan had been worked out, fifteen per cent of the profits were to be set aside each year to pay the claims of the former owners. This statement of intent, though, was received by the critics of the administration with a cynical smile. The longer the new owners went without paying, the latter said, the harder collecting anything would be.

To President Cárdenas and his supporters, despite all the criticism, the Laguna project was the hopeful beginning of the solution to the problem of the land and of securing a good life for the hitherto exploited people of Mexico. To his critics it was the vision of a dreamer who failed to take account of the weakness and selfishness of human nature which would inevitably bring it to defeat. To us observers, from what we could see and learn, it was proving a success in the face of enormous difficulties and discouragements.

That was the gist of our report. While highly critical on a number of scores, it was highly commendatory. And despite the fact that we were investigators of different political outlooks, and that Dr. Gottschalk was suspicious of anything that smacked of communism, our report was unanimous. Partly on the strength of it I was given the degree of Doctor of Law by Centro de Estudios.

I have been unable to keep in close touch with affairs in Mexico. I have heard that the Laguna is prospering but that no new cooperatives have been started. I do know that after Cárdenas left office much of the social idealism of his tenure evaporated. Many thought that he should have stayed on in the Presidency at the end of his term. He might have done so, but I am glad that he did not. Democracy needs to be improved and refined, but much that has happened in our times, notably in Hungary and Poland, has convinced me, if indeed I needed convincing, that although progress may

sometimes seem faster under a dictatorship the slower processes of democracy are sounder. Even with, and despite, their Miss Conception, and their Mr. Misconceptions!

But, thinking of them and the free rein if not encouragement they were being given not only by *Excelsior* but by the most highly respected periodicals of our own country, I am led to ponder on journalism and its responsibility to the truth. In a complex world, decisions for a democracy are difficult enough at best. To choose wise courses and competent leaders would be a sufficiently hazardous course even if the people could know all the truth about national and world affairs. When news is either poisoned or suppressed, not in the dictator countries alone but in the freest of democracies, ours included, we, the people, are groping in a fog.

Toward the end of 1951 I felt increasingly that I was too much at ease in Zion while one of history's great struggles for the preservation of free speech was taking place right here in our own country. McCarthy and others of the witch hunters were riding high in Congress, and elsewhere the pall of fear had effectively silenced all questioning and all dissent. People were being hounded in a shameless fashion for opinions they held, or which they may have held. The good name of America was being lost and the way seemingly was being prepared for the rise of demagogues. Those who attempted to speak out against the evil were being pilloried. More and more people, seeing what happened to those few, withdrew.

One of the great needs, I knew, was for lawyers, lawyers willing to defend the accused. They took the cases at their own risk, and I was later to know how damaging the consequences were to the careers of many. I was a lawyer beyond the time in life when I had a career to lose. I was nearing the age of three score and ten. The arguments for inaction that I made to the promptings of my conscience were that I had let my legal tools grow dull for nearly a quarter of a century, and I knew none of the leaders of the embattled Communist movement, the group that was bearing the brunt of the attack. If we broke up our home and gave up my salary from Rollins, would my services be sought or would it prove to be a useless gesture? By such questions do men beguile themselves.

I made the choice. I gave up my teaching and offered my services to those who needed them. Five years later, when I took office as Executive Secretary of the National Lawyers' Guild—one of the organizations that itself was on the front line against the attack—a distinguished lawyer, Charles Rothenberg, likened my "moment in time" to that of Emile Zola. "Royal France made his own choice," Rothenberg wrote. "He put aside the books, bade farewell to his students and associates, turned his back on more than twenty

years of a peaceful and ordered pursuit, and went off to take his stand with Gideon's host in the defense of our liberties."

While I do not feel that I deserved the praise given on that occasion and others, it is true that increasingly I could find no peace. In that raging battle the values to which our country was dedicated by its founders would be preserved or destroyed. I profoundly believed in those values, yet I was sitting on the side lines.

The outcome of that battle depended, to a great extent, upon a test of the legality of the Smith Act. Despite the fact that the Smith Act instituted the most severe and extended repression of men's freedom to speak and write their thoughts in all our history, and despite the numerous trials and convictions under that legislation, many people do not yet know what the Smith Act is. Ordinarily well-informed and intelligent people are greatly surprised when told of its true nature and implications.

The Smith Act was passed, without debate, on June 28, 1940, just prior to this country's entrance into the Second World War. At the time there were widespread feelings of hostility toward aliens—the Alien Registration Act was another expression of it. Now, under the new legislation, it was made a crime "to advocate or teach knowingly or willfully the duty, desirability or propriety of overthrowing any government of the United States by force or violence." The act was passed when the threat of fascism was at the fore, but there it lay, as a weapon for the demagogues and witch hunters to use against Communists a decade later.

Two things should be noted about the language of the Smith Act. First, it is directed not against overt acts. It merely proscribes advocacy and teaching. This, I felt, along with others who became concerned, was a violation of the guarantee of freedom of speech contained in the First Amendment. Second, by speaking of *any* government the act made it unlawful to advocate the overthrow or destruction even of a Fascist regime like that in Spain, if one should arise in the future.

The Communists, against whom the act was to be used vengeance, had taught and believed in the right of a people to revolt if a government was unable to fulfill its democratic functions, if there was a serious crisis, and if the free channels of expression and voting were closed. Lincoln, before the Communists, had declared it to be not only the right but the duty of the people to alter or "abolish"

a government that had ceased to serve the people to whom it belonged. The right, indeed, had been exercised by the Founding Fathers, who had proudly declared their intention in the Declaration of Independence.

In all the many trials that were to follow, it was never claimed in any Smith Act case that the Communists had prepared for revolution by any overt act, or that they had incited to revolution in the present period. Whatever advocacy there was was highly theoretical and based on possible future events that might never arise. Moreover, in 1945 they had put into their constitution an explicit statement that they favored change only by the democratic process and that any member of the party advocating forcible overthrow of government would be expelled. Some left-wing extremists were expelled.

I was troubled by my knowledge that the Smith Act was being used to destroy a political party, for I saw in it a direful precedent. If mere "advocacy" could be made a crime it would be easy to accuse—and to silence and destroy—any political movement critical of the *status quo*. What finally clinched my decision, though, as to where I belonged was an article by Supreme Court Justice Douglas in the *New York Times Magazine* for January 13, 1952. It was entitled "The Black Silence of Fear," and in it Douglas said:

"There is an ominous trend in this nation. We are developing tolerance only for the orthodox point of view in world affairs, intolerance for new and different approaches. . . . Fear even strikes at lawyers and the bar. Those accused of illegal Communist activity—all presumed innocent, of course, until found guilty—have difficulty getting reputable lawyers to defend them."

To me his words were like the sound of the alarm bell to the old fire horse. Since I had no law practice to lose and since I am not easily intimidated, my mind was about made up. I took a trip to New York. There one of my oldest and closest friends, the Reverend John Haynes Holmes, arranged for a luncheon at which he and I and Patrick Malin of the American Civil Liberties Union, and Donald Harrington, Holmes's successor as pastor of the Community Church, discussed the matter. They all urged me to return.²⁵

I also talked with the late Walter White of the National Association for the Advancement of Colored People, and with my old

friend Roger Baldwin and others interested in civil liberties and civil rights. I wrote a number of letters, among them letters to friends on the bench. All the responses were encouraging, including one from Justice Douglas; speaking of liberal lawyers, he commented on how thin their ranks were growing. Justice Frankfurter, too, wrote commending my decision to take up actively the defense of civil liberties.²⁶

Justice Black wrote approvingly, and with insight: "It should be quite an interesting adventure for you." He was right, as he usually is. My taking up a law career again in defense of civil liberties has been an interesting adventure.

My decision had now been reached, but how was I to put it into effect? I had encouragement but no clients. I did not know a single leader of the Communist Party, nor indeed any prominent radicals, Communist or otherwise. I felt that liberal friends like Holmes and Baldwin would be sympathetic but they would not bring clients to me. I must make contact with the left. I set about to do so.

I had never met Howard Fast but I had read and admired *Citizen Tom Paine*, and I knew that Fast, its author, had been imprisoned on a contempt charge growing out of his refusal to answer questions relating to his activities. Specifically he was one of those involved, with Dr. Edward Barsky and others, in the long fight of the Joint Anti-Fascist Refugee Committee to stand up to the government's inquisition as to the help sent to the Spanish Republicans during and after the civil war in that country. So I wrote to Fast setting forth my problem. He replied most warmly, but said that he knew little about the situation in regard to lawyers. He urged me to see Harry Sacher, one of the lawyers who had defended the Communists in the first Smith Act trial.

I called on Harry Sacher. He had been a highly successful labor lawyer, his fees being reputed to have exceeded \$50,000 a year before he became involved in the Communists' defense. As a result of his vigorous defense and his frequent clashes with Harold Medina, the trial judge, he was then facing a jail sentence for contempt and was threatened with disbarment. What had happened to him was illustrative of the dangers that face attorneys who represent people associated with unpopular causes. By reason of his notoriety as a defender of Communists and the conduct of Judge Medina toward him—conduct which was later condemned by members of

the Supreme Court—the important labor unions he had represented had slipped away. When I met him he was still in the spacious and tastefully appointed offices of a successful lawyer, although his days there were numbered. He would soon be off for a term in a Federal prison and on his return he would have to find offices suited to his reduced circumstances.²⁷

On the occasion of our meeting I would never have known from his manner that he was in deep personal trouble. He struck me as an unusually forceful, able, and cultured gentleman. He greeted me warmly and gave the news of my intention to resume practicing law a jovial and friendly reception. The trial of the “second-string” Communist leaders—Elizabeth Gurley Flynn and others—was soon coming up, he told me; the “first-string” Communists, Eugene Dennis and others, were already serving their prison terms. Sacher asked if I would be willing to talk with one of those who was now awaiting trial.

On my replying in the affirmative, he called Simon Gerson, one of the indicted Communist Party leaders, and I arranged to meet him at the Association of the Bar, in which I had retained my membership. The meeting was a momentous one for the remainder of my career.

As I sat waiting for the arrival of Simon Gerson in the august reception room of the Association of the Bar on West Forty-fourth Street I felt as I used to feel on a chilly morning at Canada Lake in the Adirondacks before taking the first plunge. I was about to meet a real, live Communist.²⁸

I thought of all the comforts of our home in Winter Park, the sunny skies and the Turk's-caps and orange trees in blossom. I thought of the students who would miss me—I hoped—and of the golf and leisure for reading and study and lecture, and of all the cultural and social activities that I would miss. Life in Florida as a college professor was fun—and maybe more useful, I ruminated, than the one I might be coming to in New York.

“Who is going to want a white-haired old codger like you for a lawyer?” I asked myself, with just one toe stuck into the cold water.

No answer.

“But you want to be wanted, don't you? That's why you're here, isn't it?”

“Sure—on my own terms. But the conservative lawyers of the Bar Association say that if you represent a Communist you have to do it on his terms.”

“Well, that's fine,” I told myself. “If it's that way, I will have eased my conscience by trying. Then I can go back to my books and my classes where nobody tells me how to teach, and to my golfing friends and the rippling days of sunshine in Florida.” Those days end in spectacular sunsets, followed by nights wherein the stars shine brighter than in any cold sky in the North.

“Well, yes,” I continued my colloquy, “but probably a Communist, if he has any sense, would no more presume to tell his lawyer how to try a case than he would tell his doctor how to remove his appendix. So, O.K. That's fine. But I have to be honest with this fellow, Simon Gerson. I don't want to practice law so badly as to mislead him about my reasons. I'll have to tell him that

I'm not a Communist and that I disagree with a lot of things that Communists believe and do. Then he'll go elsewhere and I'll go home to Florida."

"Ha, but wait a minute," replied my conscience in terms I used to use to my students. "Do you really know what they believe and do? You know what Marx taught. You know that he was one of the two or three greatest economists of all time. You know that in some things he has been proven right and in others wrong, just as Adam Smith and Darwin and other pioneer thinkers have. You're not returning to the practice of law to defend Marx—or Lenin. They need no defense from you. They hold a place in history greater than yours, or Professor Alvin Hanson's of Harvard [the brain father, along with John Maynard Keynes, of the New Deal], or, for that matter, President Truman's. Marx and Lenin were great innovators. You don't have to agree with what Gerson thinks or says about them. All you have to do is to defend his right to say it. That's good Americanism—that's what 'Sweet Land of Liberty' means."

"O.K. Still, I have to make that plain, conscience, old boy. Maybe when I do, Simon Gerson will shake his head no and I'll be off the hook—or is it a hook?"

This colloquy came back to the same old point. I could not be at peace with myself until I had genuinely and without reserve offered myself, at a crucial moment in history, to defend the principles which lay at the basis of my philosophy of life. To do so required defending Communists.

The Communists had been given a bad name, certainly. Over and over again liberal friends who believed in the Bill of Rights had warned me that Communists were not to be trusted.

"They will use you," they said, "and when you have served their purpose they will throw you on the ash heap."

"But I wish to be used," I answered their arguments, to myself if not to them. "I will be disappointed if I am not used and by the time I'm through I probably won't be good for much except the ash heap anyway . . . and when I get through the Communists may prove that you are wrong."

So I replied to such forebodings.

I myself knew nothing about the leaders of the Communist Party as people. Whether I liked them or not, I was prepared to

defend their legal rights. At that stage I was defending principles, not men and women. Later, when I knew the Communist leaders, some of them intimately, I came to defend them wholeheartedly as good people and not merely as symbols of a principle. I like people who have convictions for which they are willing to make sacrifices. I do not have to agree with them.

My liberal friends had further asserted vehemently that the Communists were so dogmatic and bound by inflexible creed that they would be intolerant of my disagreements with them. Even if they used me for their own purposes, I was warned, they would despise me as a soft-headed liberal.

So, understandably, I awaited my first contact with a Communist leader with misgivings combined with keen expectancy. All my striving, all my self-searchings, all my doubts as to the wisdom, at my age, of leaving the calm and quietude of Rollins College for the hurly-burly of the courtroom were in the past. I was doing that which all that I had been and had become demanded that I do.

When Simon Gerson came into the room, smoke and fire were not pouring out of his nostrils nor did the pillars of the conservative Bar Association building shake.

He was a tall, youngish-looking man, athletic in build, square of jaw but with a kindly eye and a genial smile; an unusually handsome man, neatly dressed and self-possessed. He could have been taken for a junior executive of General Motors more easily than for a junior executive of the Communist Party, in the general impression of that party.

After the usual preliminaries of feeling each other out in small talk which included big talk about the Dodgers (we were both Dodger fans) we got down to business.

"Harry Sacher told me that you are planning to return to the active practice of law," he said.

"That's right. I am an old-fashioned type of liberal who believes that the First Amendment means what it says, and that what it says is important."

"And you are willing to undertake the defense of Communists?"

"That's right—but I must make clear at the outset that I am willing to defend the freedom of speech of Communists not because I believe what you say but because I believe that you have a

right to say it. I will defend that right to the best of my ability. To me that is basic to democracy."

"Voltaire!" he commented.

"Right. Except that I won't go so far as to assert that I disagree with all that you say. No doubt, as intelligent men who differ usually do, we shall find many views which we share. Probably our differences will be more over methods than ultimate goals. I am an eclectic—politically a pragmatist. I believe in doing what is at hand and needs to be done without too much regard to theory. You have a creed. But people with beliefs in creeds for which they were willing to sacrifice their own comforts and safety have played a highly important role in human progress."

He then told me of his indictment and asked if I would be his attorney.

"There are two conditions," I told him in turn. "There is a rumor around among attorneys that Communists try to tell them how to defend them. My first condition is that I would have to be free to conduct your defense as I thought proper."

He interrupted to explain how that idea had been spread. He had called on a prominent attorney with a view to retaining him. This lawyer had said that the defendants must not interfere with his conduct of the case, and to that Gerson had replied that of course they would not but they would expect him in return to try to understand their point of view and what they did advocate, in order to combat the government's contention that they were advocating its violent overthrow.

The attorney apparently had taken umbrage at this statement and spread the word around among conservative lawyers that the Communists wouldn't let anyone defend them who would not do it their way.

I replied that, as a matter of course, I would need to know what they had said and advocated, and to understand their point of view. I would have to do that in order to be able to conduct a proper defense.

"Fine," he answered. "That's all I ask. I will give you my ideas but you will be free to conduct my defense as you think best."

I may say here that in all the cases in which I later represented Communists, never once did any one of them try to dictate to me as to how I should handle his case.

"What's the second condition?" Gerson asked.

I explained that I was under contract with Rollins College to finish out the college year and that if the case came to trial before the first week in June I would not be available.

As it turned out the trial started in March. I was ultimately glad that I was not in it because it went on for nearly a year, and had I been involved I would have missed many fascinating and illuminating experiences that were part of my first year back in New York. That is not to say that the other experience would not have been so. Simon Gerson and I liked each other, and despite our frequent arguments over differences we became close friends. I later represented him as counsel before a witch-hunting committee of the Senate and became the lawyer for his wife, Sophie, in a case brought by the government to take away her citizenship.

Home again in Winter Park after my exploratory journey to New York my life moved in its usual groove except that, in response to a long-distance call from Harry Sacher and Nathan Witt, I agreed to work on the preparation of a brief in connection with the disbarment proceedings against Sacher. Remembering the man I was glad to be asked to help.

My own involvement in the civil liberties struggle was limited to support of a meeting for Dr. Harry F. Ward, former professor of Christian ethics at Union Theological Seminary in New York. Dr. Ward was nearing eighty; he was slight of build but still full of fire and vigor. He was in Florida on a speaking tour and the subject of his lecture was the cause of the Korean war. He is a noted dissenter and the object of Red-baiting attacks, and in this instance—as in many others—he differed sharply from the official line and was under attack for it. I was meeting him for the first time, but we were to have many occasions to meet and work together after that.²⁹

When the subject of his talk became known the press opened an attack, and it was then impossible for the committee that had invited him to obtain a hall, either in Winter Park or in neighboring Orlando. Dr. Ward is not only a scholar of international reputation; he is also a clergyman who has had great influence. His *Social Creed of the Churches*, written in 1910, was accepted as a guiding document by his own church, the Methodist, and was followed by similar credos by other Protestant church bodies. Yet in all that Florida area, for a time, there was not only no public hall opened to him but no church.

At that impasse, a Negro clergyman offered his church as a meeting place, and so the meeting was held in the segregated section of Orlando. I went. There were not more than a dozen white people present and perhaps twice as many Negroes. The pastor of the church was obviously nervous; one does not lightly do what he had done. He knew, as did others there, that the *Orlando Sentinel* had

a reporter there to write a Red-baiting story. The reporter was a former student of mine. When I nodded to him he looked sheepish. He had his job to do.

I shall never forget Dr. Ward's speech. To the handful of nervous whites and Negroes gathered to hear him that night, he delivered his address with the same care and vigor and scholarly approach a speaker would use in addressing an audience of university professors or the General Assembly of the United Nations. His mind was clear, his delivery forceful, and his logic and the extensive documentation of his argument impressive. I have never known a more ardent and tenacious fighter for the truth and the right to speak the truth as he sees it.

I was well known to the Negroes of Winter Park and Orlando because of the many times I had championed their rights. At the end of Dr. Ward's address the Negro pastor, who was presiding, called on me to speak. I could feel the discomfiture of the reporter, who had been my friend and admirer, when I praised Dr. Ward for his address and the pastor and officials of the church for making it possible for Dr. Ward to be heard. After the meeting the pastor said, "Dr. France, my people were afraid to come to this meeting, but if they had known you would be here they wouldn't have been afraid any more. They would have come." Seldom has a remark touched me more.

The next day I was in the hospital, having undergone an emergency operation for the removal of my gall bladder. Soon after coming out from under the anaesthetic I got hold of a copy of the *Sentinel* and, as I had expected, it contained a blast against Dr. Ward as a member of numerous "Communist fronts" and an apologist for the Soviet Union. Along with that attack was a bitter one on me for abetting him. Later my reporter friend apologized abjectly.

"What could I do?" he asked. What, indeed!

When I left Rollins, President Hugh McKean wrote a warm letter of appreciation and gave every assurance of his own regard and friendship for me. I cannot escape the feeling, though, that he and the Board of Trustees were glad to see me go. Academic freedom, like other high ideals, sometimes becomes embarrassing in practice.

The announcement of my resignation, however, brought forth ex-

pressions of regard from friend and foe alike, and they warmed my heart.

One of my critics who became most hot under the collar in attacking me was Dr. Widmer Doremus, a wealthy retired surgeon. He despised New Dealism, "creeping socialism," "socialized medicine," labor leaders, Claude Pepper, and my ideas. Nonetheless he showed high regard for me. He stood beside my surgeon in the operating room, visited me daily in the hospital, and watched over my convalescence with solicitous care. During my recuperation he pedaled his bicycle (he was too nearly blind and deaf to drive a car) the two miles from his home to mine. After checking on my health he would start a heated argument about how labor leaders, Socialists, Communists, and "well-meaning but pestiferous professors" like me were trying to deprive him of the wealth he had gained through arduous effort. Sometimes when our voices rose high Ethel would hurry in and put an end to the argument. Widmer, who had a good sense of humor, would leave with some pat joke to the effect that at least I couldn't accuse him of killing me with kindness. He was kind and irascible, a cranky Good Samaritan and a friend in time of need.

Another case in point was my friendship with James Duncan Phillips. During New Deal days I gave a talk at the University Club defending Roosevelt's spending policy to relieve unemployment. The membership consisted predominantly of successful retired conservatives who considered Roosevelt a demagogic traitor to his class and thought that the country was headed over the precipice. The discussion that followed my talk was what might be expected. I was met with a roar of laughter, I remember, when in response to a question I replied that I was sure the country could stand a national debt of 50 billion dollars without going bankrupt. It is not easy now, with a national debt of more than five times 50 billion complacently accepted by Republicans as well as Democrats, to recall the bitterness of the opposition to New Deal spending.³⁰

"It is not financial bankruptcy that we need to fear," I said at the time. "It is the dreadful loss of goods, services, health, and morale brought about through idle money, idle goods, idle machines, and idle men. The entire national debt could be paid off by a stroke of the pen with printing-press money tomorrow. Your dollars would be worthless, it is true, but our mines, fields, factories, and man-

power would still be there. If we had enough sense we would put them to work so that they could produce an abundance for us all."

At the meeting's close Phillips, fleshy, flushed, and angry, came up to me and shouted, "You're nothing but a G— d— Communist!"

I didn't know him then. I later found out that he was a wealthy self-made man and chairman of the board of Houghton-Mifflin Company in Boston, one of the country's best-known publishing houses. At our first meeting he looked as though he were about to have a stroke.

"I hadn't thought of myself as a Communist," I answered mildly, and said I would like to have a talk with him to find out how I had given that impression. The upshot was that the next day we had lunch together and came to know each other. I asked him what led him to his point of view and heard in return the story of a poor boy who had worked his way through Harvard, started at the bottom of the publishing house, and risen to the top. He had found America the land of opportunity for the fellow who was willing to use "his brains fully and his time without watching the clock."

I then told him some of my life experiences that had led me to reach different conclusions from his own. He listened courteously. I invited him to present his point of view to my class, and after that he did so every year. It was hard for them to believe in the woes of the downtrodden rich, as he described them, when they saw him driven to the door in his luxurious Cadillac.

To get to know a person is to understand him, and in most cases to like him. It might even be so with McCarthy, the Irish lad from across the tracks, with a deep inferiority complex, who found the wrong way to fame and fortune. In contrast I despise the hypocrisy of a Brownell who started out with life's advantages. He ought to know better than to do and say what he does. But probably, if I knew him I would find myself, almost against my will, liking him.

A story told of Dr. Johnson and Dr. Boswell, as I recall it, makes the point. The two were walking down a London street when Johnson saw a man on the other side.

"How I hate that man!" he exclaimed.

"Why, I didn't know you knew him," Boswell answered.

"Of course I don't know him," replied Dr. Johnson irascibly. "If I did I wouldn't hate him."

To hate cruelty, injustice, and oppression and to fight the good fight against them are wholesome. To hate the individuals who do the wrong is corroding. Jesus said, "Love your enemies," but no one castigated hypocrites and fourflushers more vehemently than he. "Woe unto you, scribes and Pharisees, hypocrites! for ye are like unto whited sepulchres, which indeed appear beautiful outward, but are within full of dead men's bones, . . . Ye serpents, ye generation of vipers!"

Even at my most indignant I never used quite such bitter language as that of the loving Jesus. Was he inconsistent? I do not think so. I understand how you can hate the enemy of the thing you consider good as a symbol of the evil for which he stands. We cannot consent to the injustice of the rule of the unjust. Yet without a standard of the value of every human being men cannot live together. Tolerance, like free speech, is a necessary ingredient of democracy. Intolerance breeds a Robespierre, a Hitler, a Mussolini, a Stalin, or, here at home, a McCarthy.

I had scarcely left the hospital after the operation I have mentioned when I was invited by the University Club to give a farewell address. I expected that the announcement that I was to return to the practice of law to defend Communists would meet with an explosion of disapproval. I spoke forthrightly on the importance of the Bill of Rights to every American. I said that you defend freedom of speech and the right to dissent at the point where it is attacked or you don't defend it at all. I recalled Lowell's "Once to every man and nation comes the moment to decide," and concluded, "My moment to decide has come. I have decided to dedicate what remains of my life to the defense of freedom."

There are three broad groups in every society, I told my audience. In every age the radicals have been those who are dissatisfied. They have been the apostles of discontent. "Things are not good enough around here," they say. "We're going to have changes." Without that point of view, without the discontented radicals, there would be no progress. The conservatives, on the other hand, are usually those who are getting along pretty well with things as they are. They say, "What are you kicking about? Let's not move too fast. Let's not upset the apple cart." They point out the gains we have

made and argue against too hasty or frequent changes. The liberals should hold the scales in balance between the two extremes. In good times they lean toward the conservatives. In times of crisis and depression they join the radicals in demanding change. At all times the liberals should defend the freedom of all to speak and to hear. That is their special responsibility.

Each of these groups, I explained, plays an important part in the democratic process. The radicals are the spark plug; the conservatives, the brake. The radicals were brutally silenced in Nazi Germany. The conservatives were ruthlessly repressed in Russia. The liberal who believes in democracy will oppose with all his might the attempt of either group to silence the other. In America today it is the radical who is being deprived of his right to speak.

"As one who loves his country and the ideals of freedom for which it stands," I told my conservative University Club audience, "I dedicate myself and all that I am to the defense of that right."

To my surprise I received a standing ovation. One speaker after another, including conservatives like my friend Phillips, rose to express warm friendship and approval of my stand. It has been my experience that decent Americans, when they hear the truth, respond to the challenge. The trouble is that for many years now Americans have been told lies intended to foster hate and to increase international tension. How else, I ask, could billions have been voted for bombs by as peace-loving a people as there is anywhere?

The Jews, I maintain, are an idealistic people. Of course, I am not so foolish as to consider all Jews or Negroes or Scots or American Legionnaires alike. I judge every individual as an individual, not as a member of a group. But, perhaps from the ancient heritage of the Hebrew prophets, or perhaps from having been a persecuted group, the proportion of Jews concerned for others than themselves is high.

I was still in the early stages of recuperation from my operation when I received a long distance telephone call from a lawyer in New York who gave his name as Frank Donner. He wanted to know if he and Harold Buchman, a Baltimore attorney, could come to see me.³¹

When they arrived at my home, I was favorably impressed. They wanted me to take part in the preparation of the brief and in the argument of the appeal of six Communist leaders who had been convicted under the Smith Act in Baltimore. It looked as though business were picking up; I was no longer a briefless lawyer. I had six prospective clients.

Frank Donner, whom I was to know well, was a tall, well-built, and full-bodied individual. He was soft-spoken and had an engaging smile. He did most of the talking and explained the case cogently and well. When he had finished Harold Buchman told me something about the six defendants.³²

That done they awaited my decision. I did not answer immediately, not because I was in any doubt about wanting to take the case: I just knew that if it had to be argued before college closed in June I would have neither the time nor strength to prepare.

I explained matters, and it was agreed that I should get an affidavit from my physician on the basis of which they would seek a postponement. Business attended to, we spent a while in the back yard enjoying the golden sunshine. They commented on the orange trees and tall swaying pines around them, and the dark mysterious jungle beyond.

"How can you think of leaving all this and coming back to New York to practice law?" Frank asked.

I felt that the question was rhetorical. I had learned of the part that he and his companion had played in the fight for civil liberties. I did not need to explain to them either the wrench involved in giving up our work and home in Florida or the compulsion one feels to take one's place beside brave men in the arena when grave issues are at stake. A man has to continue to respect himself. I was not too old to strike some vigorous blows in defense of a badly embattled democracy. Indeed, the decision once made, I felt fresh exaltation and strength flowing through my whole being.

Before leaving, Frank told me that his firm had a vacant office in its suite and that I could have it for a reasonable price. I accepted the offer and was that much further along on the resumption of the practice of law.

During the next three years of close association in that office I saw Frank Donner at work. I have rarely seen anyone less interested in the money-making aspects of his practice than the one with whom I was now associated. Frank Donner is a legal scholar, at home with books and ideas, and so interested in a complex legal problem when he gets hold of one that, regardless of the fee involved and to the neglect of other matters that might be more profitable, he spends endless time in research. He would have made an ideal member of the faculty of some great university. Fortunately, his partners, Arthur Kinoy and Marshall Perlman, although idealists themselves, had sufficient interest in budgetary matters to keep the firm financially afloat.

I arrived in Baltimore to meet my clients in June, 1952. I had already talked with Joseph Forer, a brilliant civil liberties lawyer, in Washington, and with Buchman, both of whom were to be associated with me in the appeal.

Baltimore that day seemed like something in a dream, wrapped as it was in soft air with fleecy clouds overhead. It is an old, old city, beautiful only to loyal Baltimoreans. Were it not for the automobiles instead of the horses in the streets, I could have been back in the nineteenth century. The mansion built by my great-great-grandfather France still stands among the relics of a still earlier time. It was hard for me to imagine even six Communists in this staid old town. What would they be like?

I went to Buchman's office in the Tower Building. There, for

the first time, I met Dorothy Rose Blumberg, one of the defendants and one of the loveliest persons I have ever known—the sort of person who helps to restore your pride in being a human being.³³

Despite her graying hair and the fact that she was a grandmother, she was youthful and charming. Her face was gentle but strong, and her eyes were kind and alert. She was the second Communist leader I had met, and she no more than the first lived up to the picture of a frenzied fanatic, the idea so commonly held of a Communist. Her gaiety, her sense of humor, her quick understanding drew me to her at once. I knew we would be, as indeed we became, great friends.

I later learned her story. Her father was a wealthy garment manufacturer. She had grown up in privilege and had attended the best schools. While in Goucher College she had heard Norman Thomas speak on the evils of the capitalist system, and had thereupon decided to visit her father's factory. Conditions in the textile factories are better now; this visit was made in the bad old days. What Dorothy Rose saw made her become a Socialist. Then, because the Socialists seemed to be too mild and moribund for the task of dispossessing the capitalists, she became a Communist. For what? Personal gain? She had everything to lose but respect for herself. Glory? Through martyrdom? She was too normal and loved life too much to court martyrdom. But she had the iron in her make-up to enable her to give up security and luxury and the friendship of the successful, and to go out on the picket line and, finally, to prison for her faith.

Once, in telling me of her friend Elizabeth Gurley Flynn (whom I later came to know and like as well as admire), Dorothy Rose described her as being bright, warm, sturdy, and loving. "Always," she added, "her view was outward and upward. . . . I can think of nothing so apt as one sentence of hers, 'No matter what the consequences I will never move from where I stand.'"³⁴

In so describing her friend my new client was also describing herself. She is inflexible in purpose, but not in a dogmatic sense. She and I have discussed our points of agreement and differences, and each of us respects the other's opinion.

On that first day in Baltimore a press conference was held. Because of the prominence of the France family in Maryland and my own background, there was some curiosity as to why I had taken the case of the Communists.

I was bombarded with questions.

A reporter for the *Baltimore Sun* asked the question that supposedly would embarrass me. "You say," he said, "that you would defend right-wingers as well as left. Would you defend Senator McCarthy?"

The Senator, at the time, was in the heyday of his power.

"Certainly I would defend McCarthy if his right to freedom of speech were curtailed—if he wanted me." Then I added, with a grin, "However, I would need to take a good deal of bicarbonate of soda in the course of the trial."

The other Baltimore clients whom I had undertaken to defend were, like Dorothy Rose, fine people, from my point of view. Regina Frankfeld, a brilliant person, was the only teacher of paraplegic children in the Baltimore public school system, the difficulty of the assignment being some measure of her worth. Roy Woods had received his first impulse toward communism from a Congregational minister in his home town church in the Midwest. Maurice Braverman's only offense was that as a lawyer he had defended radicals and had attended Communist meetings. George Myers was a vigorous and personally likable labor leader.³⁵

The appeal of these six was heard on a hot July morning before three judges of the United States Court of Appeals in Raleigh, North Carolina. When I looked into the hard faces of the judges I knew that we were doomed to lose. The chief of the three, Judge John J. Parker, had once been appointed to the Supreme Court but had been refused confirmation because of protests by organized labor and Negro groups over his anti-union, racist record. He was a bitter and prejudiced man. Even had he been convinced by our arguments and acted accordingly, I could just picture him walking into the Union League Club in Baltimore and having his cronies ask, "What in hell did you mean letting those Commies loose?"³⁶

It was small comfort to me after the case was concluded to have my colleagues and Dorothy Rose, who had come down for the hearing, and courtroom spectators praise my argument. I knew that the judges' minds were tight as closed traps and their hearts pitilessly cold where anything touching upon communism was concerned.

During my teaching years one of my greatest joys was our cottage on Canada Lake in the Adirondacks. There we spent our long summer holidays. My boyhood summers had been spent on this lovely lake and those were happy times. One of my first acts on giving up my law practice had been to buy a cottage near the one with so many good memories. Even now there is no place on earth so dear to me . . . "This is my own, my native land."

Hence my first hot summer in 1952 in an apartment house in Manhattan's lower East Side did give rise to nostalgic moments, but the interest of my new work left but little time for regrets.

On August 14 I was working on a campaign in which Mrs. Eugene Dennis had interested me, an effort to secure amnesty for persons imprisoned under the Smith Act. A caller was announced: Norma Hanan. The name meant nothing to me, but I asked that she be shown in. I had no premonition that Norma Hanan was no ordinary person and that this was to be an unusual visit. Indeed, it led to one of the most fascinating, tragic, and altogether illuminating experiences of my life—attending a trial of vast international implications in Greece.

My visitor came in smiling: "You don't know me—but I know about you," she said.

She was a heavy-set young woman with deep olive complexion. She would have been of ordinary appearance but for her large, deep brown eyes. They told of warmth and depth. A glow radiated from her face when she talked.

"I have come to find out whether you can go to Greece."

My face must have shown my mind's quick reaction. Greece, Athens, the Parthenon, Aristotle, Socrates, Plato! I had spent several years studying the ancient Greek language and culture in college. The Greece of that time was a place my imagination knew, but modern Greece was *terra incognita*.

"You like the idea," Norma smiled.

"Of course I like it. Why do you want me to go and when?"

"Could you leave by Thursday?" she asked.

I was somewhat taken aback. This was Monday.

"What is it all about?" I asked.

A long time before, I had read about nineteen Greek seamen, members of the Greek Maritime Union, who had been condemned to death in Athens. I vaguely remembered that the death sentences had been commuted to life imprisonment, but the case, along with the many hundreds of trials of members of the left in Greece, had been well blanketed in our newspapers. I had no idea at all of the actual situation or of its urgency. Now I was being asked to become involved.

Norma explained. Tony Ambatielos, general secretary of the Federation of the Greek Maritime Union, and eighteen others from the union had been court-martialed in 1948. Prominent Americans who had become concerned, including members of Congress, had described the trial apparatus as a "kangaroo court." Eleven of the seamen had been sentenced to death and eight others to life imprisonment. A new trial had been obtained and I was being asked to attend as an observer.

I went to Greece. I came to know Tony Ambatielos best and will concentrate on him although each of the defendants was a story in himself.

Tony was born in 1914 in Piraeus of a poor working-class family. Ambitious, he became a seaman in 1928, a fourteen-year-old boy. As I gathered the story, he had come to New York in 1940 on a Greek ship and had stayed to establish a branch of a Greek maritime union. Many Greek sailors made their home in the city. When Tony sought to return to Greece to fight the Fascists he was refused a passport by the Greek consul. Greece did not want "trouble makers" even if they were anti-Fascist. Two years later he was allowed to return, and took the lead there in organizing the Federated Greek Maritime Union (FMGU) to win better conditions aboard the filthy, rotting Greek ships. Through this same union Greek seamen were rallied to sail war convoys for the Allies, an invaluable service. When the Italians and Germans overran Greece Tony made his way to London and established FMGU headquarters there.

In 1946 he returned to his homeland to rebuild the union. Reac-

tion was already in power. The trade unions had been outlawed and left-wing newspapers were banned. Those who opposed the government's program were "exiled" to concentration camps; in them 20,000 political prisoners—12-year-old children and 80-year-old women among them—were slowly dying of malnutrition and disease. This was in a country of liberty-loving people who had fought against the Fascist occupiers of their country during the war only to have a Fascist government imposed upon them afterward with, I am sorry to relate, the support of our own and His Majesty's government. Greece stank with blood.

The FMGU was ordered by the Greek government to sign a new contract which would wipe out all the gains won for the seamen during the war. The union refused. On Christmas Day, 1947, Tony was arrested along with a number of others, and after a year in prison he was brought to trial on a charge of "conspiracy."

While in England Tony had met and married an English schoolteacher named Betty Bartlett and had taken her to Greece with him. Back in England now, she was moving heaven and earth to save him. She had importuned members of the English Parliament and trade union leaders, and in time a world-wide protest made itself heard. Members of the House of Commons were concerned, and in our own country Senators Kilgore, Sparkman, Pepper, and others from Congress spoke out. The trade unions, among them the National Maritime Union, the Railroad Brotherhoods, Transport Workers, Marine Cooks and Stewards, and the National Lawyers' Guild, became involved. This protest led to action by Dr. Herbert V. Evatt of Australia, then President of the General Assembly of the United Nations. At his request the men were saved from the firing squad and a new trial ordered.

Norma's story, that hot summer day in New York, moved me deeply. I could scarcely believe that such repression was taking place in Greece, although I did know that the Truman Doctrine and United States aid were keeping an anti-labor government in power. Her story seemed well documented and to ring true. She spoke with the emotion of one who had steeped herself in the cause. If I would go to the trial, she pleaded, my very presence would help as an indication of outside concern, and a number of American unions would stand the expense.³⁷

"Will you go, Dr. France?"

"Yes, I will go," I replied.

"I am so glad," she said huskily. She lowered her head for just a moment, as one does who has passed a crisis, and when she looked at me again there were tears—tears of relief and joy—in her expressive brown eyes.

I felt somewhat stunned after making such a decision. She told me that there might be risks, that the Greek government might prevent my entering the country. But that was not the cause of my anxiety. I just wondered what I, a stranger who did not know the language or the procedures in a Greek court, could do that would help these men. However, there was no time for musing. If I was to get off in time to get to Athens by the end of the next week there was much to be done.

The first step was to get a passport. That matter was expedited, and on Thursday, August 21, I took off. Ethel had as usual attended to my packing, in the midst of her unpacking, for she had just arrived from Florida.

It had been arranged that Mrs. Ambatielos—Betty—would be at the airport in Paris where my plane was to stop over for an hour. As I went down the ramp I saw her waiting for me: I knew her by the smile that lit up her face. I do not know whether she was beautiful or merely lovely. I do know that she had a keen intelligence and, despite her anxiety about her husband, a lively sense of humor. I cannot recall anyone whom I felt that I knew so well and liked so much after only one hour's talk. She filled in many details that I needed to know. Through her the human picture of Tony Ambatielos and his comrades facing death came vividly into focus.

The next stop was Rome. We had several hours there so I took a taxi and went to a restaurant. Meals were served on a wide veranda overlooking the seven hills. One thinks long thoughts in Rome.

A woman leading a white poodle came out onto the veranda. The headwaiter was shaking his head—no table. I indicated that she could sit with me. She turned out to be an American and the acquaintance that developed has no importance except as by contrast it points up the concern and interest of women like Norma Hanan with that of others in our society, of whom this expatriate was one. These self-expatriated Americans are an enigma to me.

How, and why, would they absent themselves from their own country! My dinner companion was, I learned, a widow. I judged her age to be forty. She had a suite in a fine hotel and a car with a chauffeur. Yet, wealthy as she must have been, she was at loose ends, all strung up nervously and terribly lonely. I was apparently like a human oasis in the desert of a wasting life.

She begged me to stay with her. I pointed out the impossibility in terms of time alone. She volunteered to drive me to the airport and all through the short journey she was begging me to stop off on my return.

"But I have a wife," I told her. "I have to get home."

"Don't be stuffy and old-fashioned. Your wife can wait."

I felt no stir of anything but pity for this empty woman. She had some brains and a lot of money and she might have had a useful life. Instead here she was seeking some new thrill from an elderly and unreceptive stranger.

On the plane again it was but a few hours to Athens. Now I met my first Greek. I had speculated a great deal about the modern Greeks. The only ones I had known in America ran candy kitchens. The young man next to me on the plane was a university graduate, the son of a wealthy businessman, and he had been on a business trip to the United States. He had a lively mind. Few American businessmen could discuss, as he did, philosophy, in which he had majored, politics, art, and religion. Our talk ranged far.

I had not wished to get into an argument with a wealthy and conservative Greek, but finally he asked me what was bringing me to Athens and I told him. Instead of displaying annoyance he showed a deep and intelligent interest. A cousin, he told me, had been in the civil war on the Communist side and so, he said, had many of his friends.

"If America had not intervened, Greece would have gone Communist," he said in a matter-of-fact way. Indeed, he himself had been sympathetic to the left until the right, with Truman's aid, had won. After that it was not good business, he said, to have left-wing friends.

He took an interest in my case, advised me how to approach the court to get the best results, wished me well, and promised to

call me up at the Hotel Grande Bretagne to drive me around Athens. This, by the way, he never did.

My arrival, despite the heat of Athens even at midnight, seemed to have been calculated to chill my ardor. Elias Eliou, the chief defense lawyer, had cabled that he would meet me at the airport. No one did. I learned later that he had misunderstood my arrival time. Finally I got a taxi and drove to the hotel, but there was no reservation and no space vacant. The taxi driver, who had taken me under his wing, drove me from hotel to hotel. Finally, at two in the morning, I tumbled into bed in a run-down establishment. That night in Athens I felt tired and very much alone.

In the morning I transferred to the Grande Bretagne and then went to Eliou's office. He had already gone to court, so I followed.

The trial had started but I could see that I was expected. Indeed my coming had been a matter of heated newspaper controversy. The conservative press was complaining at my being admitted while the liberal press hailed my coming.

There were no welcoming smiles, however, on the faces of the five judges behind the bench. It was a military tribunal and two of the judges were in uniform. Three of the five had been members of the court which had previously sentenced the defendants to death. Now they were sitting in judgment again—on their own judgment, to indicate just one unusual phase of this court procedure.

I was shown up to the front bench in the small courtroom. Oliver Stocker, a young English barrister who had been sent over by the coal miners' union of Great Britain, was already on hand. When I was seated a long argument ensued between the defense attorneys and the court, and at its conclusion I was told that the court had ruled that I could sit in as an observer but that Greek law had no provision for my active participation. The judges said they would be glad to see me after the trial in their chambers. After the trial I had no wish to see them.

I looked about the courtroom. Immediately behind me on the left, handcuffed and under heavy military guard, sat the nineteen defendants. I recognized Tony from his pictures and we exchanged smiles. He was a sturdily built man with a square jaw, black hair brushed back from his high forehead, keen eyes, and, I learned

later, keen wits and a high sense of humor. In the elections the preceding year, while in prison under sentence of death, he had been chosen for Parliament with the highest vote of any candidate in Athens. If the political wheel had taken a different turn he might have been Prime Minister instead of a convict in peril of his life. The other defendants, on this occasion, joined in friendly smiles.

On the other side of the aisle, packed into a small space, stood their relatives and friends. I wished that I were a Rembrandt to put on canvas the faces of these people, many of them thin and poorly clad, as they stood hour after hour in the intense heat—the temperature was 110 degrees—listening with unflagging attention to what went on. A famous Greek artist was there, and on my return to America one of the presents given to me that I shall always prize was a book containing his sketches of the courtroom scenes.

An interpreter sat next to me, and so I was able to follow the proceedings. The trial was conducted under the worst possible circumstances from the point of view of the prisoners. They were awakened before dawn each morning and brought in a police van in chains to the courtroom. They were required to furnish their own food. The proceedings were rushed through at terrific speed. The court sat from nine in the morning to ten at night in heat that was as pitiless as the judges.

Indeed, they were not judges from the American point of view but were accusers and prosecutors, leaving the prosecution with little to do. They shouted and pointed accusing fingers at the defendants. One judge, in a general's uniform, was particularly ferocious. He bared his teeth and roared like an angry tiger.

I must say that the defendants' lawyers, of whom there were nine or ten, shouted back. Sometimes the noise they made drowned out the voices of the prosecutor and the judges. In an American court the lawyers would have been jailed for contempt, but apparently there no one thought the hubbub unusual. There were no rules of evidence and, for that matter, there was no evidence.

All there was were vague and unsupported statements. "It was believed" that the defendants had helped to run arms into Greece for the use of the Communist army of General Markos, but there was no attempt to prove it. What was proved was that the men were Communists and that their union had engaged in a strike. An anti-strike law, adopted in Parliament in 1947, fixed life imprison-

ment or death as the penalty in "serious cases" and these were most serious cases, from the government's viewpoint.

The trial was conducted in an atmosphere of complete terror, and the outcome under the law as formulated was foreordained. That there was a trial at all was a sop to world opinion.

To stand at sunset beneath the Parthenon, on the Acropolis, so overpoweringly magnificent even in its ruin, is an experience in time and space living which no one can describe for another. On my first visit, at the close of the first day of the trial, I would have liked to have had Socrates, Plato, Aristophanes, and other old friends, who seemed so close, join me in the flesh. There was so much I would have liked to talk about with them, so much that I had experienced in my short stay in Greece that we might have discussed.

The men I had seen in court that day were in my mind—Tony and the others sitting beside him. They had faced death with courage; the reprieve had come through on the very morning they were to be executed. When the messenger arrived with the news that the sentence had been suspended and a new trial ordered they were practicing the *Internationale*. They intended to march out into the execution square singing. They were facing their new test with the same courage. What enables some men to do that, and what makes others their prosecutors? The old Greeks had had their like, and had thought more about these matters than most. Socrates himself had been required to die. Yes, I would have liked to talk to those old friends that night.

I stayed, looking out over the bowl where Athens lay, until the stars blazed in the clear sky. Later I went to the Acropolis with Stocker several times, but that first time I wanted to be alone.

The next day I was back early in the already packed courtroom. I was allowed to talk freely with the handcuffed prisoners during the recesses. Tony spoke excellent English. When I told him that I had seen Betty in Paris and that she had sent him all her love he choked for a moment. Then his eyes wrinkled. "I'm jealous," he said. "I have not seen her for four and a half years." He knew she was working unceasingly in England to secure support for the defense.

I gave him a wrist watch from the American unions. He was grateful, but since he had a watch he asked if he could give it to his friend, Manilos Glesos, whose trial was to start when his was over.

With the help of an interpreter I was able to follow the trial sufficiently to know that what factual evidence there was was innocuous except to those to whom communism and militant trade unionism were in themselves crimes. The bulk of the "evidence" consisted of statements by police officials or defecting trade union members to prove that the defendants were Communists; along with these statements were political diatribes against the Communist Party and opinions about what would have happened if the Communists had gained control of Greece. Certainly not much worse could have happened to the anti-Communists than was happening here and now to the Communists. The proceedings were "the cold war" at a pitch of intensity in hatred and venom for which even the "witch hunt" in my own country had not prepared me. That the men would be found guilty was known from the outset, but the fight they and their lawyers made was not without its own value.

The expected verdict was handed down. The nineteen seamen were then offered amnesty if they would give up their union and join the company union. Ten of the nineteen were men who had looked death in the eyes at close range on that other occasion; once more they refused to capitulate. The others, with one exception, were equally brave. The one who accepted the government's offer went free, but with his head hanging in shame. A prison sentence faced the eighteen.

Each was allowed to speak. Tony Ambatielos was first. He stood facing his judges, square-shouldered and erect, looking at them without fear.

"You know and I know," he said sternly, "why I am on trial here. I am not on trial for any violence that I have used against the government or even conspired to use. I am on trial because I am a militant trade unionist and because the shipowners own more than ships. They own the government. They own you.

"I am on trial," he went on, "not because of what I have done but because of what I believe. I am on trial for being a Communist. I am a Communist. I am proud of it"—a pause—"and nothing that you can do to me can alter my political convictions."

A long-drawn-out sigh of relief mingled with sorrow seemed to rise from the packed courtroom.

For myself, I knew that whether or not I agreed with Tony Ambatielos did not matter. I know a man when I see one and there stood a man.

Another whom I came to admire and cherish as a friend was Elias Eliou, whom I have previously mentioned as the chief defense lawyer. Despite having to communicate through an interpreter we were kindred spirits.

At a dinner to which he invited Stocker and me I learned his story. Andreas Pangalos, a newspaper man of fine intelligence and liberal sympathies, acted as interpreter.

We dined at an outdoor restaurant overlooking the Gulf of Salonica. It seemed strange that we could be so much at peace after the sad and strenuous sessions in the courtroom, but here, at the edge of the lapping waters, sipping wine, what had been going on in the courtroom seemed for the moment just a brief interval in the long and glorious and tragic history of Greece. We had seen another heroic page written, that much we knew.

My host had been one of Athens' leading corporation lawyers, a man of outstanding ability. He was making both money and a solid reputation prior to his involvement. He was a liberal, but not a radical. He had entertained my old friend Roger Baldwin when he was in Athens representing the International League for the Rights of Man on behalf of the seamen. The two men were of the same caliber.

Eliou was distressed, as was many another liberal Greek, by the viciousness of the treatment of the Communists—the mass arrests, executions, and long-term sentences that had come in the wake of the Truman intervention in the country's civil war and the Communist defeat that followed. But Eliou was a busy man and like many well-meaning but busy men he shrugged off that which it was uncomfortable to know.

Then something happened to him. His son, a student at the American College in Athens, became a Communist. Day after day he told his father of the horrible conditions in the concentration camps where the political prisoners were being held. Eliou could not believe that such crude brutality could be practiced. His son challenged him to investigate. He did, and was so dismayed

that he formed a citizens' committee for the relief of political prisoners. This activity led to his being sent himself to a concentration camp.

On his release he entered himself as a candidate for Parliament on a left-wing ticket in the northern district of Greece where he had been born and brought up and where his family was well known. Although the area usually voted conservative, he was elected. On his return to Athens he abandoned his lucrative practice and devoted himself to political matters. When I came to know him he was spending his entire time, for a fraction of his former income, in defense of Communists. Whether he had become a Communist himself I did not inquire.

That was the story I heard over the dinner table. Later I asked if he would bring Mrs. Eliou to dinner at the Hotel Grande Bretagne. At first he put me off on the ground of her ill health. I later learned that she disapproved of his activities and did not wish to meet me, but in the end she came. She was an intelligent but fear-ridden woman. She spoke excellent English and acted as interpreter, but her eyes were always darting about to see if anyone was listening to our conversation. Whenever the waiter came near she shushed us into silence.

She complained bitterly of the decline in their fortunes, of Elias's having gotten himself imprisoned, and of the risks to his family from his activities.

"What will happen to our children?" she exclaimed. "Elias does not love our children as I do or he would not subject them to such risks."

He asked her to translate into Greek what she had said. When she had done so he looked at her with unfathomable sadness. "Tell him," he said, and she translated, "that I do love our children but that I have to do what I do because I love all children."

Through subsequent contacts I came to understand Mrs. Eliou better. During her husband's imprisonment she had supported the family by working as a translator. Through work and worry her own health had broken down. She was facing a critical operation which she feared she would not survive, and her mind was full of concern as to what would happen to her family. Since my return to America she, on behalf of Elias, and I have had quite an extended correspondence. On many a woman like Mrs. Eliou marriage to a

husband whose convictions she does not fully share forces a hard choice. From her later letters to me, though, I feel sure that she has finally made the choice and that, with health improved, she is upholding her husband bravely.

I was outraged, of course, at the trial's outcome. I decided to protest to the American Ambassador, John Peurifoy, and called at the embassy to do so. When I gave my name and asked to see him, the receptionist called his secretary. I knew that the Ambassador knew all about me and why I was there because of the newspaper controversy that had raged over my being given an entrance visa. Word came back that the Ambassador was not in but that another member of the embassy staff would see me.

I liked the open-faced young American with whom I talked. He listened sympathetically to my account of the farcical trial, to my expressions of dismay that these military tribunals, without regard to evidence or rules of evidence, were handing out sentences daily, and to my stories of the horrible conditions which I had learned existed in the concentration camps. He was not merely sympathetic. He confirmed the stories of the distressing conditions in the camps by showing me a report by Professor R. V. Burks of Wayne University in Detroit, who had made a study of the camps at the embassy's request. I was allowed to take the report back to my hotel on my promise to return it. Later, by the way, when I was writing about the situation in Greece I wrote to Professor Burks asking for a copy of his report and was told that he would first have to consult the State Department. I was not surprised when I learned that the State Department had turned down my request.

On the occasion of my visit I had scarcely returned to my hotel when I received a call from the embassy saying that Ambassador Peurifoy would like to see me and asking if I could come back. Evidently the Ambassador, from his assistant's report, had thought better of his refusal to see me.

He greeted me cordially. He was a dark, handsome, engaging young man, and he was making a name for himself as a career diplomat. He was feeling his oats. I did not trust him. I knew he had handed out press releases favorable to the candidacy of General Papagos, the reactionary candidate of the right in the coming elections. His own expressions of liberal sympathies and of opposition to McCarthyism, made during our interview, did not convince me.

After relating my observations and conclusions to him, as I had done to his assistant previously, I said: "Here we Americans are, Mr. Peurifoy, claiming to represent the free world. We have poured millions of dollars into Greece collected from American taxpayers. Our people have been sold on the idea that the money is being used to prevent the extension elsewhere of the repression of democracy and the jailing and killing of dissenters behind the 'Iron Curtain'; yet here, where our influence could be decisive, we not merely condone, we encourage repression."

He smiled at me sadly. "I know how you feel," he said, "but we can't allow subversives loose in a country like Greece."

"It is just in Greece, where the Truman Doctrine was announced, that we should prove the sincerity and validity of our ideas," I countered.

"I am afraid we don't agree."

"I am afraid we don't," I replied.

Peurifoy later gained further notoriety by engineering the overthrow of the popularly elected government of Guatemala. After that he was sent to Indo-China as an "architect of democracy" and there he was killed in an automobile accident. I am a sympathetic man, but my regret was bearable when I learned of his death: "Rest in peace, oh successful opportunist and betrayer of the ideals for which your country has stood and will sometime stand again before the world!" I said to myself.

Realizing that I had gotten nowhere with Peurifoy I asked Eliou to arrange, if he could, an interview for me with Papasgyrow, Minister of Justice in the Plastiras cabinet. Plastiras, the ill and aging Prime Minister, was a weak liberal. In his election campaign he had promised an end to the political persecution of the left. Our embassy, instead of urging him to carry out his promises, was supporting the reactionary Papagos in his opposition to any leniency.

To my surprise, my request for an audience was granted promptly. In company with Eliou and Stocker I waited on Minister Papasgyrow. He greeted Eliou as an old friend and received Stocker and me cordially. He was a tall man, with gray hair and mustache and a friendly smile.

I told him what he already knew, and he in turn told me what I already knew: the reason why his government could not act.

"Mr. Minister," I said, "we have just attended the military court-

martial of the Greek seamen. I was shocked at the hostility of the judges, the absence of evidence or rules of evidence, the life sentences. This continued political persecution is a blot on the good name of Greece. Your country, with its great history as the cradle of democracy, could set an example to the whole world by ending these farcical trials and granting amnesty to the political prisoners."

"With all that you have said I heartily agree," he replied. "No one more than I would like to see an end to this terrible business. Greece can never be its true self while all this hatred and repression continue. But I am helpless. Parliament made the law. Our majority there is so thin that if we tried to repeal the law there would be defections that would defeat us. If we win a safe majority in the coming elections I promise you that things will change. Meanwhile, your government, instead of aiding us in any effort to be moderate, is helping Papagos. Why don't you talk to Ambassador Peurifoy?"

"I have," I replied sadly.

I decided to stay over for the trial of Manilos Glesos, a resistance leader, and another Communist. His trial, along with that of several others, followed that of the seamen in the same courtroom. The wheels of "justice" were grinding steadily in Athens. Just across the hall a score of airmen from the Greek army were being tried for alleged sabotage of planes.

Glesos was an attractive fellow. Most of the underground resistance when the Fascists occupied Greece came from the left, and Glesos was a hero of that resistance. In deep night he had climbed a high tower in the heart of Athens and replaced the German flag with that of his embattled country. Now, with the Germans gone and his country "free," he had been in prison for months. He had contracted tuberculosis, but his illness was not all he had suffered; he pulled up his trouser legs to show me the wounds where he had been beaten with chains by the guards in the concentration camp.

The trial was much like the one that went before. I was especially impressed with the closing address of Kirkos, one of the defendants. He had been a graduate student in philosophy in the University of Athens. When the mass arrests began he and his fiancée, who was a girl of some wealth, tried to escape to Paris where they planned to be married. He had hoped to continue his studies in the Sorbonne.

The boat in which they were trying to escape was seized and he was jailed.

I vividly remember Kirkos, his refined features, the aesthetic and intense look of the man, with his black hair above a high broad forehead, and his black mustache. In the midst of his closing speech the ferocious tiger on the bench interrupted him.

The Tiger: "You were running away with a young girl and her money, weren't you?"

The Girl (rising from her seat among the defendants): "That's a lie! I wanted to use my money to help him. I love him. And I'm no helpless female. I knew what I was doing—"

The Tiger: "Silence!"

The Girl: "I will not—"

Shouts from the bench, from the lawyers, from the prisoners rose in a hubbub. Quiet was finally restored and Kirkos resumed his explanation of his views and actions.

The Tiger (shouting): "Why did you become a Communist?"

Kirkos: "Because I hate to see people poor and miserable. I love people."

The Tiger: "Do you love all people?"

Kirkos: "I love all people."

The Tiger (his features twisted with scorn as he came out with the bitterest question of all for a Greek): "Do you love Bulgarians?"

Kirkos: "I love Greeks and Germans and Italians and—yes, Bulgarians—all people. All people are human. Some have had governments like ours in Greece—"

The Tiger: "Silence! No more of that! Confine yourself to your defense."

Kirkos: "You asked me a question. I was trying to answer it."

This trial, like the preceding one, ended in all the defendants being found guilty.

I had to stay in Greece a few days longer because plane reservations were hard to get. I was invited by Tony's mother to a dinner

in her home and it was a party I shall never forget. Mrs. Ambatielos, over seventy years old, had just been released from a concentration camp. We had no means of verbal conversation, but when I came into her plain home she threw her arms about me and I knew what she was trying to say although I could not understand a word.

The occasion was evidently a gathering of the clan. There were many people around the well but simply laden table, and they tried by smiles and gestures to keep me in the torrent of talk. One girl could speak some English and through her I gained an idea of what they were saying. Besides Tony, Mrs. Ambatielos had two other sons: one was in a concentration camp, the other was a political refugee in Poland. My interpreter had been kept in prison through the hot summer months in a room just under the roof of the jail; the room became so hot that the floor was like the top of a stove! No wonder her pallor! And the greater wonder, where did these people find the strength to endure what was imposed upon them?

As I was leaving, Mrs. Ambatielos told the pale girl to tell me something. "She says to tell you we thank you with all our hearts and that we will never give in."

I had a free week end before I could get a plane, and on the advice of the tourist desk in my hotel decided to go by bus to Zylokastron on the Gulf of Corinth. This trip would give me a chance to see something of the Greek countryside. The air grew cooler as we climbed away from Athens but the parched soil and bare hills gave me some understanding of the problems of this arid, overpopulated country. I was impressed by the cleanliness, despite the poverty, of the villages.

When I reached Zylokastron, I was in Greece for fair with no one around who could speak English. Sensing that I was looking for a place to stay, the man in the bus station sent a boy to guide me. Down the narrow old street we went, the boy carrying my bag. We came to some sort of a path. He led me into what looked like a large private house, took my tip with a grin, and departed.

There I was.

A man poked his head out of the door. We tried in vain to communicate. He then beckoned to me to sit down. After a wait on my part he returned with a charming young Greek matron who spoke English. She was a Mrs. Vitalis from Athens, here on a vacation.

She got me settled in a room and told me about the casino on

the beach where I could get my meals. During my stay I occasionally met her, and later had dinner with her and Mr. Vitalis at the casino. We sat looking out over the marvelously blue water of the Gulf of Corinth to Mount Parnassus across the bay. America seemed very far away.

One could never be away long from an awareness, though, that Greece, this beautiful country, is a land of tragic contrasts between the few rich and the many poor. One day as I was swimming in the limpid waters of the gulf a beautiful yacht, white and gleaming with brass, dropped anchor. The owner, a stout Greek, was seated on the rear deck under a canvas. I swam alongside.

"That's a fine yacht you have," I called out.

"It is a clever little thing," he replied in what sounded like English learned at Oxford. His deprecation of his possession reflected what? False modesty or complete insensitiveness to his having so much in so poor a land?

Mr. Vitalis was a civil engineer. When he asked me why I was visiting Greece and I told him, he and his wife both laughed. "We knew it," they said. She had recognized me from my picture in the Athens paper and Mr. Vitalis had seen me coming out of the courthouse with Elias Eliou, whom he knew. "Even the people who hate him most respect him," he said; at the same time they made clear they held no disapproval for what I had done.

They were members of the Plastiras Party and hoped that it would win in the coming election and put an end to political persecution. They and many other liberal Greeks were doomed to disappointment. With the election, later, of Marshal Papagos, the repression deepened.

After my return home I received a letter from Betty Ambatielos. She reported that the interview I gave to the press representatives at the close of the trial had been widely reported in the papers in Europe, Australia, and elsewhere. It is a comment on our own "free press" that not a word about my trip appeared even in the *New York Times*. The left-wing press and the *Compass*, a liberal left-of-center paper, as well as *The Nation* and some other liberal publications gave my intercession full play, but as far as the press in general was concerned there was complete silence on my report.

In her letter Betty said, "I have received a number of letters from my husband since you were in Greece, and he asked me to tell you how very grateful he and his colleagues are to you. They

do not seem to have been surprised by the verdict in view of the situation generally in Greece. Nevertheless they feel that your presence there was of extreme value, and they personally were all moved and encouraged by the warm interest you displayed in them."

Tribute was paid again, on February 19, 1956, at a dinner in my honor by clients and friends. I received this wire, addressed to the planners of the tribute:

"In elections today world will witness first fruits of heroic struggle of Greek people. Their struggle aided immeasurably by friends in other countries. We join in honoring dear friend Greek seamen and people. His courage and diligence helped save lives of Tony Ambatielos and other union leaders. Heart-felt fraternal greetings to Dr. France."

The message was signed by the Greek maritime unions, and the election referred to was that in which the liberal forces received a majority of the popular vote although they fell just short of a parliamentary majority.

I have never felt that my efforts accomplished as much as the telegram would indicate. Whether I had been there or not, whether I had made representations to the Minister of Justice or not, the court would have hesitated to impose the death sentence on the Greek seamen again. And after all these years Tony and Kirkos and many of the others still languish in dreadful concentration camps. Recently I visited the Greek section of our State Department to see whether in the light of "the spirit of Geneva" our government might not feel that these men and others who have been imprisoned so long might be set free. I feel sure that a word from Washington is all that would be needed. My plea fell on deaf ears. I cannot feel that I have achieved much for these victims of "the cold war."

Nevertheless it is always pleasant to be praised. For me, my trip to Greece was a part of my own education and life experience which alone was worth any sacrifice I may have made in returning to the practice of law. We who have been drawn back into the struggle, world-wide as it is, have found our own reward.

My first autumn as a civil liberties lawyer in New York was marked by many activities a mere recountal of which would indicate how far the virus of fear and repression had spread through the nation. The general public heard, and still hears, only of the more spectacular cases. Even well-informed persons had, and have, but little conception of what was being done, and is still being done, under the guise of protecting America from "the menace of Communism." It seemed to me in those closing months of 1952 that I was working unsparingly, but with few results that justified the effort.

I felt, after my return to New York, that I occupied a middle position. I was between the Communists, who were coming to trust me and become my friends despite their scorn of liberals who had joined the witch hunt or kept silent, and, on the other side, my friends of long ago like Roger Baldwin, Norman Thomas, John Haynes Holmes, and other old-time liberals. All of them were, in varying degrees of bitterness, hostile to the Communists.³⁸

I hoped on the one hand to induce the liberals to take a less hostile attitude toward the Communists, for their position was hampering the defense of the Bill of Rights. On the other hand I tried to get the Communists to see how their sectarianism and their uncritical attitude toward everything that went on in the Soviet Union and the countries of eastern Europe were creating distrust and suspicion among liberals who might be more active in defense of their freedom.

I had fought alongside these liberals in the days of the Palmer raids and other attacks on free speech that followed World War I. Roger Baldwin was a hero in that fight. His leadership of the American Civil Liberties Union had caused him to be known as "Mr. Civil Liberty." There are few men whom I like better or admire more.

I talked with him at length about my defense of Communists. He agreed that I was correct to defend their rights under the Bill

of Rights. The American Civil Liberties Union, I was glad to recall, had denounced the Smith Act and the persecutions under it. At the time I was actively cooperating with the ACLU in a number of cases and I was an advisory member of its Academic Freedom Committee. I had been a member of that committee since its founding. Patrick Malin, the ACLU's present director, was also my friend.

But I differed sharply with some of the Union's policies.

One of my chief differences arose out of my belief that the test of a teacher's fitness was his conduct in the classroom and not his political beliefs, but it was only after heated discussion in which I took part that the Academic Freedom Committee took that position. It supported, thereby, the contention that invocation by a teacher of his right under the Fifth Amendment to refuse to answer what had come to be known as the \$64 question—whether he was or ever had been a Communist—was not a cause for dismissal. The committee's action did not meet with the approval of Norman Thomas and the majority of the national board of the ACLU and a bitter battle over the issue ensued.

The majority of the board, led by Thomas, was opposed by a militant minority led by Corliss Lamont. I was on the side of Lamont, for whom I came to have great respect. In his book *Freedom Is As Freedom Does* he describes that struggle within the ACLU and tells why he withdrew to give his support to the Emergency Civil Liberties Committee. The latter had been organized in 1951 to fill in the gap, as many saw the situation, left by the ACLU's failure to come to the vigorous defense of any and all, including those of the extreme left, whose rights were being invaded. My own experience lies within that larger struggle among the liberal forces of America for a position against the attack from the right.³⁹

To get back to my talks with Roger Baldwin, as they have a bearing on this small part of the history of our times. I had been approached by Peggy Dennis, wife of the imprisoned Communist leader Eugene Dennis, to try to enlist support for a petition to the President for amnesty for the Smith Act victims. I was attracted to Mrs. Dennis by her vigorous personality, her understanding of my points of difference as well as of agreement with the Communists, and by her unflinching loyalty to her husband. I had acceded to her request to chair a meeting at which wives of imprisoned Communists would speak. I also agreed to try to obtain the signatures of

prominent liberals to the proposed amnesty petition. In regard to the latter I was not very successful. As for the meeting, held in a large hall in upper Manhattan, it was stirring. I liked and was touched by these wives and mothers whose husbands and sons were in prison under an unjust law.⁴⁰

My friend Roger agreed that I was rendering a valuable service in defending Communists in the courts, but he deplored my giving them countenance by speaking at such a meeting. He even said, perhaps half humorously, that it was right to defend them but a mistake to like them. He urged me not to speak at Communist-inspired meetings. I might come to be considered their dupe. He said that a petition for amnesty was not timely and refused to sign it. However, many of my liberal friends, including Norman Thomas and Eleanor Roosevelt, did sign the same sort of petition in 1956 denouncing the Smith Act and asking President Eisenhower to pardon those imprisoned and stop further prosecutions under it.

Attitudes changed, and were changing, but at the time I felt discouraged by my interview with Roger. It did not alter my great admiration for him or impair our friendship. On the occasion of the tribute, previously mentioned, commemorating the fiftieth year of my admission to the bar he wrote from Puerto Rico:

"Dear Royal:

"I am happy you are getting some formal recognition for your championship of principles too readily ignored for unpopular clients, and I count it a privilege to join in the testimony.

"I do so personally out of the years of our common effort, but I am sure also that my colleagues in this organization [the letter was written on ACLU stationery] would join me in applauding your courage and devotion in efforts we all share in spirit if not always in fact.

"I know you don't need encouragement; you'd do what you do without it. But any man who faces uphill in these times must welcome a cheer now and then from those who know how tough the road, and yet how satisfying the struggle against obstacles.

"With warmest good wishes,

"Sincerely yours,

"Roger Baldwin."

Norman Thomas, whom I was meeting anew, had been one of the founders of the Fellowship of Reconciliation in 1917. Ethel and I had joined shortly thereafter and the three of us had become close friends. At the time he was a Presbyterian minister preaching in New York; so far as I knew he was not yet a Socialist. I remember the day news came of the Russian revolution, in 1917. We were at a Fellowship meeting, and afterward Ethel, he, and I stood on a street corner talking until long after midnight. He was greatly moved. He had decided, he said, to throw himself actively into the Socialist movement. I understand that he was introduced through Alexander Trachtenberg, who was later to become a Communist and a Smith Act defendant. Norman, as is well known, became the Socialist Party's standard bearer, and in late years one of the most bitter foes of the Communists.

I can think of no better way to show the measure of agreement and disagreement between me and some of my liberal friends at the time of my return to the civil liberties fight than to quote from an exchange of letters between Norman Thomas and me. The letters were written after a debate between Thomas and Dr. Jerome Davis at the Community Church Forum. The latter was urging a more conciliatory attitude toward the Soviet Union. Norman attacked him bitterly, charging him with furthering the aims of the Communists. The venom of his attack on Davis and on Communists disturbed me, and the correspondence followed.

"Dear Norman:

"As a long-time friend and admirer of your rugged fight for social justice throughout your distinguished career, I was disturbed by certain aspects of last night's meeting at the Community Church. You are, of course, right in your denunciation of the executions in Prague and of the position of the Soviet Union as a crusader for peace being belied by Vishinsky's rejection of the Indian compromise proposal.*

"To me, at least, your presentation of points with which I agreed was weakened by your one-sidedness and lack of objectivity in many matters."

* The Indian proposal, ultimately accepted by both sides in the Korean conflict, involved the setting up of a neutral commission to supervise the armistice terms and to ascertain from each prisoner whether or not he wished to return to his own group.

[I then went on to point out that Acheson, then Secretary of State, was also fighting the Indian proposal until Vishinsky rejected it. I cited our responsibility for the executions, tortures, and concentration camps in Greece as something to be considered when attacking the Soviet Union for what was happening in Czechoslovakia. He would have been appalled, I told him, if he could have been with me on my recent trip to Greece, where he would have learned first hand of the numbers who have been killed, imprisoned in camps which are in many respects worse than the slave labor camps the Soviet Union was accused of maintaining. Being imprisoned month after month, improperly fed and sheltered, with nothing to do, could be worse than to spend the time at hard labor.]

"Your dichotomy between the Communists doing what they do because they believe it to be right while we, at least, know it to be wrong is, I believe, a mistaken one. I talked with our Ambassador to Greece, John Peurifoy. He believed that the harsh policies of the Greek government were right, and those policies will become still harsher under Papagos, the Franco of Greece whom Peurifoy almost openly sponsored. The idea that the end justifies the means is exclusively a Communist belief is not borne out by the facts, as witness the acts in the Fascist countries, some of which we now support; the most horrible mass slaughter of the innocent at Hiroshima and Nagasaki; the obliteration bombings and much else by non-Communist countries. The doctrine is the universal doctrine of war. So long as we have wars, hot or cold, men of all sorts of ideologies will justify all sorts of crimes against humanity."

[His denunciation of the conviction of Slansky and others in Czechoslovakia, I wrote, would have carried greater weight if he had been more forthright about the Rosenberg death sentences, for even assuming for the sake of argument guilt in the Rosenberg case alongside the admissions of guilt, however dubious in the Slansky case, in both cases the death penalty was extreme.]

"Again, you constantly refer to ten millions as the number of prisoners in the Soviet Union and I assume that you mean political prisoners. As an economist I know something about statistics. I could not possibly by hearsay or through the mouths of escaped prisoners form even the wildest guess as to how many persons are

imprisoned in the United States . . . I have to rely on government statistics. The government of the Soviet Union has released no such statistics as you mention, and any others should be used with the utmost caution unless one wishes to be open to the charge of bearing false witness. . . .

"I don't know, Norman, the answers to all the difficult questions of ends and means. You and I were members of the Fellowship of Reconciliation together in its inception and I have remained active in it ever since. Even so I do not know at what point in a specific case I would justify the resort to force. To me the Fellowship has represented a certain spirit, the spirit of seeking to understand and love those with whom we differ even while we denounce the evil that they do; the spirit of being at least as critical of our own sins as we are of those of others; the willingness to negotiate differences with unfailing patience—to go the second mile. . . . We seem to have lost our way.

"What, for example, would our news commentators and our statesmen be saying this morning if the word had come that eighty-two of our boys had been killed and one hundred and twenty wounded in one of the Communist prison camps? [The reference is to the killing and wounding of that number in a prisoner-of-war camp in South Korea for which the United Nations and the United States had the responsibility.] This killing of unarmed men goes on with no effective protest in this country. Surely, in properly managed prison camps it is not necessary to deal with the mutinies of unarmed men so brutally. . . .

"I fear another tendency that is growing in this country which was characteristic of Nazi Germany. It was voiced by the young man who denounced Jerome Davis for stating points in favor of as well as against the Soviet Union. When all self-criticism ends, when only one-sided analysis of international problems is possible, the end of democracy will have come. I know that you do not wish that any more than does Davis, but I would have been happy to hear you in the final period comment on the need for tolerant discussion of these great problems.

"Forgive this long and perhaps overcritical letter. It springs partly from my desire to state the truth as I see it, but very largely from an admiration and friendship for you of long stand-

ing. Even when I do not agree, I welcome criticism from a friend. I feel sure that you will."

To my letter, my old friend answered:

"Dear Roy:

"Your friendship and interest in civil liberties warrant an answer to your letter. Here it is. I shall deal with certain specific things first:

"1. I have publicly spoken and written in behalf of commutation of the sentence of the Rosenbergs and have so written to the President. Their crime was, however, grave and I agree entirely with the Civil Liberties Union that no civil liberties were involved.

"2. On the basis of what I know of the record and the testimony of such honest and good friends of mine as Paul Porter and Maurice Goldbloom, I cannot accept your comparison of Greece and Czechoslovakia. I have no doubt that wrong things have been done in Greece against some of which I have protested. To take a rough illustration, wrong things were certainly done in the Civil War, but the Union side was right and the kind of protest one made was different from the protest one would make concerning the side supporting slavery.

"3. I have spent a good many hours with the unofficial committee on slave labor and I have taken considerable trouble to talk to the people who, I think, are best informed, and the number of 10 million in the U.S.S.R. seems conservative. I confess I am shocked that people . . . excuse slave labor on the score that there are 'only two million.' Slavery is still slavery.

[The fourth point has to do with differing opinions as to the kind of ambassador Joseph W. Davies made to the Soviet Union.]

"5. My criticism of Jerome Davis is based partly on the way he worked with the communists in the Teachers Union when he was president and I was a member of the union. It is based more specifically on what I think to be a very misleading use of evidence. It is all right to quote sentences or paragraphs from people with whom you do not agree to establish a certain point, if you make it clear that the people whom you quote do not reach your conclusion on the total evidence. This is something that

Davis fails to do in speeches and books. He is also very specific in denouncing America but usually comforts himself with a generalized acknowledgment of communist sins. Long ago I learned that congregations would repeat a general confession of sin but get very angry at a preacher who accused them of specific offenses. It is specific confession that counts.

"6. I agree with you on the importance of self-criticism but there is an enormous difference between a secular religion like communism which deifies Lenin and therefore accepts as fundamental his doctrine of lies and deceit as justifiable to win, and the unquestionable abuses of truth and honor in our own country. What we are dealing with in communism is a religion that at its heart is wrong. What we are dealing with in our imperfect democracy is an aberration from standards that normally we support. I think I have been far more effective in my criticism of our use of the atomic bomb in Japan—to give an illustration—because I am so far from apologizing for communism.

"7. I think you are on very weak ground in saying that 'Acheson was also fighting the Indian proposal until Vishinsky rejected it.' I happen to have sat in on a conference in this matter. Acheson, under some pressure from our allies, definitely came around to support the Indian proposal with the important amendment providing for the rights of unwilling prisoners. To return unwilling prisoners under circumstances existing in Korea would be to repudiate the principle of individual liberty for which we are struggling.

"8. I shall confess that in some ways I was happier when I was a convinced member of the FOR. I was a member of it on religious grounds, based on a type of religion that I, alas, became unable to hold in the light of historical and other considerations. I still have a very high respect for pacifism. I think pacifism, however, ought to urge what Davis rejected, namely unilateral disarmament, although the pacifist would be justified in saying that he could not force unilateral disarmament upon people who rejected it.

"As I see it, progress in our imperfect world compels us to take the best of available alternatives and I do not think the pacifists presented an available alternative preferable to the terrible alternative that was adopted on June 25, 1950, in Korea. That is

not to say that in an earlier period something different might not have been done. The failure of many pacifists to recognize Stalin's communism for what it is and their tendency to go as far as possible in apologizing for slave labor in Russia, and the kind of thing for which the monstrous purge trials stand, in my judgment greatly weakens the effectiveness of their appeal. As I said the other night I respect enormously the sincere attempt to conquer evil with good. In it lies our hope. I have no equal respect for an attempt, most of which is directed toward minimizing the evil we fight or refusing to see it as it really is.

"Do not think it has been easy to come to these positions. I have, however, spent quite too much time in reflection and travail of mind and heart to be moved by a repetition of familiar arguments even when that repetition comes from a friend. What strength I have I want to give to the struggle for peace and in particular for universal disarmament. But that cause is tied up in my mind with the struggle against totalitarianism, communist or fascist. In the present cold war, our Government has not been without fault, but the initiative in it was Stalin's who acted in accordance with his terrible religion which drives him to seek universal power. He would have begun that cold war if Truman had been Gandhi. Nothing is clearer than was American desire for peace and cooperation after V. J. day."

In answer I wrote:

"Your letter, like yourself, is frank and forthright. With much of it I heartily agree. With much else I do not; but I do know that, like myself, you have heard most of what can be said, that you have come to your conclusions with much painful searching of mind and heart and that either of us would be wasting time and emotional effort that can be used better otherwise than in trying to change the other's conscientiously taken position.

"Having made that good resolution, I cannot refrain from one comment to which you do not need to reply. I believe that the people on the Union side should have been more alert to see and correct their own wrongs. The beam was made larger than the mote in Jesus' parable for the very reason that we are only effective in helping to remove the other's error if we are diligent in

removing our own. I have twice heard you speak movingly of the wrongs done to non-Communists in Communist China and have been saddened by the recital. But what moving stories you could tell if you talked with Communist Chinese about their sufferings on Formosa. An obscure item in the *New York Times* of Monday last read as follows:

“Taipei, Formosa, Monday, December 15. Five more *alleged* Communist spies were executed by firing squads Sunday, bringing the total of *announced executions* to fifty-nine since November 26. There were indications that *still more Reds* would be executed by the Chinese Nationalist Government following convictions by *court martial*.” (Emphasis provided.)

“You speak of refusing to see the evil we fight as it really is. The evil we fight is in the intolerance and fear and hate that bring about cruelty on both sides of the cold war and I believe that you weaken your argument when, in the face of the evidence in Greece, in Formosa, in Union of South Africa and elsewhere, you speak of it as though it were the peculiar sin of Stalin’s communism. Certainly it does not weaken our denunciation of what happened in Prague if we denounce purges in Greece or Formosa.

“I am persuaded, Norman, of the truth in the old saw about not being able to hear one’s words because his actions are so loud. The only possible hope of persuading the part of humanity on the Communist side of the virtues of tolerance and freedom is by example at home and by our actions abroad in countries where our influence is crucial.

“Well, I have done what I did not intend to do: continued the argument. Don’t bother to reply. Keep up the fight for universal disarmament! The important thing is to save civilization itself so that the struggle in the realm of ideas may go on. I am still enough of an optimist to believe that science has so far solved the problems of production that if we could have an era in which our vast resources and knowledge could be devoted to obliterating poverty everywhere the ideological differences would lessen.”

I did receive a reply, though, and here it is:

“Thanks for your letter of December 20. I have never held a brief for Chiang Kai-shek. I never went to Formosa but Americans who have been in Formosa whom I have met in my travels said that things had been much improved, that the general treatment of the natives is good, that there are no purges on the relative magnitude of those on the mainland. One Chinese in Hong Kong, a member of the so-called Freedom Front, told me, with the approval of the group he was with, that the officials in Chiang’s government were very often liars and blackmailers but that Mao’s government itself had become a liar and blackmailer. I pass this on for what it’s worth.

“You are, of course, right that our main job is to make democracy work conspicuously but part of our job is of necessity educating people on the reality of communism.”

These differences, though, did not end our friendship, and Norman, like many others, gave evidence of a change in attitude as the attack in this country progressed. His old friend Trachtenberg was a defendant in a Smith Act trial in the summer of 1956—I was one of the defense counsel—and Norman headed a committee to raise funds for his defense. The *New York Times* headline read:

“NORMAN THOMAS AIDS REDS’ TRIAL

“ANTI-COMMUNIST HELPS RAISE
FUNDS FOR PAIR’S DEFENSE,
CITES CIVIL RIGHTS ASPECT”

One of my most understanding friends during this time when friendships were being tested was the Reverend A. J. Muste. A. J., as I call him, was director of the Fellowship of Reconciliation. He, too, in 1956, did valiant work. It was he who instigated the amnesty petition that was signed as previously mentioned, and he who arranged a meeting in Carnegie Hall for May 27 of that year, at which he, Norman Thomas, Roger Baldwin, Dr. W. E. B. Du Bois, and Eugene Dennis—Dennis had completed his prison term—stated their views. The occasion was the first time in many years that Communists and anti-Communists shared the same platform. I take no credit to myself that what I had hoped to accomplish in

1952 had come about, although I had tried to play my part. The events themselves had shown the need.

The Communists, too, had softened their attitude. Many had been shaken and made aware of their own errors by the revelations of the horrors perpetrated in the Soviet Union, Hungary, Poland, Czechoslovakia, and other countries while Stalin held power. These revelations were not being made by their enemies but by the heads of the Communist Party and of the Soviet state. I was in close touch with the American Communist leaders at the time, for I was taking part in the trial of a number of them under Smith Act indictments. They were profoundly shocked. They were, at the same time, extremely critical of the report by Khrushchev which had laid bare the charge against Stalin, and they were critical too of the fact that the present leaders of the Soviet Union, Khrushchev among them, had not opposed the atrocities now attributed to Stalin. This position was publicly stated by Eugene Dennis in a letter that was subsequently printed in *Pravda*, to the amazement of official Washington. Not all the Communist leaders were satisfied either with the defense later made by Bulganin and Khrushchev that to have opposed Stalin when he was the idol of the people would have been ineffective and might have led to civil war at a time when the Soviet Union was surrounded by enemies.

In any event, Communists, Socialists, and liberals of all degrees had been made aware by 1956 of the danger to all in the repression of some, of the fact that atomic war was unthinkable, and that all men of good will must join in a fight for freedom and peace. The Poznan uprising and the terrible events in Hungary had brought home to the Communists that progress based on dictatorship may seem more rapid but that, unless there is the freedom that democracy gives, the foundation is faulty and the structure may topple, and even I came closer to understanding the feelings of Norman Thomas after the Khrushchev revelations. The Communists, Socialists, and liberals were nowhere near ready for a united front, but the bitterness of the battle among them was assuaged in a common sorrow at revelations of evil and a common longing for peace.

I was rapidly assuming my place among lawyers who were defending civil liberties. On my return from Greece I was pulled into a whirlpool of court actions, appearances before Congressional committees, working with the Emergency Civil Liberties Committee, the American Civil Liberties Union, and the Religious Freedom Committee. About the last named I shall have more to say later.

One of the cases that most interested me and at the same time disheartened me most was that of Dr. Lyman R. Bradley, a New York teacher. Although I lost his case, in taking it I gained two of my most cherished friends—Dr. Bradley and his wife, Ruth Leider, an attorney specializing in immigration cases.

He had been a highly respected professor of German at New York University, and the head of the Foreign Language Department there. During the Spanish Civil War, with the approval of university authorities, a committee was formed at the university to give relief to Spanish Loyalists, and Dr. Bradley became treasurer. At that time every decent liberal in the country was on the side of the duly elected Spanish government and against the Spanish counterrevolution.

Backward Spain had long been under the control of reactionary church leaders; landlords with huge estates—many played on the Riviera while their peasants lived in abject poverty, often under cruel overseers; a corrupt and overstaffed military; and a reactionary group of industrialists. When King Alfonso abdicated under popular pressure and a democratic government was elected in 1932 thoughtful people everywhere gave a sigh of relief. The breath of freedom was at last blowing in Spain. After a short time the first democratic government fell, but it was promptly returned to power at the next election through a coalition of center and left-wing parties. Although a few Communists were elected, prominent liberals were in control.

The story of the Franco uprising soon after and the betrayal of

Spain by the Western democracies is literally a thrice-told tale, with a version to match each political need, from horror at the Fascist usurpation, disdain for Franco's wartime alliance with Hitler and Mussolini, to the dictator's embrace as a "friend of the democracies" when American bases were desired there for "cold war" purposes. In this curious turn of the wheel of history, to have aided the Loyalists against the Fascists, as moral men did, had come to be suspect. To the witch hunters of the House Un-American Activities Committee (than which no committee was ever more appropriately dubbed) that support made one a subversive.

After the defeat of the Loyalists, in 1937-38, aid was continued for those who had had to flee. The various committees that had been formed throughout the country for the support of their cause were merged into the Joint Anti-Fascist Refugee Committee and Dr. Bradley had become its treasurer. In 1947 the House Committee ordered the officers of the JAFRC to produce its books. This they could not do in good conscience. People who had contributed to the committee might be harassed and relatives of those who had been aided who were still in Spain might be persecuted by the Franco regime. Under advice of counsel those called refused to turn over the books. Dr. Bradley, Ruth Leider, and the rest of the officers and directors were thereupon imprisoned three months for contempt.

Dr. Bradley had been suspended by the university at the time of the committee hearing. When the Supreme Court refused to set aside the conviction he was dismissed. During the interval of his suspension his unpaid salary had accumulated to the amount of about \$12,000. I brought suit to recover it. He had still been employed by New York University while suspended, I argued, and his dismissal violated the tenure rules of the university. Under those rules only crimes involving "moral turpitude" were grounds for dismissal. Contempt of Congress had been judicially defined as a misdemeanor: the Court of Appeals, the highest New York court, had held that it did not involve moral turpitude, and the United States Supreme Court had also so ruled. In *Sinclair v. United States*, 279 U.S. 263, the latter had declared: "The gist of the offense is refusal to answer pertinent questions. No moral turpitude is involved."

In my client's case no charge was made that the funds of the

JAFRC had been improperly administered, a charge that might have sustained a dismissal on the grounds of moral turpitude. On the contrary, Dr. Charles A. Joy, executive director of the Unitarian Service Committee, in a case involving his own committee, testified that large sums raised by the JAFRC had been given to it to distribute, and that no strings were attached to the distribution of such relief. It was to go to Spanish Republican refugees regardless of their creed or shade of political opinion. Dr. Joy also testified that only a small proportion of the refugees concerned were Communists.

In a dissenting opinion against Dr. Bradley's dismissal, Professor Hollis R. Cooley, a member of the faculty committee which had voted for it, put the issue in a nutshell. He said:

"Judgment of this matter requires an examination of the reason for Bradley's refusal to produce the records which were demanded by the House Un-American Activities Committee. The reason which he gave for his refusal was that in view of the previous record of the House committee in permitting the publication of confidential matter, the delivery of the required papers to this committee would jeopardize the welfare and safety of a large number of innocent people who had contributed to, or been aided by, the work of the Joint Anti-Fascist Refugee Committee. No evidence was adduced which showed this to be an unreasonable fear. On the contrary, the record of past actions of the House committee, as well as public statements of several members of the committee to the effect that the primary purpose of the committee was 'exposure and publicity' leave little doubt that this anxiety was amply justified."

Dr. Cooley's brave dissent was in sharp contrast to the craven conduct of the majority of his colleagues, who gave the university authorities the "green light" for the dismissal, as did many other faculty committees in similar cases, it must be regretfully added.

In our suit we were not even asking for reinstatement. Dr. Bradley had been suspended. He was kept on suspension for a long period without pay before he was given a hearing. We were merely suing for his salary for that period. In other cases it had been clearly established that when a professor who had tenure rights was suspended and later dismissed he was entitled to pay for the period

of his suspension regardless of whether a later dismissal, after a hearing, was or was not justified.

However, such were the times that the Appellate Division of the Supreme Court in Brooklyn and later the Court of Appeals in Albany decided against Dr. Bradley's claim. They did so without writing any opinions although the case was an important one, involving as it did tenure rights of teachers. I have always felt that the judges did not write opinions because they could not make the decision jibe with established law.

I am reminded of the story of a lawyer who, when a judge fined him \$50 for contempt of court, said, "Please make it \$100, your Honor. Fifty dollars is not sufficient for the contempt I feel for you." It has been a sad thing for me as a lawyer, with pride in the profession, to see judges who seemed clearly to have yielded to the hysteria of the times.

Another case in which I was an attorney involved the Gwinn Amendment, so called because it was introduced into a housing bill by Congressman Gwinn, an archreactionary from New York. In this suit I came out better. The amendment, passed as a rider to an appropriation bill by Congress, provided that "No applicant shall be admitted to, and no tenant shall be permitted to reside in any dwelling unit in a federally-aided project unless such applicant or tenant has signed a certificate at the time and in the form required by the authority, to the effect that neither the applicant or tenant nor any other person who occupies, or is to occupy, the dwelling is a member of an organization designated as subversive by the Attorney General of the United States."

Here was witch hunting with a vengeance, undertaken in the face of a Supreme Court decision about that list. The court had held in *Wieman v. Updegraff*, 344 U.S. 183, that the Attorney General's list could not be used indiscriminately for loyalty purposes. None other than Justice Tom Clark, who had first promulgated that list, had condemned its use as a basis for loyalty oaths. Writing for the court he had said: "Indiscriminate classification of innocent with knowing activity must fall as an assertion of arbitrary power."

Paul L. Ross, an able attorney, and I were co-counsel in a suit in the New York Supreme Court seeking to declare the Gwinn amendment void as a bill of attainder and as violating the rights of tenants under the First, Fifth, and Fourteenth Amendments. Justice Mar-

tucello, an able young jurist, heard our arguments, and after careful study of the briefs, wrote an excellent opinion holding the amendment unconstitutional. The reactionary Appellate Division, which had decided against me in the Bradley case, now reversed Justice Martucello. Ross and I then took the case to the Court of Appeals, which reversed the Appellate Division. It did so on technical grounds without deciding the Constitutional question, and this, too was in line with the times. A new hearing was ordered.

Meanwhile suits had been started in other states, and in one the Supreme Court of Wisconsin had held the amendment unconstitutional and the Supreme Court of the United States had refused to review that decision. So the other suits, like our own, came to an end. I hope that the death of the Gwinn amendment will show the lawmakers that there is a point even in these times beyond which they cannot go. The courts, though they have often failed to protect essential liberties, have a better record than either the legislative or executive branches of both the state and national governments. Since Earl Warren of California became Chief Justice, the Supreme Court has notably checked, if not reversed, the trend of repression.

All that I have just written sounds too lawyerlike. It leaves out the human elements. It leaves out the fact that Dr. Bradley, a gray-haired man who spent thirty years of his life as a professor, had to find a new way to make a living. It leaves out the tenants, all poor people, worried over the threat of eviction. Some of them had done no more than join the International Workers Order because it provided cheap insurance, or they had joined other organizations for equally innocent reasons.

The account leaves out the woman who, when she heard that we had obtained an injunction against the eviction, called me on the phone. She was crying with happiness. Her husband, she said, was a crippled war veteran. "Oh, Dr. France, thank you, thank you," she sobbed. "If we had had to move, where could we have gone? Our little apartment is our home. We love it. For what we can pay we could get nothing like it."

The rewards from my new practice were not chiefly in money.

New York in the fall! After an absence of many years in the more somnolent air of Florida I found, to my surprise, that I was glad to be back. Certainly our small apartment in the lower East Side could not compare with the comfortable home and spacious grounds we had enjoyed in Florida, but New York is a vital place. I was meeting people who were alive to their times. I could go into a restaurant with a Negro friend without unpleasant incident, to mention only one advantage.

I found that people were fighting McCarthyism, and that they were people of vision and principle who really cared for the great American tradition. Even conservative people whom I met, though they would not stir a finger to help, were for the most part sophisticated. They did not believe there was any danger, clear and present or obscure and remote, that the little group of American Communists could bring on a violent revolution. They thought the whole agitation was a passing phase in the American body politic.

Occasionally I did meet a real McCarthyite who thought that the whole business of putting the Communists into jail or limbo was valid and necessary. To do so would throw a scare into extremists in the labor movement who wanted to go "too far too fast." Why, even the sensible leaders like Meany and Reuther and Carey want the Reds kicked out of their unions, the McCarthyites said; so why should we complain, they asked. And, indeed, one of the tragedies of the period was that the leadership of the American labor movement was lending its weight to the attack. They were forgetting all past lessons of history that such an attack would not stop with "Communists" but would use the label to destroy any who stood in the way, when their turn came.

There was more to do in New York than I had time for, but catching up on the life of the city—theater, opera, art museums—and, for that matter, enjoying the sheer beauty of the surrounding

countryside would have to wait. My work was so absorbing that I had no regrets about anything I was missing . . . not even golf, although none of my golfing friends would believe that one. For years I had been the kind of golfer who was going to play the course in par. I had a card with my best score for each hole on the course. If I could only just once put all those good holes together in one game! But I never did. Some day, when I stop practising law, maybe I will . . . maybe!

That first year I had my introduction to Congressional committees investigating Communism. No lawyer who has never had the experience of going with a client before the House Un-American Activities Committee or the Senate Internal Security Committee can comprehend the frustration of an attorney in the face of the humiliation to which a witness is subjected—humiliation which the committees try to spill over onto the lawyer as well—nor can one who has not had the experience know one's bafflement in the face of the disgusting, publicity-hungry men who have been elected to high office. The performances of Senators and Representatives on these committees, almost without exception, struck me as insincere and cynical, and motivated by political advantage. Men who otherwise would have remained obscure in Congress had made the headlines, than which what higher goal is there for a politician! Seeing the success of these otherwise obscure men, others like them saw their chance, and curried favor, I am sure.

My first appearance before such a committee was when the Senate Internal Security Committee held hearings in the fall of 1952 as to subversion among teachers; and, as it developed, the case of one whom I sought to defend that day—Harry Slochower—ultimately reached the Supreme Court in a test of the use of the Fifth Amendment. Most of the witnesses called were members of the Teachers Union in New York, a militant organization headed by Abraham Lederman, a former high school teacher and a person of outstanding character and ability, and by Rose Russell, a brilliant woman. She was a stormy petrel in educational and legislative circles. Undaunted by opposition, no matter how fierce, she faced the Board of Education, legislative committees, and red-baiters with keen thrusts.⁴¹

I was engaged to appear with a group of teachers before a subcommittee headed by Senator Homer Ferguson of Michigan, and I

had an opportunity for a private chat with him before the hearing. He was one of the more respectable Senators, considered by fellow members of Congress to be in a different class from McCarthy, Jenner, Velde, Eastland, Walter, and others of the more blatant publicity seekers. He had been a teacher himself, as he proudly informed me when I expressed surprise and concern over his investigating teachers. After an exchange of pleasantries with regard to friends we had in common, I decided to seize the opportunity to try to educate him in the principles of academic freedom and American democracy.

"Senator Ferguson," I said, "I am puzzled as to the purpose of this investigation. Surely the question of the fitness of teachers in New York to teach is a local, not a national, problem."

He eyed me morosely. Evidently he had allowed himself to be drawn into conversation with a rampant red. "It is not a question of fitness," he answered. "We are trying to expose Communists and to root them out of our educational system."

"Is that a legitimate purpose for a Congressional investigation?"

He spoke sharply. "Do you wish to have people who believe in the overthrow of government by force and violence be in positions where they can poison the minds of our young people?"

"But, Senator, there has never been a word of evidence in all these investigations to show that any teacher charged with being a Communist had used the classroom for propaganda purposes. I believe that the standard laid down by the American Association of University Professors is the correct one."

"What's that?"

"That a teacher should be judged not on his private opinions but by his conduct in the classroom."

The Senator looked pained. "Do you think they would let anyone teach in a Russian school who believed in capitalism?"

"Not if they knew it. But do we wish to imitate Russia or set a good example to Russia by living up to our own principles of freedom?"

He saw that I was hopeless. Just then, to his relief, Robert Morris, the committee counsel, returned to the anteroom where we were waiting and said that he was ready to go ahead. I have since met a number of younger members of the bar, like this pleasant enough young counsel, who have lent their services to what they

called the crusade against Communism. Decent-appearing though they were, I have found it hard to believe that they did not realize they were playing a dirty part in a highly un-American activity for their own hope of advancement. This one, in particular, sought that advancement in the next election in New York, in which he won a judgeship. For a time he was out of the headlines but he came back in when he resumed his old position with the Internal Security Committee under still another chairman.

Each one of the teachers I represented was advised in advance of his Constitutional rights and I explained the difference between invoking the First and the Fifth Amendments. If they invoked the First they faced the possibility of a jail sentence for contempt of court, in line with the Supreme Court decisions in the case of the Anti-Fascist Refugee Committee officers and that of the "Hollywood Ten"—the first group of people from the theater who had defied the questioning in the early days of the Congressional inquisition. The litigation that would follow invoking the First would be long and expensive, I told my clients, and the outcome uncertain. If, on the other hand, a witness invoked the Fifth Amendment he would not be cited for contempt but he would face instant dismissal under a provision of the New York City Charter making a refusal to answer on Fifth Amendment grounds a reason for such action. I believed that the Charter provision was unconstitutional, but to test it would also mean a long and expensive court battle. Dr. Slochower indicated at this point that he would stand on his Constitutional right and make the test if necessary.

When his time came before the committee he testified that he had once been, although he no longer was, a Communist. He invoked the Fifth Amendment in his refusal to give names of people he had known in the Communist movement. He was dismissed, as had been predicted, and as a test case his appeal from that dismissal was carried to the highest court. The Supreme Court's decision, handed down in April, 1956, more than three years after the unwarranted attack, declared that the witness had invoked the Fifth Amendment properly and that the New York Charter provision was unconstitutional, a confirmation of my judgment from which I understandably took satisfaction. The decision pointed up the importance of the Fifth Amendment in our Constitutional scheme, and the opinion is worth reading:

"... We must condemn the practice of imputing a sinister meaning to the exercise of a person's constitutional right under the Fifth Amendment. The right of an accused person to refuse to testify, which had been in England merely a rule of evidence, was so important to our forefathers that they raised it to the dignity of a constitutional enactment, and it has been recognized as 'one of the most valuable prerogatives of the citizen.' *Brown v. Walker*, 161 U.S. 591, 610. We have reaffirmed our faith in this principle recently in *Quinn v. United States*, 349 U.S. 155. In *Ullman v. United States*, decided last month, we scored the assumption that those who claim this privilege are either criminals or perjurers. The privilege against self-incrimination would be reduced to a hollow mockery if its exercise could be taken as equivalent either to a confession of guilt or a conclusive presumption of perjury. As we pointed out in *Ullman*, a witness may have a reasonable fear of prosecution and yet be innocent of any wrongdoing. The privilege serves to protect the innocent who otherwise might be ensnared by ambiguous circumstances. See Griswold, *The Fifth Amendment Today* (1955).

"With this in mind, we consider the application of §903 [Slochower]. As interpreted and applied by the state courts it operates to discharge every city employee who invokes the Fifth Amendment. In practical effect the questions asked are taken as confessed and made the basis of the discharge. No consideration is given to such factors as the subject matter of the questions, remoteness of the period to which they are directed, or justification for exercise of the privilege. It matters not whether the plea resulted from mistake, inadvertence or legal advice conscientiously given, whether wisely or unwisely. The heavy hand of the statute falls alike on all who exercise their constitutional privilege, the full enjoyment of which every person is entitled to receive. Such action falls squarely within the prohibition of *Wieman v. Updegraff*, *supra*.

"It is one thing for the city authorities themselves to inquire into Slochower's fitness but quite another for his discharge to be based entirely on events occurring before a federal committee whose inquiry was announced as not directed at 'the property, affairs, or government of the city, or . . . official conduct of city employees.' In this respect the present case differs from *Garner*,

where the city was attempting to elicit information necessary to determine the qualifications of its employees. Here, the Board had possessed the pertinent information for 12 years, and the questions which Professor Slochower refused to answer were admittedly asked for a purpose wholly unrelated to his college functions. On such a record the Board cannot claim that its action was part of a bona fide attempt to gain needed and relevant information.

"Without attacking Professor Slochower's qualification for his position in any manner, and apparently with full knowledge of the testimony he had given some 12 years before at the state committee hearing, the Board seized upon his claim of privilege before the federal committee and converted it through the use of §903 into a conclusive presumption of guilt. Since no inference of guilt was possible from the claim before the federal committee, the discharge falls of its own weight as wholly without support. There has not been the 'protection of the individual from arbitrary action' which Mr. Justice Cardozo characterized as the very essence of due process. *Ohio Bell Telephone Co. v. Commission*, 301 U.S. 292, 302.

"This is not to say that Slochower has a constitutional right to be an associate professor of German at Brooklyn College. The State has broad powers in the selection and discharge of its employees, and it may be that proper inquiry would show Slochower's continued employment to be inconsistent with a real interest in the State. But there has been no such inquiry here. We hold that the summary dismissal of appellant violates due process of law.

"The judgment is reversed and the cause is remanded for further proceedings not inconsistent with this opinion.

"Reversed and remanded.

"April 9, 1956"

President Gideonse of Brooklyn College no sooner heard of the Supreme Court's decision than he stated that Slochower would again be suspended, this time on a charge of perjury. Gideonse, a zealous little me-too-er, is an example of educators who have proved unworthy of their responsibilities.

Perhaps I can best explain my reactions and those of other Amer-

icans to these Congressional investigating committees by describing a meeting that took place at the National Republican Club in New York City in March, 1954. I was invited to speak by Charles H. Tuttle, who was completing his third term as the club's president. I understood that the meeting was intended to be one of outstanding importance. The topic selected was "The Constitution and the Procedures of Congressional Committees." Two of the speakers had already been chosen; the qualification for the third was that he be a Protestant, and on that score I qualified. I had been recommended by Charles Parlin, legal adviser to the National Council of Churches.

I welcomed the opportunity to speak to a conservative group like the National Republican Club because of my belief that decent Americans, conservative, liberal, and radical, all have a deep sense of fair play and a basic regard for the principles embodied in the Bill of Rights. The difficulty was to reach them through the "Iron Curtains" that lately seemed to have separated one group of Americans from another. All the more important, then, that I should have this chance.

Mr. Tuttle, with whom I became acquainted, was one of the leaders of the New York bar and had received many honors, both political and professional. He is a conservative and we had many differences, but I found him to be a most affable and tolerant person. One of the speakers was Judge Robert Morris, the same young attorney whom I had met on my first appearance before the Internal Security Committee. The third speaker was Harold Riegelman, who had been the Republican candidate for mayor in the last election. I was meeting him for the first time.

Judge Morris was the first speaker. He told of his work as counsel and extolled the committees. He said that the Internal Security Committee had exposed scores of Communists who were teaching in public schools and colleges, had uncovered thirty-seven spies in the State Department, and, in short, had rendered a valuable contribution to our way of life.

Riegelman came next. He agreed with Judge Morris as to the valuable services of the committees, but suggested certain procedural changes calculated to give counsel for the accused greater freedom and the opportunity to know and cross-examine the witnesses used against them. He also deplored the public spectacle—the use

of the television and the tendency of some Congressmen to seek telling headlines rather than to conduct a sober search for truth. He was speaking while McCarthy, aided and abetted by young Roy Cohn, his counsel, were at the height of their power and mischief.

I spoke last.

"I agree with Mr. Reigelman that the committee hearings have been turned into public circuses and that there should be a reform of procedures," I said. "I totally disagree with Judge Morris that the committees have done a great deal of good. On the contrary I think that the investigations have been mischievous and unwarranted, a violation of the Constitutional rights of Americans, and exceedingly harmful to the reputation of our country both at home and abroad.

"Judge Morris told you that the committee had exposed teachers as Communists. Well, that is not the proper business of Congressional investigating committees. Their function is to investigate for the purpose of proposing legislation. They are not constituted either by their nature or by their rules to afford the sort of hearing with due process procedures in which individuals can be judged. He failed to tell you that in not one of these investigations has an iota of evidence been produced to show that the 'exposed' teachers had used their classrooms for propaganda purposes.

"Moreover Judge Morris, I feel sure unwittingly, did not tell you the truth. He said that the investigations had uncovered thirty-seven spies in the State Department. That is false. What he should have said was that a hysterical woman named Elizabeth Bentley had made that claim.

"Ladies and gentlemen," I went on, trying to emphasize my next point, "I have been waiting through two administrations, one Democratic and one Republican, for the government to indict any one of the persons named by the Bentley woman. One case was brought before a grand jury that had the task of bringing an indictment if one were warranted, but none was returned. Elizabeth Bentley has been named a liar by persons who have demanded the right to confront and cross-examine her. I don't believe any of the people named by her will ever be convicted of treason, but I do believe that some day the truth about Elizabeth Bentley may become known."

I then proceeded to tell of what had actually happened in one of the

hearings at which Judge Morris and I had been opposing counsel. The witness was Professor Frederic Ewan of Brooklyn College. He had been professor of English literature for many years, and his courses were so over-registered that it was difficult to get into them. He was a gentle man, much beloved by students and fellow faculty members. There was not, and never has been, any charge that he used his classroom for the purposes of propaganda.

"When I arrived at the courthouse on the day that he was to testify," I continued, "Foley Square was packed with protesting students from Brooklyn College. As many as could jammed into the courtroom, and there heard one of their favorite teachers heckled and badgered. They heard him invoke the Fifth Amendment as a basis for refusing to say whether he was a Communist. They learned later of his dismissal by the institution he had served so well.

"Now, how did all this combat communism?" I asked my Republican audience. "What effect did it have in the minds of the students of Brooklyn College?"

I considered the performance unwarranted in the Constitutional sense and unfair to Professor Ewan and to the college that lost his services. But more than that, I argued, it was self-defeating. One could not know how many students of Brooklyn College left the courtroom with a sympathy for communism, but one could be sure that many went away filled with contempt for a committee of the United States Senate and doubts as to how free our free institutions are in practice.

That undermining of confidence by those acting in the name of the United States government is, in my opinion, likely to be the most costly, in the long accounting. Something has been destroyed for many people, beyond the accused, and it is something that will never again be fully restored.

When I had finished, the applause, in this stronghold of conservatism, was louder and longer than for either of the other speakers. After the question period a man arose and introduced a resolution condemning the methods of Senator McCarthy, and after a heated debate it was passed. At the conclusion of the meeting, many people came up and thanked me, saying that they had never heard the side of the matter which I presented.

The response was the same elsewhere. Because of my experience

in defense of teachers before the Senate committee I was invited to address a number of PTA meetings in various parts of the city. The same overwhelming opposition to the witch hunt was always evident. The net result of that witch hunt, as I pointed out whenever I had the chance, was to deprive New York City of many of its best teachers in a period when one of the most serious problems was a teacher shortage. And, by branding as Communists such respected and often beloved persons as teachers the committees must have caused many to wonder why communism attracts such people.

The summer of 1953 found Ethel and me enjoying what I admitted was a needed, and claimed was a well-deserved, rest at Arrowhead Lodge on Schroon Lake in the Adirondacks. For me there is no lovelier country in the wide world. The memories of my boyhood summers and of the years when our children were growing up on Canada Lake mingled with the delights of the present.

We had our separate cabin and ate in the main lodge. Long paddling in our canoe, with the mountains and the white clouds in the blue sky for our silent companions, gave time for reflection. When alone I would sing old songs to myself, "America, the Beautiful," "He Leadeth Me," and, yes, "Moonlight and Roses." I was seventy years old, yet I felt young. Mother Earth in her varying moods was as sweet and beautiful to me as when I was a romantic boy. Even if I had not achieved greatness in life I could feel, at three score and ten, one of life's greatest satisfactions, the consciousness of being needed and fully used. Many people looked to me for help. If I could not always succeed in putting from my mind what ignoble men, seeking temporary fame, were doing to those who sought my help, I knew, at least, that no one would begrudge me these hours of peace, there in the woods.

I recalled a poem I had written several years previously for the *Florida Magazine of Verse*, called "An Interview." In it the mortal, who was I, was given respite, but not the Lord, for whom there were too many wrongs to be righted, too much greed to overcome. Since the poem reflected my thinking, and my mood, after a year of having been about "the Lord's business"—I might have been called the devil's advocate by some but to me there was no doubt which side I was serving—it might well be published here.

I speak

God, what shall I say
On this sad day

When head sinks weary on a breast
By human misery and wrong oppressed?
Tired of the struggle, give me now your peace!
Let all my urges, all my strivings cease!
Give me the sense of beauty once again!

God, let me rest!
Let me be blest
By music soft like summer winds in trees!
Let me lie down on Nature's breast, and please
Let me have clouds of white and blue of sky!
Let sunshine glint, a brook go murmuring by!
Then may I close my eyes and sleep?

God speaks

I grant your prayer
Rest your soul there!
I took ten million years to make that tree,
A hundred million more those birds you see
Were forming in my thought. I dreamed of song.
I wanted peace and beauty all along.
I sculptured hills and spread a crooning sea.

Rest, son, lie still!
I like that daffodil!
I'd like to stay here with you and enjoy
The lilting note of warblers. Look up, boy!
There'll be a sunset for you pretty soon,
And after that I'm going to have a moon—
You'll see it all, but I must hurry on.

I speak

Can't you rest too?
No one as you
Would grasp the full significance of this
Sheer beauty, feel the joy that is
Too deep for words, in that far cry

Of heron winging through the sky,
Or know the glory as your sun goes down.

God speaks

I cannot stay,
This very day
Children are starving though I made so much.
No end of wheat will spring up at the touch
Of plow to earth. I took a million years to make that
coal
To warm men, not to drive them to a hole
To die in. Greed destroys my world!

I still must work.
I cannot shirk
The long, creative task that I began.
In Georgia they are stringing up a man
Because he's black! I like that dusky hue.
My heedless boys have smashed the atom too.
Enjoy your ease! I must speed on my way.

I speak

Oh, leave me not
In this fair spot
While still your harmony is incomplete!
I will go with you, Lord, with willing feet
To where you fight with Pride and Greed and Wrong,
Where selfish men fend off your Heaven so long . . .
Yet may we come back here when work is done?

God answers

I'M ALWAYS HERE. COME OFTEN, SON!

So it was: I was enjoying the good earth, but in the courts, the Congressional hearing rooms, the prisons—I was uneasily aware—good men and women engaged in that work of creation, as I thought of it, were having to fight against greed and iniquity in

some of its most dangerous forms; and what is more, they were having to carry that fight against the indifference of their fellows.

My own peace that summer was shattered by a long-distance telephone call from New York. Charles Stewart, a retired schoolmaster who was devoting his later years to the fight for civil liberties, was on the phone, to tell me of the difficulties of the Reverend Jack McMichael, a Methodist minister from California. He was now in New York under summons to appear in Washington the next morning before the House Committee on Un-American Activities. Stewart and a group of ministers with him had recommended that I be his counsel. As there was no way whatsoever for me to get from the lodge to Washington in time, I recommended that Frank Donner's help be sought.

The McMichael hearing proved to be the prelude to an extensive investigation by the committee of an alleged conspiracy on the part of Communists to infiltrate the church and use clergymen to spread communism and atheism. In an earlier attack J. B. Matthews, at the time counsel for the McCarthy committee, had stated that Protestant clergymen were the greatest single source of support for the "Communist apparatus." His charge, in the *American Mercury*, had drawn so much fire from outstanding religious leaders that McCarthy was forced to call off a proposed investigation. More, he had been forced by the pressure of public opinion to drop Matthews, who for years had been ready to supply the charges to whichever committee sought his services. The "red-baiters" were countering their defeat through the House committee. It was advertising a "full-scale investigation."

The first to be called was Herbert Philbrick, an FBI informer and the best-beloved by the witch hunters of all the scabrous troop of informers. He claimed, probably with truth, that he had penetrated the Communist Party in Boston. He had exploited his experience through a book, *I Led Three Lives*, that became a best seller and the basis for a television series. In his book he described his triple life as church worker, member of the Communist Party, and FBI informer. Since McMichael's trial I have read Philbrick's book and followed his writings in the *New York Herald Tribune* and elsewhere, and I have heard him speak. His engaging way of speaking and his apparently youthful naïveté, in my judgment, cover a complex and sinister personality. He blends truths, half-truths, and

falsehoods so cleverly that even literate people are deceived: Boston, once a cradle of liberty, celebrated Philbrick Day in his honor, which leads to the observation that the Salem witch hunts are as much a part of Massachusetts' history as Lexington and Concord. Philbrick's pastor, who knew him well, was unable to understand him. So am I. Whatever good he may have done in his life, he has done great evil to our country and to its heritage of tolerance and freedom. Of that much I am sure about this young man.

Philbrick was examined by the House committee in executive session, a procedure whereby the inquisitors go over the testimony with the witness and make their determination of its value for exploitability. Theoretically the procedure is a protection for the witness, for if he can clear himself or make a "clean breast" of his past, he is not to be subjected to the calumny of a public appearance. I say theoretically, for many who have so testified under either the promise or the assumption have later been forced to take the stand publicly, because their "recantation" in the opinion of the inquisitors will be so "helpful." Philbrick, according to his claim, was caught up in the procedure, though not, as it developed, with any but profitable consequences to his chosen role as informer.

In executive session he testified that he had no "legal evidence" that there were Communist Party members among the clergy. He did have hearsay and gossip, though, to which the committee gave willing ear. He had been told of two clergymen in Boston who were members, but curiously neither had been named in his book, which was presumably the complete story of what he had done and learned in the Boston area. When the charge was subsequently made public, both ministers indignantly denied it but were never given an opportunity by the committee to make that denial under oath before it, nor did they have recourse to the courts in a libel suit, as they would have had if the charge had been made in Philbrick's book instead of before the privileged committee.

Pressed for further names in that same executive session, Philbrick said that he had heard of seven or eight ministers but that their furtiveness prevented their discovery. Nevertheless he did not hesitate to give their names to the prying committee, and in its desperate eagerness for headlines it made the Philbrick evidence public. He was reportedly furious, claiming a breach of faith. He had given the names, he said, only as "leads and tips" to be fol-

lowed up by further investigation. The committee, in making the names public, so he charged, had played right into the hands of the Communists.

The committee was unruffled. It then called Joseph Kornfeder, an ex-Communist and a veteran in the art of informing. He knew the sort of slush the committee wanted and was ready and eager to supply it. Among other accusations, he testified "not from first hand" that Dr. Harry F. Ward had met years before with certain leaders of the Soviet Union in Moscow. "I am fairly certain in my mind," the witness gossiped, "that Dr. Ward saw Joe Stalin." Later Dr. Ward, who is a good friend of mine, assured me that he never saw Stalin and that Kornfeder's testimony was shot through with lies; we prepared and sent a reply by Dr. Ward to the committee, hoping that it would lead to its calling him to refute the Kornfeder fairy tale. It never did.

Kornfeder further gave it as his personal opinion that there were about 600 secret party members among the clergy. His estimate, he said, was "based on knowledge I have in the field." That "knowledge" was sufficient for the committee to give the prestige of the United States Congress to the charge.

Another of the deans of informers, Benjamin Gitlow, was the third witness. He attacked the whole social gospel movement. Apparently, to him, to try to put the teachings of Jesus into practice was highly subversive. Indeed, the Sermon on the Mount is one of the most revolutionary documents in history. If applied, it would sweep away the building of armaments for the destruction of our enemies and replace hate with love. The competitive profit system scarcely accords with its ideals. Racial discrimination and class distinctions would disappear. To come down the scale to the immediate application, the House Committee on Un-American Activities itself (perish the thought) would not survive the test; its members would scarcely be called the humble and the pure in heart.

Gitlow, by the sort of persons he named, showed clearly that his target was not Communists; his animus was against men of social passion. He charged that among the ministers who "carried out the instructions of the Communist Party or collaborated with it" were John Haynes Holmes and the late Rabbis Judah L. Magnes and Stephen S. Wise. One of Holmes's few intolerances, we who

were his friends knew, was directed against Communists, and both rabbis were known to me and others as anti-Communist liberals. Many others were named against whom the charge was equally laughable, except that it was serious.

The fourth such witness to take the stand was Manning Johnson, and I will deal later with proof that he was a perjurer. In his three days before the committee he expanded the story to include espionage and sabotage, to which he linked the clergy by implication. To make his case, he used various public pronouncements by the clergy and from these he developed an elaborate chain of organizational relationships from which it would appear that "almost every manifestation of liberal Christianity in the last several decades stemmed from the Communist movement." The quotation is from a documented exposé on the informers put together by Frank Donner and published in *The Nation*, April 10, 1954.

Still another informer, Leonard Patterson, had identified Jack McMichael as a Communist, to get my own account of events in order. Patterson stated as a fact that McMichael had been a member of the New York district of the Young Communist League in 1934 and 1935, although the accused at the time was a freshman in the University of Georgia. Donner, whom I had recommended in my place at the time of the emergency call, represented McMichael at the hearing. The fiery Methodist gave the committee members a bad time. They tried to silence him with the banging gavel when by quotations from the Bible he justified the positions he had taken—positions that had been cited as evidence of his Communism. I have always regretted that I was not there to hear him.

As a direct outcome of these hearings the Religious Freedom Committee was established, and on my return to New York I became its attorney. It was set up to defend the accused and to rally support among the clergy and laity of all faiths against further attacks upon the freedom of religion guaranteed by the First Amendment. Each Monday afternoon when I was not in court or at a hearing I met with the stalwarts of this committee: Dr. Ward; Mrs. Dorothy Haven of Falls Village, Connecticut, a prominent Episcopalian; the Reverends Lee Ball, Wayne White, Richard Morford, and William Howard Melish, all well-known clergymen;

Dr. Willard Uphaus, a man of wide reputation in the religious-labor field, and Miss Janice Roberts, the committee's able secretary, a young woman from the Methodist church. Wisdom and humor abounded in these meetings, as week after week new attacks were met, including charges against several of those just named. I would not have missed these meetings, for it was like participating in "the communion of saints" as described in the Apostle's creed, or at least it was as close to that experience as I have ever been.

And I was to have my turn, too, as counsel in the religious field.

A good and highly intelligent friend of mine, who has been reading and criticizing this manuscript as it goes along, remarked that my readers would think that I had fallen in love with the Communists and been taken over into their camp.

That I have liked most of the Communists whom I have met is true. I like people who have social convictions for which they are willing to make great sacrifices. I can find no motive to explain the Communists' willingness to accept obloquy and persecution, and in some instances even imprisonment, except those which have activated those who have loved and served humanity through the ages. Moreover, I have found most of the Communists whom I have come to know to be better informed on history, economics, and world affairs than many of my good professional friends who make scholarship their business.

I have indicated from time to time in this book that my Communist friends listened with patience and replied without rancor when I told them why I disagreed with them. Perhaps before going further I should state what some of my criticisms were.

I believed that the Communists, under attack themselves for expression of unpopular ideas, were genuine in their defense of the Bill of Rights here in America, despite their failure to come to the vigorous defense of the civil liberties of the Trotskyites—the first to be convicted under the Smith Act, in 1941. The Communists were not brought to trial under that act until almost ten years later. But, sincere as they were in advocating and fighting for the full protection of the Bill of Rights, they were willing to excuse, condone, or shut their eyes to the restrictions on freedom and the persecution of people who did not please the group of men in power in the Soviet Union and the eastern European countries under its influence.

At the time of the executions of high party leaders in Hungary and Czechoslovakia I pointed out that if I were in those countries

I should wish to defend those out of favor. On the other hand, I understood better than most of my liberal friends the dilemma of the Communists. So many lies had been told about the Soviet Union in the American press from the very onset of the Russian revolution, and about the other countries that had gone Communist, that the Communists here and their sympathizers were reluctant to believe the stories about slave labor camps, persecution of the Jews, and charges of ruthless repression of opposition.

Moreover, we Americans and our allies did not enter the court of public opinion with clean hands, for we too were guilty of cruelty and repression, much as it might be deplored. The execution of the Rosenbergs, which I shall discuss later, the persecutions of American Communists, the terrible conditions I have described in Greece for which our government surely bore part of the bill, the executions on Formosa, and other excesses in the so-called free world which was under our influence weakened our whole moral position. Lastly, if America, with its great tradition of liberty, could not in a time of tension do better than to spew up an era of McCarthyism, how could we preach tolerance and respect for civil liberties to others? They had more excuse than we, for they had just undergone revolutionary changes; we were in no danger of political upheaval, even at the polls.

I had been concerned, too, about the adulation of Stalin. I could not but contrast his egotism with the modesty of Lenin. I did not, however, fully realize the dangers that were lurking in "the cult of personality," which later the Communists themselves brought to attention. I did urge my Communist friends, again and again, to take a more objective attitude toward the Soviet Union. American socialism, I argued, if and when it came, would be an altogether different thing from that of the Russian regime. Socialism was established there in an industrially backward country whose people were illiterate and where there was no tradition of civil liberties. Socialism there came out of revolution, and from the beginning faced the threat of capitalist aggression. Many of the Soviets' mistakes were understandable, but, I said, "You American Communists don't need to saddle yourselves with them."

I understood, though, that the Soviet Union was to Communists everywhere the fruition of a dream, the future come to pass in the present. It was hard for them to face the facts of any short-

comings, just as the Christians, Protestant and Catholic alike, find it hard to criticize existing religious practices or to acknowledge the cruelties and persecutions and executions that are part of the church record. I understood, too, that a revolution was not a thing of sweetness and light. The French revolution had its guillotines, where heads were chopped off to the applause of the multitude, but that revolution nevertheless was one of the great steps forward in human progress.

Such were my major criticisms and attitude in talks with my Communist friends. I urged the necessity of a less doctrinaire approach if they hoped to win American workers and liberals to the support of a socialist program. If they wished to study and draw inspiration and guidance from Marx, Lenin, and Stalin, well and good; but the Communist slogans would lose, not win, friends. Terms like "dialectical materialism," "the dictatorship of the proletariat," and even the "class struggle" were bound to be misinterpreted.

"Put your program in Americanese," I said. "Give a realistic picture of why you dislike capitalism and of how a socialist America would work and what it would be like." No party, with the possible exception of the one headed by Daniel De Leon, has ever yet brought forth a blueprint for an American socialist state.⁴³

I also deplored the conspiratorial secrecy, the use of false names and other practices so foreign to the American political scene. At the same time I understood, better than did most of my liberal friends, why concealment was forced upon the Communists, especially after the Smith Act persecutions began. McCarthyism was at its height. Concentration camps were being made ready—no idle threat, for the Department of Justice, to implement the Internal Security Act of 1950 (the McCarran Act), had set up and equipped "detention camps" capable of holding 12,000 Communists, by its own announcement. All that had to be done for the roundup to take place was for the President to declare "an emergency," and that law is still on the books and those camps are still in readiness, I might add. Small wonder then that the intended victims, with the picture in their minds of what had happened under Hitler in Germany, believed that the precautions they were taking were nothing more than acts of self-preservation.

On another matter of criticism, also, understanding of the Com-

munist viewpoint was needed. Whenever I spoke of the danger of rigidities in thinking or in following the party line I was made aware of the fact that in unity there is strength. It is not easy, in a party with a definite program toward a desired goal, to know where to draw the line between critical discussion and dangerous schism.

These contradictions did not arise to plague me in one group for which I became the attorney, the Religious Freedom Committee which I have previously described. Its leaders were in the progressive wing of the church, committed to social progress. Although many of this group were accused of being Communists or Communist "fronters," they were not. They stood simply for the Judeo-Christian ethic and sought to bring it out of the incense-laden air of churches and synagogues and cathedrals and apply it to life. They defended, as I did, the right of Communists to have their say, and along with that their own right to associate with Communists or anyone else in the cause of peace or any other cause in line with the ideals of a social religion.

The stand this group took toward the witch hunt was well expressed by Dr. Willard Uphaus, who became one of my clients and close friends and about whom I shall have much more to say later. In a hearing before the House Committee on Un-American Activities in May, 1956, he stated under oath that he was not and never had been a Communist, and then declared:

"I hold that as a Christian I have the right to choose whatever associates I desire, as long as the choices and associations are for the purpose of bringing peace and the abundant life to all people, or are for the purpose of performing socially redemptive acts. I have for years worked with persons of any race, faith, nationality or political conviction. Peace must be won through the free associations of those who have differences to resolve."

His attitude was my attitude, for how, I ask, are people who disagree going to resolve their differences and get along together unless they are free to associate?

But again I am ahead of my story.

I had many contacts with people in New York who were engaged in religious work. Some I had had from past years; still others were made upon my return. I spoke at the Community Church forum, to the Liberal Ministers' Club of New York, at meetings

of the Fellowship of Reconciliation, and before Friends and other religious groups. Dr. John A. Mackay, president of Princeton Theological Seminary and moderator of the General Assembly of the Presbyterian Church, consulted with me when under attack for a fine statement he had made on the witch hunt. In that statement he had declared that treason and dissent were being confused: the shrine of private conscience, he had written, and of private judgment, which God alone had a right to enter, was being invaded, and informers of dubious veracity and morals were being used to besmirch men of social passion. His admonition, though well received in some quarters, was all the more resented in others for its effectiveness.⁴⁴

Curiously enough, though, for all my acquaintance in and around New York, my first actual case in the field of religion arose out of a move that had been made in the Presbytery of Detroit. It was an attempt to unfrock the Reverend Claude Williams on charges of heresy. In undertaking his defense I did not come to the case unprepared, for, as the son of a Presbyterian minister, I had been aware from childhood of the struggles between the Fundamentalists and the Modernists in that church. If the church had deposed from the ministry all the men who did not actually believe in many of its credal statements my father and probably more than half of the ministry of the church would have been unfrocked.

I knew of Claude Williams while still at Rollins College, through an account of his life written by Cedric Belfrage. *A Faith to Free the People*, as the book is called, is the life story of a man with the social passion of the old Hebrew prophets and the iconoclasm of the Puritan fathers.

The story moved me deeply. Claude Williams had been a Fundamentalist Presbyterian preacher in the deep South, and he was an eloquent speaker. He had led many erring souls from the fires of hell to repentance and religion, as he then believed. But, working as he did among poor sharecroppers of eastern Arkansas in the depression years, a new light dawned on him. What these people needed was not so much salvation from a future hell as some opportunities to share a Kingdom of Heaven on earth. So, with the same zeal and passion that he had put into saving souls, he began to try to save human bodies. He became active in forming sharecrop-

pers' and coal miners' unions. He broke the mores of racial segregation and invited Negroes into his church.

Then came the storm. The trustees of his church attempted to have him deposed from the ministry as a heretic. In 1934 he was actually tried for heresy by the Fort Smith Presbytery. He very likely would have been so branded then except for appeals to the Synod and General Assembly. He was removed from the pastorate of his church, but through the intervention of the higher bodies he was not deposed from the ministry.

He then founded the Institute of Applied Religion and continued his work among the common people. As more and more came to hear him gladly, he became even more hated by the Southerners whose money was made out of the sweat of these impoverished people. He was their champion and he was fearless. Once, when no minister could be found to preach the funeral sermon over the remains of a Negro who had been lynched, Claude consented to go, and, with a young woman who was acting as his secretary, he set out to drive to the place of burial. His car was stopped by a group of plantation owners. He and the girl were taken out into a field, stripped to the waist, and brutally whipped. On his recovery he resumed the fight. Like the Puritans described by Lowell in *The Present Crisis* he was "unconvinced by axe or gibbet that all virtue was the past's."

He learned much about interracial relations in the labor field, a knowledge hard come by but of recognized value. During the Second World War, ironically in view of what has since happened, he was invited by the Presbytery of Detroit to become its representative. His help was needed to cope with the influx of Negro workers to the war industries. Severe racial tension had broken out into rioting and blood had been shed. The Presbytery knew of Claude's work through Belfrage's book.

They knew of his record when they invited him and of his heresy trial and his unorthodox theological views, but they thought he was the man who could be the reconciling influence between the Negro and white workers. He accepted on condition that he should not again be called on to face heresy charges as he had done in the South. On those terms he was engaged by the Detroit Presbytery as labor chaplain in 1943.

When he retired three years later the Presbytery gave outspoken

praise for the work he had done. He returned to his work in the South as head of the Institute of Applied Religion to do the same work among the poor whites and Negroes as he had been doing before the war.

In July, 1953, the House Un-American Activities Committee, under the chairmanship of the notoriously reactionary Congressman Harold Velde, began its public hearings on alleged Communist conspiracy among the clergy. This inquiry, announced three months earlier, followed close upon publication of the article by J. B. Matthews in the *American Mercury*. Matthews, a person of unsavory fame as chief investigator for the McCarthy committee, wrote that in the past seventeen years at least 7,000 Protestant clergymen had been either Communist Party members or "fellow-travelers, espionage agents, party line adherents and unwitting dupes." The volume of protest from church bodies and clergymen was so great that Matthews was forced to resign and the McCarthy committee dropped its investigation of religion. The House Committee on Un-American Activities then took up the cudgels. It held hearings at which more than 100 clergymen were named, among them Claude Williams.

Religious leaders again reacted promptly and vigorously to this intrusion of a Congressional committee into the field of religion. The National Council of Churches appointed a distinguished Committee on Maintenance of American Freedom, headed by the Right Reverend Henry Knox Sherrill, Presiding Bishop of the Episcopal Church of the U.S.A. The General Council of the Presbyterian Church issued its "Letter to Presbyterians" which Dr. Mackay had prepared, as previously mentioned. Nineteen outstanding religious leaders demanded an investigation of the veracity of professional informers on whose testimony the charges before the committee were based. Bishop G. Bromley Oxnam, an outstanding Methodist leader who had been named before the committee, demanded and received a hearing, and left the committee members red in the face.

Claude was probably the only one of the clergymen named who had ever been a Communist. For about three months in the thirties he had been a party member and had so stated. He had left the party because he found it uncongenial, but he retained friendly

ties with Communists, and, an important consideration, he had refused to become a red-baiter.

Now Louis A. Konjathy, a prominent Detroit lawyer and an elder in the Presbyterian church, moved into the picture. Although Williams had not lived in Detroit for many years and was no longer an active minister, technically he was still a member of the Detroit Presbytery. There Konjathy became chairman of a prosecuting committee which presented charges of heresy to the Presbytery and asked that Claude be unfrocked.

For the first time in forty years a heresy trial was being undertaken in the Presbyterian church. A committee headed by Cedric Belfrage retained me to handle Claude's case before the church tribunals. *A Faith to Free the People* was now on trial, with author, subject, and reader all involved.

There was no question but that Claude Williams was a most unorthodox Presbyterian, but that had been known by the Presbytery even as it had previously praised him. The Presbyterian church, with its heritage from John Calvin, is and has always been in a theologically difficult position. Calvin, starting from the major premise that God is all powerful and all knowing, reached the logical conclusion that God knew who would be saved and who would be damned, and accordingly preached the doctrine of predestination and the damnation of unbaptized infants. Over the years those harsh doctrines had been modified beyond recognition. By practically erasing the important doctrine of predestination and damnation from the creed of its founder, the Presbyterian church had accepted the fact that we live in a world in which ideas, including creeds, do not remain static. Nor was it the Presbyterians alone who were having to make adjustments. So the heresy trial of Claude Williams had importance far beyond the limits of the one church before which he was called to account.

The charges brought against him were substantially true: It was alleged that he had repudiated the confession of faith and the catechism of the church, that he held a view of the Deity of Jesus Christ that was contrary to the confession of faith of the church, that he did not believe that men are born in sin and that unless they accept Jesus Christ as their saviour they will go to hell, that he did not believe in the Virgin Birth, and, lastly, that he had described the organized church as having been generally an instru-

ment of reaction. He had said that such expressions as "Very God of Very God" have no real content for the modern world, and that he had contented himself with finding Godlikeness and divinity in Jesus.

The trouble with those charges, though, was that many men eminent in the church held similar views. The real charge was that Claude Williams was a Communist, a charge that was true only to the extent that I have stated. It was this charge that Konjathy pressed.

For the trial I enlisted the aid of a retired minister, Paul Johnson Allured, a fine person. He was a member of the Detroit Presbytery, and thus we met the technical requirement that counsel for the accused must be either a Presbyterian minister or elder. Dr. Allured signed the brief with me, and, despite a dangerous heart condition, was present throughout the hearings.

Hypocrisy shocks me. The real charge, that Claude Williams was a Communist, was not sustained, but on the unreal grounds he was deposed from the ministry as a heretic. The Synod of Michigan and the General Assembly refused to reverse the decision.⁴⁵

"What more can I do?"

I was in the office of the National Council of Churches, early in 1954, laying a plan before Dr. John A. Mackay, moderator of the General Assembly of the Presbyterian Church. He was a good American who, like many others, was sick and tired of the Un-Americanism of the House Committee on Un-American Activities, and of the McCarthys, the Jenners, and the Brownells who were soiling the pages of current American history. Dr. Mackay's hard-hitting "Letter to Presbyterians" had been a first-class contribution toward a return to sanity. Now I had another task for him. Hence his question.

One of the most disgraceful aspects of the witch hunt had been the use of paid informers, some of them ex-Communists and some F.B.I. plants. Of them, Dr. Mackay, in the letter previously mentioned, a letter issued by the General Council of the Presbyterian Church, said:

"Some Congressional inquiries have revealed a distinct tendency to become inquisitions. . . . Treason and dissent are being confused. . . . Attacks are being made upon citizens of integrity and social passion which are utterly alien to our democratic tradition. . . . A painful illustration of this development is that men and women should be publicly condemned upon the uncorroborated word of former Communists. . . . And yet the ex-Communists to whose word Congressional committees apparently give unqualified credence are in very many instances people whose basic philosophy authorizes them now, as in the past, to believe that a lie in a good cause is thoroughly justified."

Frank Donner, in his article "The Informer," in *The Nation* on April 10, 1954, had demonstrated beyond a doubt that the informers had become "circuit-riding witnesses, appearing again and again in Smith Act and similar prosecutions . . . helping to send some-

one to jail or ruining someone's reputation or disrupting a home by bringing about the deportation of some member of the family." I had seen the draft of that article at the time I approached Dr. Mackay.

The most disturbing fact of the informer situation was that many of these witnesses who were earning big money from their testimony were confessed perjurers or so clearly demonstrated to be liars that the Department of Justice and the witch-hunting committees knew, or should have known, their unreliability. One, Manning Johnson, who had been used most recently in an attack on religious leaders, had testified before the Subversive Activities Control Board in 1951 that he had given evidence in a Pennsylvania sedition trial as follows:

"Q. In other words, you will tell a lie under oath in a court of law rather than run counter to your instructions from the F.B.I. Is that right?"

"A. If the interests of my government are at stake. In the face of enemies at home and abroad, if maintaining secrecy of the techniques and methods of operation of the F.B.I., who have responsibility for the protection of our people, I say I will do it a thousand times."

Yet, in the face of such an admission by Johnson and the palpably false testimony of Harvey Matusow, who later confessed to his perjuries, and the almost equally noxious testimony of Louis Budenz, Paul Crouch, Mary Markward, John Lautner, Joseph Mazzei, Matthew Cvetic, these creatures and others were kept doing their high-wire performances. Out of the mouths of liars a hoax was fashioned and deliberately perpetrated by persons high in government position and authority.

There was now, in answer to Dr. Mackay's question, a chance to do something. Some months before, a subcommittee of the Judiciary Committee of the United States Senate had been formed to investigate violations of the Bill of Rights but it had never met, nor, perhaps, was it ever intended that it should. Its chairman then was Senator Robert C. Hendrickson of Dr. Mackay's own state, New Jersey. I suggested that Dr. Mackay arrange an appointment for me and a group of clergymen to request that this commit-

tee conduct an inquiry into violations of civil liberties, specifically into the government's use of paid informers.

He agreed, and the appointment was arranged with the Senator. Dr. Guy Emery Shipler, editor of *The Churchman*, and Dr. John Bradbury, a conservative in theology but a liberal Republican in politics, accompanied me to Washington. Dr. Shipler was my friend. I had met Dr. Bradbury at meetings of the board of directors of the Emergency Civil Liberties Committee and considered him to be a fair and able man. He was editor of the Baptist weekly, *The Watchman-Examiner*.

Senator Hendrickson received us cordially. He had been on a subcommittee that had made an unfavorable report on Senator McCarthy's financial transactions as a Senator, and made no concealment of his contempt for his colleague. Nor did he deny that paid informers, who must be known as perjurers to the Department of Justice and to Congressional committees, were being used time and again to brand the victims of their chicanery. The Senator's own disgust with the slimy business was manifest.

He told us an amusing incident to illustrate his own contempt for McCarthy's hypocrisy.

"After I signed the adverse report on him," Senator Hendrickson said, "McCarthy gave a statement to the press in which he said, 'Hendrickson has neither brains nor guts.' A few days later I was having lunch with my brother in the Senate restaurant. McCarthy approached our table and stopped. I introduced him. He and my brother chatted for a few minutes and he passed on. Shortly afterward, I was seated next to him at a Republican caucus. With his ingratiating manner he told me how much he had enjoyed meeting my brother.

"I replied, 'He's one Hendrickson who has both brains and guts.'

"McCarthy threw his arm over my shoulder. 'Oh, Bob!' he pleaded. 'You aren't going to hold that against me, are you?'"

Some day, perhaps, an adequate psychological study will be made of McCarthy, to explain his inner drives, the reason for his feverish hunt for headlines, for his unscrupulous distortion of truth, and for the inner madness that drove him on. Our understanding of demagogues and tyrants is still inadequate. Yet, despite the Biblical injunction not to judge, we must judge the evil

that flows from such men. They are bad trees and they bear bad fruit.

Our interview was going to bring results, the three of us felt at the time, for Senator Hendrickson promised that an investigation would be made. We were to get a group of outstanding religious leaders to submit a petition to Senator William Langer, chairman of the Senate Judiciary Committee, asking for an investigation of the use of paid informers. We were further to request that the petition be referred to Senator Hendrickson's subcommittee.

"I'll do it," he declared, "if I have to sit alone as chairman of the committee."

With the assistance of my two colleagues and others I threw myself into the task of obtaining the signatures. In my opinion no group has come out with so many courageous champions of the freedoms guaranteed in the Bill of Rights as the Protestant and Jewish clergy. With notable exceptions the Catholic clergy has not done so well. Indeed, men like Cardinal Spellman have given aid and comfort to the attack.

I first contacted my old friend from Hamilton College days, Bishop Charles K. Gilbert, who had recently retired as Protestant Episcopal bishop of New York. He was fully aware of the evil being done by the paid informers and was eager to help in every possible way. Together we went over the draft of a petition I had prepared. He then called Bishop Henry Knox Sherrill, presiding Episcopal bishop of the U.S.A. and president of the World Council of Churches. He was also chairman of the Committee on Civil Liberties of the National Council of Churches, which was making its own effort, through Charles Parlin, its attorney, to have violations of civil liberties aired. The bishop gave me valuable suggestions as to the wording of the petition and possible signers.

Bishop Gilbert secured the signatures of Bishop Horace W. B. Donegan of the Episcopal Diocese of New York and of the Reverend James Albert Pike, dean of the Cathedral of St. John the Divine in New York City. He also arranged for me to see Episcopal Bishop Norman Nash in Boston. There I spoke to a group of religious leaders at a luncheon. Among those present was James A. Garfield, grandson of the martyred President. He was a leading Boston lawyer. He and I had known each other at Camp Taconnet on Belgrade Lakes in Maine, and on this occasion he introduced me.

We—Dr. Shipler, Dr. Bradbury, and I—could easily have obtained hundreds of signatures, but what Senator Hendrickson had suggested was a small group of outstanding persons. We soon had the signatures of nineteen such men to a petition addressed to Senator Langer. It said in part:

"We wish to call to your attention, and ask you to call to the attention of the Subcommittee on Civil Rights, the use being made of the testimony by informers and the character of the persons whose testimony is being used to besmirch the reputations of American citizens, many of them Protestant clergymen and Jewish rabbis, some of whom are no longer living and able to defend themselves.

"We would make a distinction between informers and investigators employed by government agencies. The investigator obtains information for the agency he serves but does not function as a public accuser. If the investigator uncovers evidence of criminal activity against a citizen, the citizen may be indicted and tried by due process of law. The informer is a public accuser. When functioning under government protection or privilege the informer accuses with immunity. Up to now, informers who have been profuse in accusations against fellow citizens have not been cited for or charged with perjury in a court of law. Yet we have strong reason to believe that some informers who have traduced large numbers of citizens have not spoken the truth. Sworn admissions by some of them, conflicting statements at different times, and the testimony of ministers of the Christian church and others as to the untruthfulness of various of these professional witnesses should be the subject matter of investigation by the Subcommittee on Civil Rights."

Among the signers were the three Protestant Episcopal ministers mentioned; John Wesley Lord and Lewis O. Harman, Methodist bishops; David J. Seligson, president of the New York Board of Rabbis, along with Rabbis Hillel Silver and Leo Jung; Dr. Edwin T. Dahlberg, former president of the Northern Baptist Conference; Bishop Fitz H. Alleyne, a leading Negro clergyman; Dr. Albert Buckner Coe, president of the Massachusetts Congregational Conference, and others of like prominence from the Presbyterian and other groups. My good old friends, Dr. John Howland Lathrop,

minister of the First Unitarian Church of Brooklyn, and Clarence Pickett of the American Friends Service Committee, were also among the signers.

Once the letter was submitted we expected prompt action in view of Senator Hendrickson's promise; but nothing happened.

I took another trip to Washington, and there a strange story developed. Senator Hendrickson told me that Senator Langer had not forwarded the petition to him. When I saw Senator Langer he said, "I gave that petition to Bob Hendrickson and told him that I wanted his subcommittee to make the investigation."

Back I went to Senator Hendrickson, who declared that Senator Langer was mistaken. He had never received the petition.

Discreet inquiries led me to the conclusion that the petition had gone to the office of Wayne H. Smithey, attorney for the Judiciary Committee. So up to his office I went.

When I asked him where the petition was he replied, curtly, "Never mind that. Are you the attorney for these nineteen clergymen?"

"No."

"What's your interest, then? What are you trying to do?"

"I am attorney for the Religious Freedom Committee which is interested in the matter. But I am also interested as a citizen to see that the use of known perjurers by the Department of Justice and Congressional committees is exposed. I consider that the whole business of the way these paid informers are used is outrageous."

"Don't you realize," he answered, "that if you were able to prove what is alleged you could upset public confidence in the convictions under the Smith Act and in the work of Congressional committees exposing Communists?"

This question, coming from the attorney for a Senate committee set up in the name of justice, left me temporarily breathless.

"I only want to see justice done," I answered.

"Don't you know that an investigation such as you propose might lead into an investigation of religion? Do you want that?"

"Of course not. But why should it? Can't ministers make a request to right a wrong without religion's being investigated?"

He did not answer that question. Instead, he resumed the attack.

"Did you know that Dr. Sockman never signed the petition?" he asked.

That let the cat out of the bag. The only person whose name appeared on the petition who had not personally signed it was Dr. Ralph H. Sockman, minister of Christ Church Methodist in New York and Attorney General Brownell's own pastor. Over the phone Dr. Sockman had authorized Dr. Shipley to sign for him. I concluded that the petition had gone to Brownell and that he had noticed that the Sockman signature was not his own. I had known that powerful forces would be set in motion to block the investigation and was now sure that they were being applied.

"Don't worry about the signatures," I said. "They can all be verified."

"I'm not worrying," Mr. Smithey replied. That was his way of dismissing me and, I suppose, his own responsibility for an outrageous situation.

I returned to Senator Hendrickson and told him what I had learned. He was in a difficult position. His term was nearly over and the Republican organization in New Jersey had indicated that it would not support him for renomination in the fall. Whether his activity against McCarthy and his connection with the proposed investigation entered into that decision I have no way of knowing. Anyway, he was clearly embarrassed on this occasion. He said that he could not conduct the investigation without receiving the petition, whereupon I gave him a copy and offered to get the original signatures again. But his intention had evaporated.

I liked Senator Hendrickson and even when I read later that he had received an ambassadorial appointment I did not blame him harshly for his failure to carry through with that needed investigation. Politics is a rough game and men who will not compromise in it are few.

When the Republicans lost control of the Senate in the elections of 1954 and the committees were reorganized Senator Thomas C. Hennings of Missouri became chairman of the Subcommittee on Constitutional Rights. Senator Langer and Senator Joseph O'Mahoney of Wyoming were the other members. I saw them all and presented the petition anew. Senator Hennings, one of the most liberal men in the Senate, and Senator Langer expressed themselves in favor of a full airing of the use of informers and other violations of our liberties. Senator O'Mahoney was doubtful. He

expressed the fear that such an investigation might be construed as a partisan attack on Brownell.

Later, committee hearings were actually held and many injustices were exposed, particularly through the testimony of former Senator Harry S. Cain, a member of the Subversive Activities Control Board. The press, which had highly publicized the witch-hunting committees, paid little attention except for the Cain testimony and the speculation as to whether or not he would be reappointed to the SACB. He was not. The hearings petered out without an investigation of the informers. The lid was put on that cesspool of lies and there it remains, but the stench is still there. The Supreme Court has caught the smell and spoken of the evil of tainted evidence in strong language, but the legislative and executive branches lag behind and continue to rely on witnesses who they know, or should know, are lying in their teeth.

Voltaire, in his famous satire on blind justice, describes a visit by Candide and his philosopher friend, Dr. Pangloss, to Lisbon during the days of the Inquisition. Three-quarters of the city had been ruined by an earthquake attributed by the learned Inquisitors to the machinations of heretics. A spy for the Inquisition had reported seeing Dr. Pangloss and Candide together. Dr. Pangloss had said something and Candide had, by his manner, seemed to give consent. So, as Voltaire says, with his pitiless humor, they were removed from the burning heat of Lisbon and put into a place where the sun would not bother them, one for saying something and the other for saying nothing.

Something like that, it seemed to me, was taking place in our own country in this period. Whether the persons accused of subversive activities spoke or kept silent, whether they denied or admitted being Communists or having been Communists, made no difference. Usually it was enough for the finger of suspicion to point, and point it did in many directions, some quite unexpected.

One case that will go down, along with the earlier execution of Sacco and Vanzetti, as a blot on the American escutcheon was that of the young Jewish couple, Julius and Ethel Rosenberg. When I was first asked, late in 1952, to involve myself in obtaining a stay of the death sentence that had been imposed, I shrank away from the responsibility. Their case was not a question of free speech, I told myself, by way of excusing my reluctance. They had been convicted and sentenced to death for espionage, for giving away our atomic know-how to the Russians. Theirs was a case of seditious action, if one accepted the court's finding.

So my thoughts went when representatives of the committee formed for their defense asked me to prepare an *amicus* brief to be presented to the Supreme Court. (Thousands later signed the brief, many of them non-Communists from among the clergy and other professions.) I knew very little about the case beyond what

I had read in the newspapers. The delegation waiting on me must have sensed my reluctance.

"Won't you read the record of the trial before you decide?" the spokesman asked.

How could I refuse?

It is not my purpose here to give a full review of this notorious trial in which Julius and Ethel Rosenberg were sentenced to death, and another young man, Morton Sobell, to thirty years in Alcatraz, the most hated of Federal prisons. For those who wish to have a more complete picture I suggest they read *The Judgment of Julius and Ethel Rosenberg*, by John Wexley. The author, a playwright of considerable reputation, had intended to write a play about the Rosenbergs, but in the course of examining his material had become so angered that he turned from the play idea and instead set the record down in more than 600 pages of argument and documentation. While some of his arguments have been criticized as lacking in objectivity, the extensive documentation in the book seems to have been carefully done. It is impressive. William E. Reubens' *The Atom Spy Hoax* is a carefully wrought and readable work.

If a less extended approach is desired than they give, a careful reading of another book may suffice. It is *Was Justice Done?* by Malcolm Sharp, who is a highly respected professor in the University of Chicago Law School. This book cannot be criticized as being either lacking in objectivity or of drawing too positive conclusions. Professor Sharp, too, was drawn into an examination of the evidence against his will, but, having examined it, he knew that he could not escape the responsibility thus laid upon him to make his doubts known.

So with me. My reading of the record left me deeply troubled. When, if ever, had Americans been sentenced to death on such flimsy evidence? When, if ever, had an American judge indulged in such venomous and unwarranted statements as had United States District Judge Irving Kaufman in sentencing the Rosenbergs to die in the electric chair? This was no ordinary treason trial, I became convinced. It was part of the hateful hysteria of the times, and to it the courts were lending sanction in their observance of "due process of the law."

For a lawyer the case was as risky to take up as the red-hot end

of a heated poker. That was still true despite the slow support that had been won to the Rosenberg-Sobell defense. True, Emanuel Bloch, the Rosenbergs' attorney, was no longer standing alone, as he had done at the trial, defending "traitors." Considerable public support had been rallied, but, the charge being what it was, to speak or to act in their defense was to court opprobrium. One of my closest friends, a real liberal, pleaded with me to keep out of the case when he learned that I was considering the matter. "It will only confuse and weaken your fine stand for civil liberties," he urged. "What is involved here is treason."

So the issue might have been sidestepped, the request for help turned off with that justification, except that I had not returned to the practice of law either to advance or to protect my own reputation. I was concerned with justice. If two young people, lovers and parents, could be burned in the electric chair on evidence that was unconvincing, in a trial where the charge that they were Communists, although not proved, poisoned the air of the courtroom, all our freedoms were at stake. That became the issue as I saw it after reading the testimony.

Before finally deciding to become involved I visited "Manny" Bloch, as I came to call him with great affection. His able associate, Gloria Agrin, was with him. My purpose was to obtain their consent to my entering an *amicus* brief on the appeal they were carrying to the Supreme Court.

He was a stocky, gray-haired man, mild in conversational manner but a fiery advocate in seeking justice. He was completely convinced of the innocence of the Rosenbergs, and I have never known a lawyer whose own convictions and emotions had become so completely identified with a case. He burned with the fire of an early Jewish prophet. The Rosenbergs were good people. They were devoted parents to their two small boys. They were innocent. So Emanuel Bloch, who had spent hours with them before and after their conviction, believed. It was unthinkable that they should die. They must not die. Their defense had become more than a case to him. It was his very religion, his expression of his devotion to the everlasting ideals of justice and mercy.

My own mind was made up, too. I would help as I could.

From a careful study of the record it was evident that the whole case rested on the evidence of David Greenglass, Ethel Rosenberg's

brother, and on that of Ruth Greenglass, his wife. Three possibilities existed. The first was that the story of the Greenglasses, supported by some circumstantial evidence, was true and that while the Soviet Union was our ally in war the Rosenbergs had become involved in a plot to furnish that country with information obtained by David Greenglass with regard to the method of detonating bombs. The second possibility was that Greenglass and his wife had lied to save their own necks and that the entire case was a hoax. The third was that the Rosenbergs had been supplying some information to Russian agents, but that it was not of the crucial importance attributed to it by Judge Kaufman when he pronounced the death sentence.⁴⁶

As to the first possibility, the burden was on the government to prove its case beyond a reasonable doubt. Even before talking to Bloch, from a reading of the record I had been left with doubt that was both reasonable and great. The trial had been conducted in an atmosphere of unprecedented national hysteria, and that hysteria had been fomented in the course of the trial in inflammatory statements to the press by government attorneys. Judge Kaufman, not only during the trial but in his sentencing of the Rosenbergs, had encouraged the concept that they were being tried for treason, which was not true, and he had blurred the fact that the information, even if transmitted, was given to a wartime ally, not to an enemy. This passage from his remarks sentencing the Rosenbergs reveals his animus:

"Citizens of this country who betray their fellow-countrymen can be under none of the delusions about the benignity of Soviet power that they might have had prior to World War II. The nature of Russian terrorism is now self-evident. Idealism as a rationale dissolves."

Therein lies a retroactive conclusion with a vengeance, and vengeance, I say, was in Judge Kaufman's heart.

Read on:

"I have searched my conscience to find some reason for mercy. . . . It is not in my power, Julius and Ethel Rosenberg. Only the Lord can find mercy for what you have done."

Thus Judge Kaufman imposed the death sentence because, as he had declared, "I consider your crime worse than murder. . . . I

believe your conduct in putting into the hands of the Russians the A-bomb has already caused, in my opinion, Communist aggression in Korea, with the resultant casualties exceeding 50,000, and who knows but that millions more of innocent people may pay the price of your treason. Indeed, by your betrayal you undoubtedly have altered the course of history."

But where, one must ask, was the evidence that they had done any such thing, that is, that they had put the A-bomb into the hands of the Russians, or that events had followed in that order?

Poor Julius and Ethel Rosenberg! What must they have felt in listening to this outburst from a judge, speaking for the United States government, sentencing them to death by making them and them alone responsible for the death of thousands, perhaps millions! But poor Judge Kaufman, too! Was he qualified, in the light of feelings such as those expressed, to pass later on the motion for a new trial in the light of newly discovered evidence, as pass judgment he did?

My reason, by the time I had read through that trial record, had already convinced me that the sentence of death was, at least, too extreme. My talks with Bloch, and his description of the condemned Julius playing with his boys in the penitentiary and of Ethel singing songs of comfort and love, and my reading of the tender love letters that passed between the condemned pair touched the strings of my heart. Those letters, which were published by the defense committee in a last desperate attempt to show whoever would read the true nature and character of this man and woman, now belong to world history and, possibly, to world literature. I quote from one of them, a letter from Ethel in her cell to Julius in his, for the spirit it conveys is in all:

"I arise each morning with the thought of you warm and unspeakably sweet within me and each night give myself into your keeping once more: and all day my heart sings its refrain. 'I am loved! I am loved!'"

Emanuel Bloch, who knew the two of them better than anyone else, once said of himself in relation to them: "I am one vast vessel of pain—it feels as though every last inch of me hurts." He gave his life for them, for his efforts to vindicate them did not stop with their death. To the day of his death from a heart attack a number

of months after their execution, he battled in their cause and for their two boys who were left as his wards. At the memorial service Miss Agrin, the young woman I had met with him on that first consultation, paid tribute to his courage and constancy in the cause with which his life had become identified. No one who heard her glowing but heartbroken tribute could have held back tears. Here was highlighted the everlasting element of the human tragedy of life and love and death.

I shall always be grateful that I was able to play a small part, however ineffective, in trying to prevent the electrocution of the Rosenbergs. The *amicus* brief that I presented to the Supreme Court was supported by the signature of more than 50,000 Americans who sought to reverse the sentence. I closed my brief with these words:

"We feel that there is a danger against which only the courts can guard and against which every effort should be made to guard, that in these cases where 'loyalty' of defendants is raised, the atmosphere may become so vitiated that trials will become trials in name only, the defendants being prejudged by the mere fact that the government makes the charge. Under these circumstances, prosecutors should be scrupulously fair and courts extraordinarily careful to see that defendants in such cases are accorded every safeguard against the substitution of prejudice for proof.

"We urge upon this Honorable Court that it would be better, far better, even at this late hour in this case that *certiorari* be granted to allow consideration of the problem of a trial conducted in an atmosphere tainted with hostility than that these young people, parents of young children, with hitherto unsullied reputations, should go to their deaths on a record so clouded with prejudice and doubt."

I have said before that it is not my purpose here to review in detail the facts in a case that has been so well covered elsewhere. I will give briefly the main considerations that moved me. First, the government was required to prove a criminal charge beyond a reasonable doubt. This, I believed then and believe more surely now, was not done. Second, the death penalty was permissible only in a case of supplying information in time of war. True, we were at war

at the time of the alleged traitorous act, but not with the Soviet Union. It was our ally, not our enemy. I could not believe that the language of the law defining giving information in time of war meant other than supplying information to an enemy in time of war. Otherwise the limitation was meaningless.

Third, the only direct evidence connecting the Rosenbergs with the crime was that of David and Ruth Greenglass. All other evidence was circumstantial and susceptible of another interpretation if the Greenglass story was false. Like everyone else, I found it hard to believe that there existed a man so monstrous as to send his own sister to the chair by perjury, but Greenglass, it should be realized, was a self-confessed criminal and the criminal mind is not the normal mind. Moreover, he and his wife had much to gain and did gain much. He, the confessed spy, received only a fifteen-year sentence, and his wife, Ruth, went scot-free. I distrust the evidence of co-conspirators in any case, and even more the practice of lightening their sentences by giving them immunity for "cooperating" with the government.

If Greenglass was lying the Rosenbergs were innocent. Those who believed in their innocence came by their belief in many ways, but I offer here only that part of the testimony which brought Malcolm Sharp to their side, to fight for them to the very end, and beyond. In *Was Justice Done?* he tells that he was not convinced of their innocence until one piece of evidence came out shortly before their death. It concerned a console table, and about it Greenglass had almost certainly lied and the Rosenbergs had told the truth.

Greenglass had testified: "I believe they [the Rosenbergs] told me they received a console table from the Russians." Ruth, his wife, had testified that Julius told her the table was a gift and that it was a "special table . . . he turned the table on its side to show why it was a special table . . . there was a portion of the table that was hollowed out for a lamp to fit underneath it so the table could be used for photographic purposes."

"Question: And did Julius Rosenberg tell you what he photographed, using the table?

"Answer: Yes. He took pictures on microfilm of the type-written notes."

Julius Rosenberg had denied the story. He testified that the table they had was a much plainer one than the one in photographs produced by the prosecutor, Irving Saypol, and that it had been bought at Macy's for about \$21. At the time of the trial the whereabouts of the table were unknown, for it had been "lost" when the Rosenbergs gave up their apartment. Anyone who has ever moved knows well how something can disappear, not to be missed, and the Rosenberg move had been made when furniture was surely the least of their worries. That table, though, had been found in the apartment of Julius's mother.

The finding of the table was made the basis for a request for a new trial. Here I quote Professor Sharp:

"The console table was important at the trial as a vivid item of testimony which may well have caught the jurors' mind in the course of a long and sometimes tedious proceeding. It became, however, more important in another respect: it served as a test of the dependability of the Greenglasses' testimony.

"The question which must have already occurred to the reader relates not to the nature of the new evidence or to its significance, but to its validity, its truth, its persuasiveness. If the newly discovered table was what the witnesses said it was, it was a table of a sort that was not uncommon in 1944. Macy's is a big store. Would it not have been possible for the defense to buy a Macy table of the sort which Julius Rosenberg described at the trial and substitute it for the original? If that were so, the question of the fate of the original table would again become problematical. How do we know that this was the table?

"I can only say, in the first place, that I saw the witnesses in this matter and found them convincing. The witnesses who did testify in Mr. Emanuel Bloch's office to the identity of the table which was offered as a basis for a new trial were never examined in the presence of the Judge. He saw the two members of the Rosenberg family—his sister, Ethel Goldberg, and his mother, the elder Mrs. Rosenberg—as suppliants for mercy. They were never examined as witnesses in his presence. At this point I have the advantage not only of having sat down at my leisure with the records in this case, but of having watched the witnesses giving their account.

"They seemed to me trustworthy. Ethel Goldberg, it will be remembered, took the table with one or two other items when the rest of the furniture in the apartment was sold 'for junk.' She was terrified at the proceedings against her brother and his wife. She withdrew in a large measure from the case so far as she emotionally could do so. She did not give up her allegiance or loyalty to her brother. She came to see the Rosenbergs during the trial. But she belonged to a middle-class family wholly without experience in such matters. Her husband was a respectable businessman, very much troubled by what had occurred. She was ashamed and horrified. I saw her as Mr. Bloch questioned her about the subject of her affidavit, and saw how spontaneously and honestly she answered.

"The same thing is true of the elder Mrs. Rosenberg. She speaks English and Yiddish, but reads nothing. She comes from a background of the International Ladies Garment Workers' Union. She was an old-timer in such union circles. She appears to be wholly without radical or revolutionary interests. She is a respectable devout old lady. I watched her in conversations with Mr. Bloch and again found her as well as him entirely honest in their interchange on the subject of the affidavit. She could not read the newspapers during the trial, but came to see her son and his wife in prison. She knew nothing of the table until it was moved into her apartment at a time when she was trying to take care of the Rosenberg children.

"I saw the brother, whose affidavit speaks of seeing the table in his mother's apartment at a time somewhat after the end of the trial, but does not explicitly explain why he overlooked its importance. He was in the office, during my stay there, on two occasions. We would have had him clarify his affidavit had he not been out of the city when the need for clarification appeared. We were prepared to have him clarify the affidavit, and to testify more clearly about his recognition of the table, in case a new trial was ordered. It appeared sufficient, however, that he also had failed to see the significance of this table, which he had noticed when he came to his mother's apartment some time after the trial was over.

"There was only one other member of the family. She was a sister whose illness kept her from participation in any way in the

preparation of the motion for a new trial. It does not appear that she knew anything about the table at any stage of the proceedings."

I heard the argument for a new trial on the ground of newly discovered evidence—the table from Macy's and other matters. The request was made before the same Judge Kaufman who had sentenced the Rosenbergs. I saw in him a man whose mind, in my opinion, was made up before the argument started.

I shall go no further into that evidence or any other brought forward in the course of the trial, nor into the futile moves to delay, if not to set aside, the sentence. What is not generally understood, though, is that the evidence in the Rosenberg case was never reviewed in the Supreme Court. The rules in United States courts are such as to let the verdict of a jury stand if some evidence supports it. On that basis the second Circuit Court of Appeals had affirmed the conviction on February 25, 1952. The United States Supreme Court on October 13, 1952, on petition for reconsideration, had declined to review the case, Justice Black dissenting.

On January 2, 1953, Judge Kaufman denied a motion to reduce the sentence. On May 25, following, the Supreme Court again denied review of the case, this time with both Justices Black and Douglas dissenting. How proud I am to be able to claim both those men as my friends!

Events, from that time forward, moved fast toward their terrible end.

On June 8 the motion for a new trial based on the new evidence was denied by Judge Kaufman. The Court of Appeals again affirmed his action. Four days later the defendants petitioned the Supreme Court to review the decisions and for a stay pending full preparation. The Court declined to hear oral argument by the defense and denied a stay of execution, but this time two more Justices—Frankfurter and Jackson—joined in dissent.

Then, on June 16, an unexpected move gave hope for a while. Fyke Farmer, an attorney in Nashville, Tennessee, filed a motion on behalf of one Edelman, an interested citizen, with Justice Douglas on a new ground. Farmer and I had previously discussed the matter, and I felt that there were both force and logic in his contention. I had urged him to present the question to the Supreme Court on an application for a stay of execution.

The situation was this: The Rosenbergs were convicted under the Espionage Act of 1917. This was the Act which only Irwin, my brother and one other Senator had opposed. The maximum penalty under the act for violation in peacetime was twenty years but in wartime it could be death. Farmer argued that the Atomic Energy Act, passed later than the Espionage Act, superseded it and was the one under which the Rosenbergs should have been tried. That act, he further argued, did not provide for a death penalty for the crime of giving away atomic secrets, if indeed they had done so. The government contended that since the alleged conspiracy began before August 1, 1946, the effective date of the Atomic Energy Act, the earlier Espionage Act applied. The point was technical and debatable whether or not the Atomic Energy Act repealed the Espionage Act, but in any event it indicated a policy of Congress as to whether a death sentence was permissible for the alleged crime.

Justice Douglas, acting on the motion before him with his usual great courage, granted a stay until the point at issue could be considered.

The Court had been dispersed for the summer recess. Chief Justice Vinson, with great and, I thought, unseemly haste, took the unprecedented step of reconvening the Court and set the next day for hearing arguments as to why further time should be granted. The following day, Friday, June 19, the Supreme Court vacated the stay of execution, Justices Black and Douglas, and later Justice Frankfurter, dissenting. That evening, before sundown, Julius and Ethel Rosenberg were executed. The reason given for the last unseemly haste was consideration for the Jewish Sabbath observance. Had the execution taken place after sundown the feelings of many Jews would have been outraged. Others saw in the early execution an effort to get the deed over and done with, fearing new moves, and a determination to put an end to the case once and for all, as if there could ever be an end to it as long as men anywhere are concerned with justice.

Like most Americans, "I like Ike," but whenever I think of his conduct in the Rosenberg case my feelings toward him chill, as they do toward his predecessor who likewise might have accorded mercy—if not justice—to the Rosenbergs.

Did the President ever read the record? Did he ever read the carefully prepared petition that I sent to him on behalf of those

same thousands of Americans for whom I had submitted a brief to the Court? Did he ever read Emanuel Bloch's admirable briefs or the arguments of Fyke Farmer that had moved Justice Douglas to grant the stay? Did he ever understand, or consider, that three Justices of the Supreme Court felt that there should be more time for consideration of important questions of law? Did he read the statement of Justice Jackson that "Vacating this stay is not construed as endorsing the appropriateness of the death sentence"? Did he read the thousands of pleas for mercy, including one from the Pope in Rome?

Or did he, as has been charged, take Brownell's statement that there was evidence of the Rosenbergs' guilt which the government had not been able to offer at the trial as proof? The fact will remain to plague historians that Eisenhower turned a deaf ear even when a group of distinguished clergymen called on him in person with a plea that the lives of the Rosenbergs be spared to await judgment in a calmer time.

The President's reasons for refusing the clergymen's request are interesting. He pointed out, as a military man, his belief in the deterrent power of capital punishment—an assumption that is contradicted by most sociological studies. His second point in dismissing the plea shows a curious twist of mind. If he commuted the Rosenbergs' sentence, he said, they would be eligible for parole in fifteen years. The remark shows ignorance of our parole system, for parole is discretionary, along with acceptance of the fact that Greenglass, the confessed spy, will be eligible for parole much before fifteen years have passed, while the Rosenbergs, who denied the charge, had to die.

In laying the charge of haste, confusion, and ignorance of the facts against Eisenhower I do not forget that President Truman also had an opportunity to grant clemency, and passed the responsibility on to Eisenhower. But historians, in appraising Eisenhower, will place his decision that the Rosenbergs must die and die quickly along with the many other cases in which the voice was the voice of Eisenhower but the hands were the hands of the politically-minded Brownell. And as they read there will be the suggestion, at least, that the likable man in the White House during this crucial time in the struggle for American liberties was too deeply swayed by associates unworthy of their high positions.

The lives of Julius and Ethel Rosenberg were snuffed out legally in that late afternoon of June 19, 1953, but the case was far from over. That night, throughout America and throughout the world, thoughtful people were saddened, and frightened, for in the death of the Rosenbergs the hysteria that had hold of America reached its height. It had happened! That was the unalterable truth of the matter, but the other and greater truth might still have its day. All the parties to the Rosenberg trial were not snuffed out with them, and there was one especially on whom hope was now placed for the establishment of the Rosenbergs' innocence and his own.

He was Morton Sobell, the young man whose fortunes had become inextricably tied with theirs. With them he had stood accused. He now languished in Alcatraz, the Federal prison reserved for the most dangerous prisoners, under a thirty-year sentence.⁴⁷

If the case against the Rosenbergs was flimsy, as many who examined it believed, the one against Sobell was as thin as a slice of boarding house beef. The hopeful fact was that he was still alive, and that if reconsideration could be won for his case not only might vindication follow for him but light might at the same time be thrown on the Rosenberg case. Both sides to the debate about the guilt or innocence of the Rosenbergs were aware of the importance of the Sobell case to the whole, which accounted both for the difficulty of getting the case brought to public attention again and for the zeal with which consideration of the case, and a rehearing, were sought by many prominent persons—and not only Americans.

The one who took it upon herself to establish Morton Sobell's innocence, though heaven and hell had to be aroused to do it, was his wife, young Helen Sobell. In the history of this period, the devotion and untiring labor of the wives of some of the victims of the cold war hysteria will stand out as a tribute to the character of the imprisoned men. Their women gave all they had to get them

freed, and Morton Sobell's wife was, and is, among the bravest of that brave band.

I met her when she came to ask me to present an *amicus* brief to the Supreme Court on behalf of her husband. She is an alert, dark-haired woman with keen, intelligent eyes. Her youth is the most impressive thing about her. She looks like what she was: the attractive wife of a young professional man. One can wonder at the turn of circumstances that brought her out of that role and made her into a person who had to be listened to because she believed so passionately that not only justice and her husband's honor were involved but the honor of her country as well.

She had herself secured the consent of a number of illustrious men on whose behalf the proposed brief was to be presented. Among those concerned was Dr. Harold Urey of the University of Chicago, atomic scientist and Nobel prize winner. He had early interested himself in the Rosenberg-Sobell case, his doubts having been raised by the nature of the purportedly scientific information alleged to have been given to the Russians. He did not believe that what was claimed was possible, considering Greenglass's lack of a scientific background. It was, if I may presume to state Urey's objection, like saying that a poor high school mathematics student was able to fathom scientific formulae that would baffle all but the best of physicists. Urey's doubts having been raised, he courageously came forward to stand fast to the end. He had, I am told, along with attorneys Bloch and Sharp, vainly sought an interview with President Eisenhower on the afternoon of the execution of the Rosenbergs. After their death he transferred his interest to the fight for Morton Sobell's freedom.

The only evidence directly connecting Sobell with espionage had come from a witness named Max Elitcher, a former college mate of Sobell and Rosenberg. There was no evidence whatsoever of any complicity in *atomic* espionage, and the very fact of his having been tried with the Rosenbergs who were so charged was prejudicial.

Elitcher had admitted having been a Communist. He had denied that affiliation under oath when seeking a government job, and on the stand when he was being cross-examined he admitted that he was frightened on that account and hoped for clemency as a result of testifying for the government.

Of his testimony, on which the conviction of Sobell rested, Professor Sharp has this to say in *Was Justice Done?*:

"He told a tale which does not follow my ideas of effective espionage at all. Does a spy discuss his activities with all his old college chums without finding out where their loyalties lie, and does he keep it up for years without securing any information? How stupid do we assume these people to be?"

Elitcher's story was that while he was engaged on classified work at General Electric in Schenectady, during the period of the alleged conspiracy, he had two conversations with Sobell. In one, Sobell was said to have asked him about a fire-control system as described in a classified, confidential report on which Elitcher was working. Elitcher says he told him that there was no such report available but that he might get him one when it was finished. In the other conversation, according to Elitcher, Sobell advised him to see their former college friend, Rosenberg, and "implied that it had to do with this espionage business."

In 1947 Sobell came to the Reeves Instrument Company in New York City, and there, Elitcher says, he had three conversations with him. Unless one assumes Sobell's guilt those conversations, as described by Elitcher, are *all* susceptible of innocent interpretation. The one damaging story was of a later encounter in July, 1948, when, so Elitcher testified, he drove with his family to New York to look for a job. They were to stay at the Sobell home in Flushing. They reached there and the Elitcher child was put to bed. On the way Elitcher had become fearful that someone was following him, and when he told this to Sobell, Sobell was disturbed. After some thought he told Elitcher, so Elitcher stated, that he had material too valuable to be destroyed. Sobell wanted "to deliver it to Rosenberg that night."

Elitcher says that he agreed to accompany Sobell. "Upon leaving," Elitcher testified, "I saw him take what I identified then as a 35-millimeter can." He waited in the car while the can was delivered. When Sobell returned, says Elitcher, he asked Sobell, "Well, what does Julie think about this, my being followed?"

According to Elitcher, Sobell replied that Rosenberg had said not to be concerned and that Rosenberg had mentioned once

having talked with Elizabeth Bentley but did not think she knew who he was.

Of this testimony, the most damaging bit of the evidence against Sobell, Professor Sharp says: "If this story were not enough to occasion doubts of Elitcher's veracity, it would do much to increase doubts about the Greenglasses' testimony," for "this loquacious Julius Rosenberg is hardly the spy of the Greenglasses' account. Even to a former classmate he would not have been likely to have volunteered information that might be damaging in the extreme."

From my own study of the Sobell case I was convinced that he could not have been convicted on the testimony of this one man, a man who had the most compelling motive to commit perjury, except for one circumstance. That circumstance was Sobell's alleged "flight to Mexico."

It is a fact that Sobell and his wife went to Mexico in 1950. The case for the prosecution was that Sobell, realizing the threat to the Rosenbergs and himself following the apprehension of Harry Gold as a member of a "spy ring," fled upon learning of Gold's arrest. The Sobells' claim, on the contrary, is that the Mexican vacation had been planned for a long time and that their departure was not flight. By their own admission they did toy with the idea of staying in Mexico. Many other Americans, believing that fascism here was imminent, had done just that, and many are still there, it might be added. The Sobells, according to their story, rejected the idea of staying and were planning to return home. He was seized and brought to the border before he could put the plan to return into action.

At the trial the FBI was determined to present Sobell as a fugitive. Mistakenly, I think, he did not take the stand at the trial, and as a result the circumstances of his seizure were not brought out, when they not only might have laid the charge but might have had far-reaching effect. Those circumstances are set forth in an affidavit submitted by the defendant on a motion for a new trial. In it Sobell claims that he was seized by Mexican security police, beaten into unconsciousness, hustled across the border, and turned over to the FBI, when, as a matter of fact, he had already made arrangements for his transportation home. The reason given for not so stating at the trial is its own commentary on the state of affairs surrounding it: The case against him was held to be so weak that

it was not deemed worthwhile to risk antagonizing the FBI, the "holy of holies" in modern America.

Other evidence was discovered about that "flight from Mexico," and it, too, was developed in the petition for a new trial. Sobell and his wife and two children were driven to the border by FBI agents in two fast-moving cars, and there handed over to an immigration officer who falsely stamped their entry card with the words: "Deported from Mexico." That entry was allowed in evidence at the trial.

All this and other newly discovered evidence as to the Sobells' trip to Mexico and the circumstances surrounding it were put together by the firm of Donner, Kinoy and Perlin, skilled and reputable lawyers, in the petition for a new trial. They showed that the Sobells went openly to Mexico with entry permits in their own names, bought round-trip tickets, rented an apartment and lived there under their own names, all of which and more demonstrated the falsity of the picture given to the jury of a couple who had fled and were hiding in Mexico.

That request for a new trial, made in 1956, was brought before the same judge who had conducted the first trial. In my opinion that judge, Irving Kaufman, was too involved emotionally to be able to judge that request objectively. He should have referred it to some other judge. Instead, he contemptuously dismissed the motion, and included in his opinion derogatory remarks about Sobell's lawyers. He stated that the motion for a new trial was wholly without merit and castigated the lawyers who had made it for trying to obstruct justice and put our country in a bad light. Again it was illustrated that judges are human. Judge Kaufman dares not admit, even to himself, that injustice may have been done in the Rosenberg and Sobell cases, nor is he the first judge in history who has so sought to close the record.

A story told to me by Harold Phillips, one of Sobell's attorneys at the **first trial**, throws light on Judge Kaufman's state of mind at the time of the convictions, as well as it tells something of the jury's thinking. The lawyers were sitting with him, waiting for the verdict, while the jury was out. A message came from the jury asking if they had a right to ask for clemency. Judge Kaufman sent back a curt reply to the effect that he would not be bound by any

such recommendation. He turned to Phillips and asked, "Do you know for whom I think they wish to ask for clemency?"

"The woman?" Phillips asked.

"No. Sobell," the judge replied. His idea of justice for Sobell was thirty years in Alcatraz.

But justice has a way of finding its own adherents.

Outside our own country voices were being raised that had to be heeded. Among them was that of Lord Bertrand Russell, renowned British scientist. In a letter to the influential *Manchester Guardian* (March 26, 1956), Lord Russell referred to Morton Sobell as "an innocent man condemned as a result of political hysteria." His protest was followed later by one from the distinguished French dramatist and philosopher, Jean-Paul Sartre. In a letter to the *New York Times* (June 15), Sartre said, "There is nothing in law or international custom to prevent my communicating with you and informing you of a conviction shared by many Frenchmen and Europeans—and I am told by many Americans—that Sobell is innocent and that it would be a grave injustice to have him continue to be penalized for a crime which he did not commit."

That, I believe, will be the verdict of history, before whose bar both Sobell and Judge Kaufman will be judged. Whether or not the Rosenbergs and Sobell were in some enterprise to obtain secrets for Russia, their conviction on most dubious evidence and the harsh sentences imposed have harmed our country, as have other aspects of the witch hunt, in the eyes of the world. Our national sickness was diagnosed by Justice Douglas, in his dissent in the Joint Anti-Fascist Refugee case, when he wrote:

"In days of great tension, when feelings run high, it is a temptation to take a shortcut by borrowing from the totalitarian tactics of our opponents, but when we do we set in motion a subversive motion of our own to destroy us from within."

I was doing what I could to hold back that destruction, and my willingness to help was bringing me more and more cases and more and more contacts. My encouraging discovery in all this was that American resistance was not dead, as so many believed it to be. I found my faith renewed as I worked with those who had come forward in the old American Civil Liberties Union and the new

Emergency Civil Liberties Committee and the Religious Freedom Committee. Many a valiant blow for freedom was being struck by such men as Corliss Lamont, Clark Foreman, Otto Nathan, Roger Baldwin, Patrick Malin, A. J. Muste, Harvey O'Connor, Leonard Boudin, Osmond Fraenkel, Professor Thomas Emerson, and others whom I have or should have mentioned.

We are not lost, nor is the fight in vain. Indeed, the fight for freedom is always, in the long run, the winning fight, and Americans in the future, free of their fears, will look back on this era with shame as we already do on our witch hunts of the past.

Many years ago I lost interest in the controversial aspects of religion. Arguments about the divinity of Jesus leave me cold. His own disclaimer, it seems to me, was given in his answer to the crowd gathered to stone him.

"Why do you stone me?" he asked.

"Because you being a man have made yourself God."

He replied, "Is it not written in your own law, 'Ye are gods'?"

Thus he made divinity a part of our common humanity and that is sufficient for me.

The important fact about Jesus is the profundity of his insight in his sayings as reported in the Gospels. There, indeed, is the way of life. But of all the blessings promised to those who would follow his way none is less sought by most Christians than "Blessed are ye, when men shall revile you, and persecute you, and shall say all manner of evil against you falsely, for my sake . . . for so persecuted they the prophets which were before you."

I often had occasion to think ruefully of that admonition as my work brought me in contact with those who were being persecuted, and sometimes prosecuted, for doing no more than being concerned with the welfare of their fellow human beings. Not all were professing Christians; not all were Americans; but of all the many persons whom I represented who were accused in one form or another of participating in what came to be called "the Communist conspiracy," there was no one I did not understand and whose courage I did not respect. Whether they had found the right solution for society's ills is not the question.

They had been brought to where they were by the overwhelming disaster of the early 1930s. Many had come alone or with their parents from Europe, thinking of America as the great bastion of individual liberty. In a country so solid and secure, one who played his part well would find the chance to advance according to his merits. Especially to those who sought a fair and favorable future

for their children America held attractions beyond any other land on earth. Yet in the depression years America, with all its natural wealth and productive machinery and energetic people, was flat on its economic back. This land of plenty was one where people stood in bread lines and lined up in soup kitchens to get the morsels needed just to exist.

Many who found themselves caught in this mesh of economic difficulties and absurd contradictions became radicals. They turned to communism as to a new gospel of hope and promise. It was not only the foreign-born, though, who believed Communism offered the better way; many native-born Americans joined. Many who joined were not themselves the victims of hunger and cold. They were people whose hearts were touched by the sufferings of others, and their intellects placed the responsibility upon the planless society in which they lived, a society left to run itself until the wheels of industry came to a halt when the owners of the industries could no longer make a profit.

They were people whose interest and concern kept leading them on from one cause to another through the days of the New Deal, through the war years, and into "the cold war." And at that point the accounting came from all sides, or at least it seemed so to me as the appeals came for help.

Just at that time I had almost overwhelming troubles of my own. Ethel's health began to fail. Always before in times of stress and sorrow I had known that she was by my side with sturdy support and unfailing courage. Now she was reaching out her hand to me. Our daughter, too, was seriously ill. The life of my family, my friends, and my country was in turmoil. I hated the sound of the telephone which might bring some new tale of sorrow, some new demand on my strength and courage. I longed for my parents' simple faith: "Rock of ages, cleft for me, let me hide myself in thee!" The bleak sky would, I knew, give back no answer.

Then something happened that is worth recording here, for it was one of those simple human acts whereby we all sustain one another. At the worst of my own difficulties, Dr. Bradley called on me and slipped five twenty-dollar bills into my hand. He had already paid more than I had asked or expected.

"What's this?" I protested.

"Ruth and I have talked it over. We don't feel that we have

paid you enough for what you have done for us. There will be more coming."

It was not just the hundred dollars that seemed so important at the moment; nor was it that I was aware that Dr. Bradley, who had lost his job, was having his own troubles; nor that I was under such heavy financial strain. Those were not the reasons why I was so deeply moved. Maybe God does not send down help from the sky, as my parents believed, but even so there is solid ground for faith. The love of friends and dear ones is an ever present help in time of trouble.

Among the many who sought my help who now stand out in memory are two highly intelligent women, Mrs. Irving Portnow and Mrs. Judith Pollack. Both were expelled from the American Jewish Congress because of their leftist sympathies. They were not even accused of being Communists, but simply of having sympathy for the wrong things. Among other things, they had secured signatures for the Stockholm peace appeal, a statement of principles circulated throughout the world to enlist people in opposition to a third world war. That peace appeal, it was alleged by the Attorney General, had been inspired by Moscow to embarrass the United States in its "cold war" policies. My clients were also accused of having obtained signatures on a petition of clemency for the Rosenbergs and of participating in a meeting in a private home where the speaker argued that the Slansky trial in Prague was not caused by anti-Semitism.

Night after night, in the heat of my second summer in New York, I went with them before a tribunal hand picked by their prosecutors. I defended the right of these two good women to their views. The expulsion demand was sustained; the judges, I felt, were themselves ashamed as they handed down the verdict. This was done in an organization founded by that great American liberal, Rabbi Stephen S. Wise. Such were the times.⁴⁸

Another group who came to me for help was a number of Chinese students—prisoners-without-charge of the cold war. It had been their misfortune to be here in our universities and colleges when the Chiang Kai-shek government was driven from the mainland and the Chinese People's Government took power. The students were refused permission to return to their homes on the grounds that the knowledge and skills that they had acquired in our schools

might be put to use in their homeland and thereby aid "the enemy." That they had prepared themselves for careers in China did not matter, much less that they might be needed or wish to be there. Some had elderly parents there; some had wives and children.

I interceded as well as I could. One United States government official, whose name I will not put down for posterity, told me that the "big brass" even claimed that one of the young men who had been studying soil conservation might become a help to the enemy: "If Communist China learned to raise more food it would increase its war potential!" So *one* Chinese student had to stay here, a prisoner in fact if not in name of a frightened giant.

Unable to break through the bureaucratic net, I decided upon other means to get the story of these young men to public attention, believing that the government might then be shamed into action. I took two of the students to the editorial offices of the *New York Times*. When the reporter assigned to us to get the story heard it, he assured us it was "terrific." Not even a word of it appeared in the paper that prides itself on its independence and on its coverage of all the news that is fit to print. Apparently a story that made our State Department look both cruel and silly did not come under the latter classification.

The young men were finally allowed to go home, but not until the United States government had been embarrassed and shamed before the whole world. At Geneva, where a representative of our government met with representatives of the "nonexistent" Chinese People's Government, in 1955, the repatriation of these students was demanded as a condition for the release of Americans held prisoner in China. Only then, when the news came out of Geneva, did our own people know of the State Department's highhanded action in holding these Chinese young men here against their will, and with no charge whatsoever against them. Only then were they permitted to leave. They thanked me for my help in their cause, but I felt that I had been able to do very little. The heart of the State Department had been frozen into pitilessness by the cold war it prosecuted.

In great contrast to these cases in and around New York, yet basically part of the whole structure of intolerance, fear, and repression, was another I was asked to aid, that of Carl and Anne Bra-

den and their friends in Louisville, Kentucky. There the issue was a "home-grown" one. It developed out of a simple act of Christian charity and conviction, but it drew upon the Bradens persecution, and for him imprisonment. Ultimately it ended in a triumph for principle that will not be without lasting importance, I feel sure.⁴⁹

The Bradens and five other white persons had been indicted on a sedition charge under an obsolete state criminal-syndicalism law exhumed for the purpose. Their offense was that they had helped a Negro couple, Mr. and Mrs. Andrew Wade, to buy a home in an all-white suburb. If there is ever to be integration—the putting of the Christian teaching into practice—then someone must do what the Bradens did: an act which, seen in that light, required great courage and conviction. After the Wades moved in, the house was blown up by dynamite.

One would have thought that in a law-abiding society the authorities would have sought out and punished the dynamiters. Instead the Braden group was indicted, the prosecution charging that the whole business was a "Communist plot" to incite racial disorders in the city.

Braden was convicted and sentenced to fifteen years in prison. When his release was sought on appeal bail was fixed at \$40,000, an amount that would have been prohibitive except for the nationwide support that was ultimately built up around the case, largely through the efforts of Anne Braden. This fixing of high bail, it should be noted in passing, has been another flagrant characteristic of the period, its legal implications going almost unnoted. The idea behind letting the accused be free on bail is that he should have the opportunity to assist in the preparation of his own defense; by fixing bail at exorbitant sums the courts, in effect, hold the accused in prison and, at the same time, divert attention from the building of the defense to the raising of the large sums involved.

Dr. Clark Foreman, executive director of the Emergency Civil Liberties Committee which ultimately raised most of the bail, made an on-the-spot investigation. His report follows:

"Was the Good Samaritan a communist? And if so was it subversive to receive his aid? These are problems which an ambitious Commonwealth's attorney in Louisville, Kentucky, has forced the people of that community to examine.

"Brotherly love, by helping a Negro family live securely in a decent home, has caused seven white people to be indicted for sedition. Three are in jail and four out on bail awaiting trials. Carl Braden, a journalist who was employed by the Louisville *Courier-Journal*, has been sentenced to fifteen years in jail for sedition and his bond has been set for \$40,000.

"Braden is a quiet-mannered man with a deep social conscience. He was minding his own business when he was approached in the winter of 1953-54 by Andrew Wade IV, a Negro electrician in Louisville, who asked for Braden's help. Wade had tried to find a house outside the high-rent area in which most Louisville Negroes have to live. Every time he found one that he liked he was told that it could not be sold to a Negro. Wade asked Braden if he would buy a house and sell it to him. Braden agreed and did so.

"Similar things had happened in the past in Louisville with some disturbance but with ultimate acceptance; there is every reason to believe that both the Wades and the Bradens thought that Louisville, which has had an unusually good record in race relations, would also accept their action.

* * *

"A cross was burned on the lot next door to the Wade home. A rock broke his front window; rifle shots were fired through his kitchen door. His wife was pregnant and Wade called for help. A Wade Defense Committee was organized and a white truckdriver named Vernon Bown, who worked at night, agreed to stay at the Wade home during the daytime to protect Mrs. Wade.

"Miss Louise Gilbert, a social worker, leader of the Louisville branch of the Women's International League for Peace and Freedom, sent a letter to the white citizens of the community into which the Wades had moved, urging Christian tolerance and forbearance.

"Just after midnight, in the early morning of June 27, dynamite exploded under the Wade house. Wade and his wife were on the front porch at the time and saw what looked like flashlight signals just before the bomb went off. Although it made a great deal of noise and caused tremendous damage to the house, no lights appeared in any of the houses of the white neighbors and they apparently took no notice of what had happened.

"The Louisville *Courier-Journal*, although deploring the fact

that the Bradens had helped the Wades buy a house in the white community, pressed the police officials to prosecute the guilty hoodlums. It was reliably reported that an ex-county policeman had confessed to the bombing, although no formal statement was made on the subject by the law enforcement officials. Subsequently, it was said that he had only confessed to burning the cross near the house and not the bombing; even this of course would cast light upon the motivation for the bombing.

"After letting one Grand Jury go by without presentments, the Commonwealth attorney, under considerable local pressure, began action. But to the astonishment of practically everyone, he asked for indictments against the white friends of the Wades, accusing them of helping the Negroes in order to stir up racial trouble. The *Courier-Journal* published a strong editorial on September 17 under the heading, 'The Crime was Bombing, Not Beliefs,' but a thirty-four-year-old state law against sedition was used to indict seven of the Wades' white friends.

"Carl Braden was convicted of sedition and sentenced to fifteen years in jail.

* * *

"Beliefs are apparently more important to the prosecuting attorney than the bombing. Negro rights and constitutional rights are subordinated to alleged 'seditious beliefs.'

"The Samaritans, I understand, were about as unpopular in Jerusalem as communists are now in the United States. So when Jesus told in his parable how the Priest and the Levite turned away from the needy man but the Good Samaritan gave him help, Jesus seems to me to be saying that men should be judged by their actions not their beliefs."

I was asked to help by both the ECLC and the Religious Freedom Committee. On behalf of the latter I filed an *amicus* brief in the Court of Appeals in Kentucky. We stood on the broad religious basis laid down by the National Council of Churches of Christ in America that "it is not within the competence of the state to determine what is and what is not American" and argued:

"Great tensions in international relations and the fears engendered by new and dreadful weapons have created a climate of opin-

ion leading from one invasion of traditional liberties to another. Only the courts, acting in the clear, calm light of precedents and evidence, can now give a ringing answer in the affirmative to the question which not only our own people but millions in other lands are asking as to how well America is holding to its faith. We earnestly submit that a ringing reaffirmation of our faith in freedom of speech and conscience in this case will reinvigorate us all in these difficult times."

It is hard to say what the outcome would have been in the Kentucky courts. Braden's freedom was eventually won through the Supreme Court ruling, in May, 1956, that the field of subversion was pre-empted by the Federal government and that state laws on the subject were invalid. This decision, which is likely to be a historic one, upheld a contested decision of the Pennsylvania Supreme Court in the Steve Nelson case, that of a Communist leader who had been imprisoned on a state charge of sedition. The Kentucky court, in accord with the Supreme Court ruling, set aside the Braden conviction and the other cases were dropped.

It might also be observed, as demonstrated by this case, that not only were the good Samaritans punished but also those who spoke out in their defense. For instance, one of the charges made against the Reverend William Howard Melish in an attempt to oust him from the Church of the Holy Trinity in Brooklyn—another case of wide implications to the religious world—was based on a moving sermon he had preached on the Braden case. He had closed with these words at a Communion service in which Anne Braden, an Episcopalian, participated:

"In the light of a personal tragedy of these social dimensions, we can see a good many things etched with clarity. It is not enough for the National Council of Churches to issue a pronouncement as it did yesterday for Race Relations Sunday, calling for the bettering of race relations and commending desegregation in the public schools, unless the National Council and its constituent bodies are prepared to face what happens to people who try to carry these commended Christian principles into concrete practice! Will the National Council and its con-

stituent bodies say a good word for such militant Christians as the Bradens?

"The Protestant Episcopal Church has a stake in this. Here are two of its communicant members, whose lives at least to some degree have been conditioned by the teachings of the Prayer Book and whose rediscovery of a relevant Christianity has been the work of men in the episcopacy and ministry whom the whole church knows as loyal exemplars of the Christian faith and life. What will the Protestant Episcopal Church do for these two individuals in their time of ordeal? Will it stop and bind up their wounds and take them to a place of safety, or will it pass by on the other side? . . .

"You and I can see that an America that remains indifferent to this sort of case in its very heart, involving individuals nourished at least in part by the creed and ethic of its churches, is the one that is hurting itself because it is destroying itself spiritually. Somehow I am less afraid for a Carl or an Anne Braden, or any of the other Louisville defendants, than I am afraid for ourselves, lest we stand revealed, in this mechanized and atomized age, as having become what the Bible calls men with hearts harder than flint, who have become ethically and spiritually dehumanized. Said Jesus, 'Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me.'"

More and more, as in the Braden case, the issue of civil rights for Negroes was becoming joined with that of civil liberties in general. Especially did this become so after the Supreme Court decision in the school segregation cases: Senator Eastland and his ilk then linked the battle for civil rights with "the Communist conspiracy." The Senator from Mississippi went so far as to introduce a resolution into the Senate calling for the investigation of the Supreme Court, charging that it had fallen under Communist influence.

To an increasing extent the country was having to face what a distinguished Swedish observer, Gustaf Myrdal, had described as "The American Dilemma," in a book of that title. The choice as he saw it, and as others were coming to see it, was between the country's ideals as they were embodied in the Declaration of Independence and the Bill of Rights and its denial of those guaran-

teed rights to so many of its citizens, along with a denial of that equality of status inherent in the statement of "self-evident truths." The country was having to decide, too, how much of the Christian-Judeo ethic was to be put into practice, as well as into words.

But, looking at the America of the 1950s, there was, even in the midst of battle, reason to be encouraged. The schools were being desegregated, a large step toward the equality of all of God's children, and on another front individuals here and there not only spoke out clearly but, like the Bradens, acted in accord with their professed faith in the brotherhood of man. They were saying, as radicals in every age have said, "Things are not good enough. We demand changes here." If those earlier radicals had not agitated and acted we would still be living in caves and wearing loincloths, and if "the radicals" were not challenging us in our own time we would not be prodded into making the changes called for not only in the economic and political field but also in our relationships one with another, group by group, in an attempted resolution of the American dilemma.

The most obnoxious doctrine to gain currency and official support in what will be known in history as "The Era of the Great Hysteria" was that of guilt by association. It took many forms. People who had joined organizations working for peace or for the general welfare were branded if the organizations had been "infiltrated" by Communists, or if they had advocated peace or welfare measures that "paralleled" those of the Communists. And in 1950 the doctrine was embodied into law, in the notorious Internal Security Act (the McCarran Act) passed in that year over the veto of President Truman. The term "Communist front," which had been in usage for a decade or more in a broadside attack against numerous left-wing and liberal organizations and persons, was thus given legal countenance.

Many had believed, along with the President, that the act was unconstitutional, but great damage could be done—and was—while a test case was moving to the Supreme Court. Not until 1956, or six years later, did the issue get before that body, and even then it was avoided.

The case that got to the Supreme Court was the appeal of the Communist Party from an order of the Subversive Activities Control Board, set up under the act, which found the party to be the subversive agent of a foreign power. In support of that appeal I submitted, along with the distinguished liberal attorney Laurent B. Frantz of California, a brief to the Supreme Court on behalf of 460 prominent Americans urging that the Internal Security Act be found unconstitutional. Among the signers was my old friend Dr. Frank Aydelotte, Director Emeritus of the Institute for Advanced Study at Princeton. In the brief, we wrote as follows on the use of the doctrine of guilt by association:

"Conceivably the term 'Communist Front' might be applied to an organization made up entirely of Communists, but not so pro-

claimed. The Act makes it evident that it was not such an organization that Congress had in mind. Section 13 (f) does not require or provide for proof that a majority, or even a substantial minority, of the members are Communists. The finding in Section 2 (7) speaks of 'fronts' being created and maintained or used in such a manner as to conceal the facts as to their true character and purposes from their membership and asserts that these organizations are able to obtain 'support from persons who would not extend such support if they knew the true purposes.'

"It is evident that what Congress is concerned about here is that organizations under some degree of Communist influence are able to attract and retain as members a substantial number of persons who are neither Communists nor Communist sympathizers. The further assumption seems to be that Communists are such supermen and non-Communists such weaklings that the thinking and point of view of the Communists, even if they be in a minority, will prevail and dominate the policies and actions of the organizations. This is not only guilt by association in crassest form—it is pernicious nonsense.

"In the case of 'Communist-infiltrated' organizations, the very name implies that the membership is chiefly non-Communist. . . . An individual has a Constitutional right to belong to organizations 'infiltrated with Communists.' He should not be required to find out whether such is or is not the fact about the organization. The test should be whether it is engaged in punishable activity, whereas the test under the Act is association. It makes the Communist a political leper with whom non-Communists cannot work for the cause of peace or any other cause no matter how worthy."

The Court, on this occasion as on other similar tests brought in this period, did not choose to decide the basic Constitutional question. It did, however, remand the case to the Subversive Activities Control Board because of its failure to give opportunity to the Communist Party to show that the testimony of informers who had been used in the hearing was tainted by perjury. At this writing, the SACB, after eliminating the tainted testimony and refusing to hear of the recent developments showing the Communist Party to be increasingly critical of the Soviet Union, has again held

the Communist Party to be under the domination of a foreign power, and the case is again back in the courts. I regretted that the Supreme Court did not come to grips with the Constitutional issue and hope next time that it will, but was glad even so, for a gain was made: the testimony of Harvey Matusow and others could no longer be used by the government without question.

The decision in this case was one of several handed down in the spring of 1956 that led the archreactionaries, Senators Eastland, McCarthy, Mundt, and others, to lash out at the Court itself for serving the Communist cause, as they would have it. Eastland, under the seniority system of the Senate, had become chairman of its powerful Judiciary Committee; only one vote was cast against him, that of the *honorable* Herbert Lehman of New York. In his new position Eastland held hearings, and at one session his Republican counterpart, McCarthy, who had been temporarily silenced by a vote of censure in the Senate, was given an opportunity to formulate the new attack. He described the Court as "incompetent, irresponsible left-wing judges who conceive of themselves as a super-Congress."

"It is just one pro-Communist decision after another," said Senator Eastland.

"You're so right," Senator McCarthy replied.

The nature of McCarthyism and its menace to the freedoms guaranteed under the Constitution were never more clearly revealed than in this attack on the Supreme Court. Even honest conservatives were appalled by this move of the foes of freedom to bring the Court into factional politics.

Upon the resumption of my law practice I had set myself against acceptance of the doctrine of guilt by association. I would not shun any organization whose aims I approved because of the claim of the McCarthyites that Communists were in it. I would find out for myself what it was doing and if I found it good would lend my encouragement.

In line with this thought I accepted an invitation to attend a meeting of the American Peace Crusade, an organization later claimed by the Attorney-General to be "subversive." So I know firsthand the nature of at least one of the organizations that was put on the *verboden* list. The meeting was held in a New York hotel. All present were unknown to me. Professor Philip Morrison,

a distinguished nuclear scientist on the faculty of Cornell University, was in the chair, and alongside him was the organization's executive secretary, Thomas Richardson, a brilliant young Negro from labor's ranks. I later heard it charged that he and his successor, Betty Haufrecht, who rendered yeoman service to the peace organization without pay, were Communists. Perhaps they were. I never inquired. Some whom I met I believed to be Communists in fact, whether or not they were official party members. I was not concerned to find out. I believed firmly in peaceful coexistence with the Soviet Union as an essential, nothing more or less, to self-preservation. I was willing to work with any group that was sincerely striving for peace.⁵⁰

The subject under discussion was the Korean War. This was in 1952. The American Peace Crusade was on record as favoring an immediate cease fire; that position, I felt, was unrealistic without some agreement on the conditions, such as was eventually worked out by the Indian delegation at the United Nations as a basis for the uneasy truce still prevailing. The resolution adopted at the Peace Crusade meeting, it seemed to me, offered an oversimplified solution and tended to place the blame exclusively on the United States.

Afterward I wrote to Mr. Richardson detailing my criticisms. I told him that while I was strongly for peace I felt that I could not be associated with the American Peace Crusade because our approaches to the goal were too divergent. I did not believe that the Crusade's approach, in which the blame was fixed so exclusively upon the United States and which demanded a ceasefire without preconditions, would win wide support among the American people. Shortly afterward I was visited by Mr. Richardson and John Darr, a young Presbyterian minister, whom I came to admire and respect for his forthrightness and courage.

The national board, I was told, had taken my criticisms to heart. They not only desired peace but they sought to have their pronouncements so formulated as to win the approval of people like myself. The visit ended in a request that I be the attorney for the organization. I consented, with the proviso which they accepted that thereafter any statements or resolutions would be submitted to me in advance. Thus began a happy association with a group of people whom I came to understand and admire. I remained their

attorney until 1956, when other duties made it impossible for me to continue.

One of the most thrilling experiences of my life grew out of this association. In 1954 I attended a joint meeting of the leaders of the American Peace Crusade with those of the American Friends at a forum and school maintained by the latter in a Philadelphia suburb. I had long believed that of all the many sects who profess to be followers of Jesus of Nazareth the Quakers have come closest to catching the spirit of his teachings and putting precept into practice. Present for the Quakers at this meeting were Clarence Pickett, Stephen Carey, and others, and for the APC, Professor Morrison, Richardson and Darr, as previously mentioned, Paul Robeson, Betty Haufrecht, Father Kenneth Forbes, and Dr. Willard Uphaus.

Every word uttered should have been recorded. Clarence Pickett, who is mild of speech but firm in convictions, opened the discussion. The Friends, he said, sought contact with all persons whose goal was peace, even though the methods of achieving it might differ. His group, he said, believed in conciliation. They did not believe that attacking the motives of officials of our government or interpretations implying intentional evil on their part served the end of peace. Rather, the Friends sought to understand the point of view of those in government who were formulating our foreign policy, and, where they could, to persuade them to make changes. He was critical of the approach of the American Peace Crusade, although praising its aims and good efforts. It had, he thought, been one-sided and often too bitter.

Then Professor Morrison spoke. He told of how and why he had helped to organize the Crusade. He had worked with Dr. Robert Oppenheimer and other nuclear physicists in the development of the atom bomb. After it was unleashed and a hundred thousand lives snuffed out with one blast—old and young, men and women, all people innocent of making any high policy—the enormity of what had been done lay heavy on his heart. There must be no more war.

He realized that the threat of war arose from the conflicting ideas of capitalism and communism. The proponents of these two ways of life must learn to live together. If American Communists and non-Communists who desired peace could not thresh out their dif-

ferences in reasonable discussion across the council table, what hope was there that the Communists of Russia and China and other countries could settle their differences with the believers in capitalism of the Western World? So, from the beginning, Morrison told the meeting, the American Peace Crusade had sought to draw into its councils men and women of differing views. But because there were Communists in the Crusade—in the jargon of the witch hunt it was infiltrated—the Attorney General had brought proceedings against it before the Subversive Activities Control Board.

Stephen Carey spoke next for the Quakers. He told of their studies on how to achieve peace, of their reports, and of their efforts to persuade the Secretary of State and others high in government that the doctrine of “peace through strength,” with its constant building up of armaments and of the hatreds and fears that must be aroused before Congress will spend billions for “defense,” led not toward peace but created the danger of war. Hatred, he reminded the group, does not cease through hatred. It ceases through love. That is always its nature, as Buddha, Jesus, and other teachers whom the world has worshiped as good and great have shown.

Then Paul Robeson spoke, and he did so out of the depth of a great bitterness. What a towering personality he is, with his huge, athletic body and his deep, resonant voice—a voice millions have been deprived of hearing by the taboos against him! He told of his own rearing in a Christian home, and of his brother's being a pastor of an outstanding Negro church in Harlem. He told of how, through experience after experience, he had learned that for the millions of his race in America democracy was a hollow word. For generations his people had borne the indignities, humiliation, and violent abuses patiently. He was tired of patience and of hoping that the white man would some day begin to practice what he preached. He was tired of Christian humility. He was through with groveling and begging. We were listening, however unintentional it may have been on his part, to an explanation of his identification with the left, an identification that has curtailed his career as a singer and actor in this country, and, through the denial of a passport, has brought a close to that career in other countries. He paid a great price, but that day he was not asking for pity or sympathy for himself.

He told of having gone to Russia, and there, suddenly, a great weight had been lifted from his chest. He was not a "nigger" any more. He was a man. He had come home to fight for the recognition of his people as human beings equal with all others. He had come home to fight for peace. He had no wish to turn the other cheek any more. The great gains of history, he declared, had not been won by cowards or weaklings but by men who had struck mighty blows for freedom and progress.

When he had finished we were all silent. A great man had spoken out of the depth of a great pity for his fellow human beings and out of a great longing for a world of equality, peace, and brotherhood.

Clarence Pickett was the first to speak after that impact. He did so with infinite kindness. He understood what Paul had said and felt, but the liberation of peoples in the future world, he maintained, would have to be by the peaceful way, the way Gandhi had used to liberate India. "We must be armed with the power of the spirit," he said, in true Quaker conviction.

Others spoke and spoke eloquently. No one held back his deepest feelings or his innermost thoughts. Whatever God is was there in the midst of us as we wrestled with humanity's greatest unsolved problem—how human beings with differing and passionate beliefs can learn to settle their differences by some other means than jailing or killing, or, as in the present instance, by coming afoul of the Attorney General's list. We would all have less need to fear today if the meeting of minds, the conciliation, and the good will that were in that conference that day could become the accepted way of facing our common difficulties and striving for our common goals.

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Dr. Willard Uphaus, whom I first met through the American Peace Crusade, is an unusual man. He not only professes belief in the teachings of Jesus: he actually tries to live them out. I have never known anyone who came closer to my concept of the kind of person Jesus sought when he said, "Follow me!"

Soon after that meeting Willard, as were so many truly good men in this period, was in need of a lawyer for himself and he turned to me. Ours has been a close association ever since.

Despite an appearance of frailness he is a rugged man, not only in conviction but in physical endurance. He is short, and walks with a slight limp. He has gray hair. His friendly blue eyes and smile take you all in, and he has won hundreds to him who came loyally to his support in his own time of trial. He is modest and unassuming but he can be a fiery and eloquent speaker when burning with a prophet's indignation. He is no one to tangle with, for all that look of gentleness and for all that truly generous spirit, as his inquisitors found.

He was born on a farm near Muncie, Indiana. His father and mother were deeply religious. He early decided to devote himself to Christian work and became active in the Methodist church and the Young Men's Christian Association. After completing his college education and winning the degree of Doctor of Philosophy for his advanced studies at Yale University, he became a teacher of religion in an orthodox Western college. His liberal theological views and his emphasis on the social aspects of the teachings of the Old Testament prophets and of the Gospels brought him into conflict with the president and the trustees. He came east and took a position as an instructor in the field of religion at Yale. He settled in New Haven where he has since made his home.

His early religious convictions, he has told me, were of the conventional kind. His eyes were opened, as he puts it, through a summer spent with Claude Williams. He went with Claude among

the poor Negro and white sharecroppers of the South—this was in the depression years—and there he saw in their awfulness the evils of our social system. He became fired with Claude Williams's zeal—the zeal of all great reformers. To him the answer to the injustices and inequalities and to the animosities of men and nations lay in the teachings of Jesus. He became a Socialist, but not less of a Christian as he conceived of Christianity. From then on he was a crusader for social justice and world peace, for a heaven here on earth.

But Willard Uphaus was more than a dreamer. Reactionaries do not worry about idealists who merely pray or dream. Willard was a man of action and a fine organizer, and when the militant Christian leaves his church and begins to fight entrenched greed and injustice in the market place of ideas, as he did, he is looking for trouble. Prophets are traditionally in trouble. The defenders of the *status quo* see to that.

Talking to Willard, I was often reminded of a sermon my father preached; his best, as I remember. It was about people who revere the prophets of the past and persecute the prophets of the present. He took as his text the passage in the 23rd chapter of Matthew where Jesus said:

“Woe unto you, scribes and Pharisees, hypocrites! because ye build the tombs of the prophets, and garnish the sepulchres of the righteous,

“And say, If we had been in the days of our fathers, we would not have been partakers with them in the blood of the prophets.

“Wherefore ye be witnesses unto yourselves, that ye are the children of them which killed the prophets. . . .

“O, Jerusalem, Jerusalem, thou that killest the prophets, and stonest them which are sent unto thee, how often would I have gathered thy children together, even as a hen gathereth her chickens under her wings, and ye would not!”

Lowell put the same thought into his great poem, *The Present Crisis*:

“They have rights who dare maintain them; we are traitors to our sires

Smothering in their holy ashes, Freedom's new-lit altar fires.

Shall we make their creed our jailor? Shall we, in our haste to slay

From the tombs of the old prophets steal the funeral lamps away

To light up the martyr fagots round the prophets of today?”

One thought of these questions in the confrontation of this man, Willard Uphaus.

In the early 1940s he became executive director of the Religion and Labor Foundation, an organization that sought to bring religious and labor leaders into closer contact, understanding, and effort. Even his critics admitted that he did the job well and helped build the institute into an important position in our national life.

But other matters than labor problems weighed on his mind. War was not only a negation of all that he believed in as a Christian and a compassionate human being. It was an increasingly unthinkable solution for international problems. No nation and no group of nations could win, armed as they were with bombs and all the other instruments of modern war. A third world war might even destroy civilization itself.

So, in March, 1951, along with other Americans of good will, Willard accepted an invitation to a peace conference in England of representatives from non-Communists and Communist countries. The British government, fearing, I suppose, an effect on public opinion that would interfere with appropriations for armaments, or on its relations with the fear-ridden United States, canceled the arrangements and refused to let the delegates in. The conference was shifted to Warsaw, and from there Willard, with others from the meeting, also visited the Soviet Union.

What he saw and heard on this trip confirmed his opinion of the desire of the people for peace and of the necessity for a substitute for the American policy of “peace through strength.” He believed that attempts by either side to intimidate the other by building up armaments and stockpiling bombs would increase, not decrease, the threat of war. He had, in that spirit, made a speech at the Warsaw conference, in which he made suggestions that instead of pre-

paring for war "the United States and the Soviet Union should enter into a friendly, peaceful competition for the next ten years to show the peoples of the whole world which nation could most effectively advance human welfare, and that this peaceful competition be carried out under the auspices of a special commission of the United Nations." That speech, along with his having gone to the Soviet Union, brought him under attack. The State Department has consistently frowned on international conferences of representatives of Communist and non-Communist countries.

He came under fire at the Institute of Religion and Labor, of which he was secretary. In defense of himself he said to his critics: "Our sixty-three delegates were widely representative of American geography, American political opinion, and of American vocations. We were intensely pro-peace and not pro-Communist. . . . As I look over Methodist statements on disarmament and other matters of peace I do not feel that I was out of place at Warsaw. . . . Moreover, was it wrong to attend church in Russia, go through factories in Moscow and Leningrad, meet with labor leaders, visit workers in their homes, discuss religion with Metropolitan Nicolai, head of the Russian Orthodox church, and to talk about education and philosophy with university professors?"

Whatever answer might be given to those questions in the relatively less hysterical times of 1957, he was speaking out in the period of McCarthy's greatest influence and of America's deepest intolerance and chauvinism. He lost his job.

To compound his later difficulties he became director of the American Peace Crusade. That it was "Communist-infiltrated," as the charge later went, bothered him not at all. His deepest convictions were that Communists and non-Communists, both as nations and as individuals, had to learn to understand each other and to work together.

Then, in 1953, came an opportunity for him to become the director of the World Fellowship of Faiths. This organization had been founded in 1913 by a highly respected idealist and dreamer of that time, Charles Weller, and his wife, Eugenia. Its purpose was to bring together for conference, communion, and understanding representatives of all races and religions and political faiths. Mr. Weller had acquired a beautiful site of some three hundred acres of forest land in the majestic White Mountains of New Hampshire,

and there each summer people of the same idealistic bent came from all over the country. The Wellers were in their eighties and concerned that their life work be continued after their passing. Willard Uphaus and his attractive wife, Ola, a former missionary to China, were their choice as successors.

The offer seemed a heaven-sent opportunity to the Uphauses to advance their ideals. They took over at a time when not many places were left open to people of their particular persuasion. The place, they found, filled a need. Ministers, college professors, writers, lawyers, labor leaders, representatives of the United Nations came and were heard in the tradition of World Fellowship, a tradition that had been building up without hindrance or comment for more than forty years.

Enter the attorney general of the great and free State of New Hampshire, Louis C. Wyman. In 1953 the state legislature had passed a law authorizing Wyman to investigate subversive activities in the state looking toward the overthrow of government by force and violence. Willard was summoned to appear before him for questioning. What was clearly indicated by the type of person Wyman called was that the Communists were not the target. He was after citizens who would not toe his own orthodox line—professors from Dartmouth and the state university, along with social and religious workers of liberal views.

The idea that a man of peace and love like Willard Uphaus and that an organization like the World Fellowship of Faiths could be advocating the forcible overthrow of government was so ludicrous that when he told me he had been summoned I thought that Wyman must be laboring under a misapprehension.

I was mistaken. Louis Wyman knew exactly what he was doing.

There was no Communist menace in New Hampshire to investigate, a fact that must have been clear to all without motives of their own for such a search. According to the attorney general's own figures, later transmitted in a report to the legislature, "there were forty-five or fifty members [of the Communist Party] prior to 1951, most of whom have left the party or the state or *are now cooperating with the Attorney General.*" (Italics ours.) He had spent a great deal of public money in a fizzle. The cost of averting the perils of New Hampshire ran to about \$4,000 for each Communist, I remarked later in a brief on the case—one Communist under every

20,000 beds. For a state that had to be as careful of its money as little New Hampshire the costs were running into a large figure. Results had to be forthcoming.

I first appeared with Willard before Wyman in the spring of 1955. I found him to be an intelligent young man with a pleasing personality and gracious manners. I really believed that after hearing what Willard had to say he would drop the case. I was never more wrong, as I discovered when the questioning began.

Willard answered freely all questions about himself and his own activities and beliefs. He was not and never had been a Communist. He had associated with people who may have been Communists in the American Peace Crusade. Did he know Paul Robeson? Yes, Paul Robeson was a friend of his.

Wyman then asked Willard to produce the list of guests at the World Fellowship conference the preceding summer, along with the names of employees and his personal correspondence with speakers. Willard refused, stating his religious scruples against involving innocent people. Those names, he knew, would be used in the network of lists that Wyman himself had admitted the attorneys general of thirty-seven states were building up through a cross-index system. A guest, for example, might have it said against him that he had been "cited"—an important word in the jargon of the witch hunt—in New Hampshire. That guest, furthermore, might have come to World Fellowship through an advertisement in the *Nation*, the *Churchman*, or the *New York Times*, or he might, as some have done, have turned in at a road sign at the end of a day's drive.

Upon refusing to turn over the lists Willard invoked the First Amendment and the equivalent provision of the Constitution of New Hampshire guaranteeing freedom of religion and speech. Wyman thereupon cited him for contempt before the Superior Court of New Hampshire.

After many legal maneuvers a hearing on the merits of the case was finally had before the Superior Court in Concord. It was a day of unexpectedly bitter battle. Beside me was a very able New Hampshire colleague, Hugh Bownes of Laconia; opposing us was Wyman. On the main point at issue, Wyman was upheld: The judge ordered Willard to produce the guest list. On the same grounds as before, he refused, whereupon he was sentenced to prison until he "purged"

himself of contempt. This savage and unreasonable sentence might keep a man of conscience like Willard Uphaus in jail for life.

The case was then argued in the New Hampshire Supreme Court on appeal (December, 1956). Meanwhile the United States Supreme Court, in the previously described decision in the Steve Nelson case, had delivered a setback to the witch-hunting activities of Wyman and others on the state level by declaring, in effect, that the Federal government has exclusive jurisdiction in the matter of "attempts to overthrow the government by force and violence." It was, or ought to have been a particular setback to young Wyman, for it was he who argued the case for the state's right before the Supreme Court. But Wyman has obtained a decision from the New Hampshire Supreme Court that while the decision in the Nelson case prevents him from prosecuting it does not prevent him from investigating under the New Hampshire law and so, investigate he will unless the Supreme Court of the United States says no.

That court will have a chance to say no, if it will, for the Uphaus case is now on the way to a decision there, the Supreme Court of New Hampshire having upheld the conviction by a 3-to-2 vote (March, 1957). The higher court will have before it the forthright dissenting opinion of two New Hampshire jurists who saw the importance of the question raised.

"The order of the Court [of New Hampshire]" they wrote, "will operate as a deterrant upon the right of free speech and peaceable assembly guaranteed by the Constitution. . . . On a record such as this so slim a semblance of pertinency is not enough to justify *inquisition violative of the First Amendment*." [Emphasis ours.] So, in time, in time!

I do not understand bright young men like Louis Wyman. Do their careers mean so much to them that our traditions of freedom of speech and conscience mean nothing? Or have they really convinced themselves, as had the good John Calvin when he burned the heretical Servetus at the stake for affirming the divinity but denying the deity of Jesus, that heresy must be stamped out ruthlessly to preserve the faith? In Wyman's case, that faith is that capitalism is the only safe doctrine. After coming to know him I inclined to think of him as a fanatical crusader in a bad, an un-American, cause. But, as I say, I do not understand young men like Louis Wyman.

The hope is that in New Hampshire reason and not fear will yet prevail and that Willard Uphaus will go free to continue his labors to bring men of good will together.

One is reminded of Shaw's observation in *Saint Joan*: "Oh, Lord, thou who hast made the world so beautiful, when will it be ready to receive thy saints!"

One is also reminded of the Hawthorne story of *The Great Stone Face*—a New Hampshire story. Hawthorne tells of a prediction that a son would come home to the mountain village, in the likeness of the face on the mountain—a face notable for its nobility. One by one men who had won fame, honor, and success came back to the village, to be acclaimed as the long-awaited son of the people. Disillusion had followed. Then, at last, they recognized the matching likeness in the face of one who had grown old among them, one who, even as a child, had contemplated the grandeur of that countenance and understood. The moral is: "We grow like what we contemplate." The acclaim goes now to Louis Wyman, but in the long accounting may not the countenance of Willard Uphaus be recognized and honored, as being in the likeness of "the Old Man of the Mountains," as enduring as the eternal truths? Curiously, the "face" that is purported to have been Hawthorne's inspiration overlooks the World Fellowship Center.

No greater destruction was wrought on American ideals of freedom and its tradition of fair play than was done through the censorship that settled, as with a cold blanket of fear, over the country. The entertainment industry was the first to suffer under it. That there was a black list was apparent. That individuals had been barred from the exercise of their profession for the flimsiest of reasons was equally clear. The difficulty was to find a plaintiff or plaintiffs or a defendant or defendants for or against whom proof could be offered that would stand up in court.

I was consulted by a committee representing black-listed actors, and I, in turn, called several prominent civil liberties lawyers into consultation with me. My own analysis of the difficulty of doing anything about the situation was confirmed. Generally speaking, an employer has a right to choose his employees, and it is hard to prove that a particular actor's unemployment does not arise out of the fact that a company, for legitimate reasons, does not wish to employ him. Actor's Equity, the industry's trade union, could do little because the issue was not one of violation of contract. Actors and actresses on the black list were simply not being employed.

The extent to which the black list was being used was finally brought out in a study that could not be dismissed: a 600-page report issued by the Fund for the Republic in June, 1956. It had been compiled by a former editor of *The Commonweal*, a Catholic publication, and the choice would seem to place the study above suspicion of any bias toward the left. In it something of the toll of suffering taken among directors, writers, and actors was set forth. The industry was described as being "hag-ridden by fear." In the three years between 1951 and 1954 more than 200 motion picture workers had been named as Communists by one or the other of the contributors to the black list. Those named had felt the axe, and so had "fellow-travelers," a vague and convenient label of condemnation. Among the victims were some of the best-beloved figures in

the American entertainment field, along with some of its most talented and capable writers and producers.

Significantly, the investigators for the Fund for the Republic reported a reluctance to talk upon the part of those still working. Most of the witnesses had to be quoted anonymously. "What can you write," asked one, "with fear and suspicion around? What writer wants to stick his neck out and maybe get called a subversive because he hasn't steered clear of social problems?"

Thus did the black hand of fear crush the creative talent and destroy the independence of the workers in the entertainment field. Even so renowned a playwright as Arthur Miller, a Pulitzer prize winner and a person of international fame, was not spared harassment. The author of "The Crucible," a play about the witch hunt in Salem three hundred years ago, found himself before a similar inquisition before the House Un-American Activities Committee in June, 1956. The names of his "fellow-conspirators" were demanded as the price of his absolution from the taint of communism that was on him for his past associations with the left. To Arthur Miller's everlasting honor, he refused. He has been indicted and faces trial for contempt of Congress for that refusal.

A year earlier the same committee, under the chairmanship of its troglodytic-minded Francis E. Walter, had come to New York to conduct an "investigation into the entertainment industry." I represented several clients at those hearings. The proceedings filled me with a deep contempt for the mentality of the chairman and for his methods. I do not profess to judge his sincerity. I know only that the hearings he conducted were a farce out of which a live theater or screen industry could have produced Gargantuan laughter. No one, though, has yet come forward to produce the play or the film that would provide either the laughter or the indignation. Nor are reputations and money likely to be risked on any such adventure soon; the operation of "the black list" has been warning enough.

Another comment on the times that became "curiouser and curiouser." When the report on black-listing was issued, its author was hailed before the house Un-American Activities Committee, under the same chairman, ostensibly to conduct its own investigation into "black-listing," as if it were newly hearing of the practice. In reality what the committee did was to build up an at-

tack on the Fund for the Republic and to give some of those accused of being the acknowledged high inquisitors a chance to deny their power. A sad, sad business!

Another cause that engaged me deeply was that of the National Lawyers Guild.

During the 1930s, while at Rollins, I used to see statements from time to time by a national organization of lawyers. Uniformly the stand they took on current legal and political problems expressed my own thinking. I wondered about this National Lawyers Guild. No such organization had existed during the time of my active practice. The Association of the Bar of New York, to which I belonged, was concerned more with a lawyer's technical problems than with law as an instrument in the defense of freedom. My only actual contact with the guild during those years was a chance meeting with a young lawyer member; my conversation with him added to my growing good opinion of the organization.

One of the first things I did after my return to New York was to join the Guild. I soon found myself at home among a congenial group of men, many of whom became warm friends. The president at that time, Earl B. Dickerson, was a prominent liberal and civic leader from Chicago. He was succeeded by Professor Malcolm Sharp of the University of Chicago Law School, whom I have already mentioned in connection with the Rosenberg case. Sharp, I discovered, was a conservative in politics and economics, but like myself a firm believer in freedom of speech and association.

I was aware that there were lawyers in the Guild who had the reputation of being Communists, and I was willing to accept the fact that some were. I also came to know, which was not surprising, that the activities of the Guild were lawful and creditable to the legal profession. I simply refuse to accept the concept that a good and useful organization becomes evil because Communists are in it. I have a Constitutional and moral right to work for and with Communists for ends in which I believe.

After a time I became a member of the national board of the Guild and thoroughly familiar with its program and activities. It was fighting for the Bill of Rights and for an independent bar, and my concern with both had brought me back into legal harness. Because it did so fight, it eventually found itself in trouble: Attorney General Brownell publicly announced that he was going to put it on

his list of subversive organizations. The Guild had been given no hearing, and even if it should be given one before him prior to being so listed, he would scarcely be an impartial judge.

The Guild thereupon brought suit in the United States District Court for the District of Columbia seeking an injunction to restrain the listing. The case, *The National Lawyers Guild v. Brownell*, may go down in history as one of the great fights for the independence of the bar. As I write, the Guild has not yet been listed, though three years or more have passed since Brownell said it would be. I will not go into the legal history of the case here, except to say that it has excited widespread interest among lawyers. The nub of the case, it seems to me, was hit upon in an *amicus* brief submitted to the United States Supreme Court on behalf of the Guild by twenty-six outstanding members of the California bar. They said:

"Concerning this [the asserted political views and associations of some Guild members and leaders] we are informed that the Guild, unlike the Attorney-General, makes no political inquiry of its members. Traditionally, this has been the practice of all bar associations. But irrespective of the merits of either the Guild's or the Attorney General's approach to this problem, it would seem more nearly consonant with the spirit of our Constitution to judge an organization, not by what some of its members have said and done, but by what as an organization, it has said and done."

And, on the floor of Congress—an unusual occurrence in these days of the witch hunt—a member rose to question the Attorney General's procedure. In a notable address to the House of Representatives on February 7, 1954, Congressman Herbert P. Eberharter of Pennsylvania declared that "according to the Attorney General the word subversive means to make a legal argument in court which differs from the position of the Department of Justice. This is another new-fangled concept which, as an old-fashioned lawyer, I find hard to understand." Congressman Eberharter concluded his speech with this ringing challenge to the House:

"To my mind, for the Attorney General to libel and slander any organization that has done nothing illegal, because the Attorney General does not like the way that organization operates or

because it opposes some position taken by him amounts to a gross arrogation of power. I think it time that we put a stop to this attempt to govern the country by smear and labeling."

The long legal fight with the Attorney General had cost the Guild heavily in both money and membership. No matter how righteous they considered the Guild's cause, many lawyers felt that it would jeopardize their practice to stay in an organization which the Attorney General was attempting to list as subversive—one of the many instances of the effectiveness of giving any one man or any group of men the authority to draw up such a list. Those who remained in the Guild had already made heavy financial and personal sacrifices and were being called upon to make more, as the fight with Brownell reached a crucial stage. At that low point in its fortunes Robert J. Silberstein, who had served the Guild well without pay as executive secretary for many years, had to resign to take care of his own business affairs in Detroit. Jessica Davidson, a brilliant young lawyer who had been his assistant, had carried on ably, but she, too, for personal reasons, could not continue. I was urged to take the job.

I was in my seventy-third year. I had a long Smith Act trial ahead of me to which I was committed. Ethel was not well. The job I was asked to take would be strenuous and in many of its aspects difficult. I urged all these objections, but the committee that waited on me insisted. I was needed, the committee argued, to hold the Guild together during this trying period. Finally I consented. In my address of acceptance at the national convention of the guild, at Detroit in 1956, I explained my acceptance in these words:

"I am confident—and I have this confidence in the courts of my country, which I love—that, be the time long or short, the National Lawyers Guild will ultimately be vindicated and that many who have withdrawn from its ranks or refrained from joining from fear or otherwise will come back or will join us, for the things for which we stand—a liberal bar association which has represented in many ways the right of the community's less privileged to legal counsel and to enjoy the civil liberties to which all of us here are committed."

I spoke from the heart and out of my deepest conviction, and ap-

parently what I had to say touched the hearts of others. Writing of it, David L. Weissman in the *Guild Reporter* quoted my closing words, "And when that day comes, and when this period ends, we will all be able to say and to sing once again with our hearts,

"America, the beautiful,
God shed his grace on thee
And crown thy good with brotherhood
From sea to shining sea."

He went on to say, "The dignity and depth of feeling and determination of this man to spend 'whatever remained of life' in defense of our freedoms turned what might have sounded corny on other lips into a cleansing, moving, unforgettable moment." I meant what I said, is all I can add.

Perhaps my work for the National Lawyers Guild will conclude my life's endeavor. If so, I hope it may be deemed a worthy service to my country and a task well done.

The only civil liberties case that I refused to take was that of a Communist leader, Robert Thompson, who, after his conviction under the Smith Act in New York, jumped his bail. He was caught some time later in a cabin in the Sierra Nevada mountains in the company of Sidney Stein, another Communist. Thompson was returned to New York; Stein was tried and convicted in the United States District Court in California on a charge of harboring an escaped convict.

Here in New York a hearing was scheduled as to whether time should be added to Thompson's original five-year sentence because of his flight. I was approached to represent him. I replied that I was so out of sympathy with what Thompson had done that I would not be the proper person to represent him. He had, I felt, put the whole Communist Party in a sorry light and added immensely to the difficulties of securing bail and fair trial for future victims of the Smith Act. The flight of Thompson and three other convicted Communists had resulted in the forfeiture of thousands of dollars in bail, and sums up to \$50,000 were subsequently required for bail when other Communists were indicted under the Smith Act.

My reluctance to represent Thompson had nothing to do with the character of the man, for I have never met him. He had a fine military record, and people who know him speak highly of him. He has suffered heavily, and so have his wife and children, for what was, as it developed, at worst a grave mistake in judgment.

Hence, having stated my position in regard to representing Thompson, I was not in a receptive mood when some time later Simon Gerson and George Charney asked me to represent Sidney Stein, who had been apprehended with Thompson. Stein, who was still serving a sentence under the harboring charge, had now been indicted along with other so-called "second-string Communists" under the Smith Act. He and the others who were to stand trial with him would seem to have been caught in a catch-

all, so varied were the circumstances. Two, Charney and Alexander Trachtenberg, were being retried, their earlier conviction having been set aside because the recantant informer Matusow had admitted to swearing falsely against them. Marian Bachrach, likewise, had been indicted with them, but her case had been severed at that time because of an operation for intestinal cancer. The three others under indictment—Fred Fine, William Marron, and James Jackson—had, like Stein, left the jurisdiction to escape arrest. They had all returned to New York and surrendered voluntarily after Stein's arrest in California.

Stein, whom I was asked to aid, had been arrested under melodramatic circumstances. A squad of Federal men, armed with Tommy guns, cameras, and binoculars, had descended upon him in his mountain hiding place. He was seized, he later told me, chained to a tree, handcuffed and left for hours in the blazing sun. Then he was dragged roughly into the cabin, made to turn over his private papers, and subjected to verbal abuse. After that he was taken to jail in San Francisco for trial. In the lurid publicity that followed, the picture was drawn of a dangerous criminal having been caught lurking in the mountains. His trial and conviction in California had made nation-wide headlines. Under the circumstances he had less chance of acquittal in the Smith Act case than did any of the other defendants—and their chances were slight enough, in the light of the many past convictions under that thought-control legislation. Such is what I consider it to be.

When asked to undertake his defense I was confronted with a dilemma. Stein was not to be tried for flight or harboring a fugitive. He was to be tried under the Smith Act, and I believed the charges in all the Smith Act cases were untenable, being based as they were on the concept that the defendants had conspired to advocate overthrow of the government by force and violence. It was not charged that they had advocated it; simply that they had conspired to advocate it, an entirely different matter. At the same time I felt that a lawyer should be able to identify himself with his client, to understand him and explain his actions to a jury with complete conviction. I did not approve of what Stein had done in taking flight to California when threatened with arrest, nor with his having hidden out with Thompson. So I hesitated.

My callers noted that hesitation. They talked about the difficulty

of the case, but I explained that it was not the difficulty that bothered me but my lack of sympathy. They urged me to talk with Stein and this I agreed to do.

He was in the Federal prison on West Street in New York, and I called on him there. I liked him at once. He had a warm smile. His handclasp was genial and his manner unselfconscious. He was evidently a man who had done nothing of which he felt ashamed. He had fled, as many before him have done in these last twenty years in other parts of the world, as a matter of self-preservation, believing that justice was not to be had in the courts for people of his beliefs and that it was to the interest of the Communist Party that some of its leaders should stay free.

Stein had done no more, as I later told the jury in his behalf, than those who had got out in time, before fascism was impressed upon the courts as upon all other apparatuses of government in Hitler's Germany. Those people, living among us now, are commended for their foresight, for their judgment was proven correct. Stein and the other Americans judged wrong, for the country did not go the way it seemed to be headed when McCarthyism and the witch hunt and the cold war were at their height.

I became Stein's lawyer, and I came to understand him and to have that identification with his cause which a lawyer needs. Later I also became co-counsel for Marian Bachrach, a charming and intelligent woman. Her other lawyer, Vincent Hallinan, a prominent West Coast labor attorney and political figure, had to be absent during most of the trial. Fortunately, she was acquitted at the close of the government's presentation of its case, for lack of sufficient evidence against her to go to the jury. For this I was grateful and happy, although I believed and had argued, along with others of the defense counsel, that all of the defendants should have been acquitted at that stage of the trial.

As the trial progressed, during the spring and summer months, I learned what no lawyer can know who has not defended a Smith Act case. Most, I believe, would have shared my increasing distress and disgust as I saw the government, there in that Foley Square courtroom, build a case out of nothing. It did so through the use of outdated writings, some going back a hundred years or more, and through the mouths of lying and unscrupulous informers.

I became interested in the judge before whom the case was tried.

Judge Alexander Bicks is a complex and fascinating character. I have seldom encountered a man with a more penetrating mind. He entered the case with strong prejudices, but he made a conscientious effort to be scrupulously fair. No one could have been more so in his questioning of the jury to try to obtain an unprejudiced panel, but how is it possible in America today to find twelve average people whose minds have not been fatally prejudiced against communism and Communists? No man is an isle apart. We secured, though, through Judge Bicks's questioning, as fair a jury as it was possible to get, and throughout the proceedings he exercised the same concern. Sometimes, by his tone and manner and the type of questions he asked, so it seemed to me, he lost his objectivity and assumed the role of prosecutor. At all times, however, he was doing his duty as he saw it. I count Judge Bicks a friend and believe that our friendship will be a lasting one.

The leading attorney for the government, Thomas Gilchrist, impressed me as one who would have no stomach for his job. Apparently, though, he had convinced himself of the rightness of his cause. There is something about prosecuting criminal cases that works a change in him who does it, as Lloyd Stryker, himself a prominent criminal lawyer, shrewdly observed in his interesting account of the life of Lord Erskine, the great liberal lawyer of eighteenth-century England.

I could write a volume about this one trial. I would tell of how the group of defense attorneys, Newman Levy, John Minton, Mary Kaufman, Charles Duncan, Arnold Sayre, and I, molded ourselves into a team despite our varying philosophies. I could describe the expressions on the faces of judge and jury, the moments of hope and gloom, the day of the verdict after the long struggle. I shall have to be content here with trying to get my readers to understand the case as I did, and I tried to express that in my opening statement to the jury.

The government, as I told the jury, was setting out to prove that the defendants had engaged in the most remarkable conspiracy anyone ever heard of, because even according to the indictment the accused did not conspire to do anything but talk. It was not charged that they even bought a cap pistol with which to contend against the guns and tanks and machine guns and A- and H-bombs of the armies of the United States. It was not even contended that they

advocated the overthrow of government, that they went out and urged people to violence or incited them to rebellion. All that the government contended was they had conspired to teach and advocate that at some future time they would prepare the minds of the people for some kind of violent revolution at some far-off date. And the books the government was basing its case on, the writings of Karl Marx and Frederick Engels and Nicolai Lenin, were in the libraries of every college worthy of the name, and read and studied there on assignment.

Yet there we were, day after day, listening to a charge that was no more than that, yet a charge that was likely to result in prison sentences of the accused. One of the accused was a distinguished scholar, 72 years old—Alexander Trachtenberg; the others were men in their late thirties and forties, intelligent and able, men who if they were not Communists would be considered upstanding citizens.

Of all the peacetime places, none is more nearly the equivalent of a battlefield than a courtroom. In a long criminal case such as we were in there are drama and tragedy as the tide of battle sways back and forth. Sometimes there is comedy. For a defense lawyer who has identified himself with his client there is constant heartache.

More and more as the trial went on and I came to know my client better my affection and respect for him grew. He had never, he told me, advocated violent revolution. I believed him, and there was nothing in the government's case to prove otherwise. When I expressed hopes of his acquittal, he smiled at me like an indulgent father whose child was asking for the moon. "I am a realist," he said. "You are making a grand fight, but you can't win—not as things are in this country today. We will win sometime, but not now—not here."

It was comforting to have a client who expected nothing, but appreciated everything. Whenever I had finished fighting a battle of words with Gilchrist, the prosecutor, or, as sometimes happened, I took issue with Judge Bicks over some ruling or statement, Sidney would lean over and whisper in my ear, to give me encouragement. Another was there, following every word, and to smile his encouragement to me. That other one was Sidney's teen-age son, and in him I saw the boy the father had been, eager, intelligent, and concerned.

Sidney, I learned, had been sent to school in his native Lithuania to learn to be a rabbi, to serve his people. While in that school he read Karl Marx, and at age fifteen, on his arrival in this country, he applied what he had learned in an analysis of the situation around him. That was in 1929. The land of promise was turned into a land of suffering. Sidney became a Communist. He may not have had the right solution, but his motives were good. He thought he was doing the right thing, and he taught what he had a right to teach. Now his boy, and how many others, I wondered, were learning things in that courtroom that would stay with them the rest of their lives.

The case for the defendants was clear. The constitution of the Communist Party, adopted at the 1945 convention, stated as clearly as words can do that they sought the goal of socialism through democratic means. Any member advocating force would be expelled. All the Communists' published writings during the following years were peaceful in their advocacy, supporting a united front of all progressive forces to fight for liberal reforms, out of which they hoped socialism would come. In that same convention they affirmed their reliance on Marxism-Leninism and that reaffirmation was seized upon to make the government's case against them.

That case was equally clear. There are statements in the Marxist-Leninist classics indicating the necessity of violent revolution, and the Communists were not abjuring their belief in Marxism-Leninism. Their constitution, therefore, was a fraud. To prove it so, the government called to the witness stand its own spies and former Communists turned informer. They testified that in Communist Party schools and meetings violent overthrow of government was advocated.

Each of these government witnesses, on cross-examination, was exposed as a pitiable and incredible liar for pay or, in the case of the star witness, Barbara Hartle, for freedom. We hoped that the jurors would see through these people, but Barbara Hartle especially impressed them. She was an able, educated woman. She had been a Communist for twenty years and had taught in the party schools. In an earlier trial in Seattle where she herself was accused, she had told the court that she had never understood that the Communist Party was advocating force and violence. She had been convicted

and had served part of her sentence when she was released on parole. She then turned informer.

Day after day as she sat on the stand and wove her web of alleged intrigue I tried to read her mind. Was she a psychopathic personality? Did she perhaps suffer so greatly from claustrophobia while shut up in prison that she was willing to say anything to get out? Had she convinced herself of the truth of things that I felt sure were untrue? When, in her cross-examination, she was confronted with her previous statement and with her betrayal of her friends, she was left unruffled.

Such was the government's case: old books and the testimony of a string of informers and spies. Against it we had the straightforward stories told on the witness stand by the Communists themselves, Charney and Gerson, and undamaged in the government's cross-examination. We had the testimony of a distinguished expert on Marxism-Leninism, Dr. John Somerville, who has lectured on the subject in many of the leading colleges and universities in this country and Europe. We had, too, a Supreme Court decision, made in a case where the same books were put into evidence as were being used in this: in that decision—*United States v. Schneiderman*—the Court had said that an interpretation consistent with advocacy of peaceful change was possible.

After weary weeks the trial drew to an end. Newman Levy, who had preceded me in a last plea to the jury, described the defendants as he had come to know them, as compassionate human beings. What possible motives could there be for a man to become a Communist in this country, he asked the jurors, except his desire, as he saw the need, to serve humanity?

Then it was my turn, and I was on my feet. For this moment all that I had ever been and thought and done had prepared me. I looked each member of the jury in the eye and addressed him or her (there were four women and eight men) by name. I reminded them of their promise to enter the jury box with open minds and to decide the case on the evidence and not on previous conceptions or prejudices. And then I told them, and I tried to make it the telling point, that I knew there was going to be a thirteenth juror in the room with them as they decided the fate of the men on trial. That thirteenth juror, I said, is prejudice.

"Now," I continued, "it is *not* an easy thing for you to decide

this case on the facts as you have heard them and on the evidence presented here. Nor did you say an easy thing when you promised you would go into that jury room free of your prejudice.

"Why do I say it is not an easy thing? Because we are all part of the environment in which we live. You have read much that was derogatory about Communists and communism, and it is not easy to put that out of your mind. It is not easy to divorce yourself from all that you have heard and read and just think about what was proved in this case."

Time and time again in my summation, as I tore the government's case to shreds, I warned against that thirteenth juror.

I warned against those who informed for pay. I introduced what I had to say by quoting from George Bernard Shaw on the human composition of political parties. "Now I will be as frank as St. Augustine," he wrote, "and admit that the professed Socialists are also a very mixed lot and, if joining them meant inviting them indiscriminately to tea, I should strongly advise you not to do it, as they are just like other people. The nice ones are very nice, the general run are no worse than their neighbors, and the undesirable ones include some of the most thoroughbred rascals you could meet anywhere. But what better can you expect from any political party you would join? You are, I hope, on the side of the angels, but you can't join them until you die."

After quoting Shaw I went on: "Well, the Communist Party has been afflicted with plenty of those rascals, plenty of people who sat on that stand whom I wouldn't want to have to tea. And they sat there and admitted to you that they received big sums of money for doing what they did."

I did not hesitate to liken these renegade Communists to their historical predecessor, and to remind the jurors that the great teacher whom he betrayed—"the personality I revere above all others"—went to his death on the cross on a distortion of words.

I pointed out that by the same method that the government had employed in this case I, as a Democrat, could be convicted under the Smith Act, as could any Democrat among them. The government's attorneys, at such a trial, could quote some of Jefferson's most revolutionary utterances. They could quote subversive-sounding utterances from living Democrats—we Americans say many strong things at times. And then the government could show that

each year we Democrats give a Jefferson Day dinner at which his principles are lauded and affirmed and reaffirmed.

"Jefferson said," I continued, "that he didn't like to think of things becoming static and he hoped that there would be a revolution about every twenty years."

"That is an historic utterance," I emphasized, "and it is in old documents along with others that might be interpreted as advocacy of the violent overthrow of the government. They could be used against me, as a Democrat, or against any other Democrat, in just the same way utterances from old documents are put against the defendants here. Do you suppose any modern Democrat, much as he reveres Jefferson, would subscribe to a statement that this government ought to be overthrown—*every twenty years?*"

I was drawing to a close. The jurors were hanging on every word, so it seemed to me. I thought I was winning them.

"There is a stanza in the national anthem," I concluded, "which asks a question, 'Oh, say does that star-spangled banner still wave o'er the land of the free and the home of the brave?' I expect you to answer that question in the affirmative."

I was through and I had done my best. All that I had been working toward all my life was arrived at there before that jury: I had spoken to them out of my heart, out of my deep concern for this land of ours. I was one with Charles Evans Hughes, with Wendell Willkie, with Clarence Darrow, and with all the others of my profession who had pitted the best they had against prejudice and for freedom. As the session ended, people gathered around me to congratulate me. Judge Bicks, among others, pressed my hand and said, "I want you to know that I am very sincere when I tell you that was a great address."

But it was not I who was on trial but six other men. One of them, my own client, Sidney Stein, even at the moment of seeming triumph, had not forgotten that other juror, that thirteenth one. Even as Sidney shook my hand, and looked at me with a warm, approving smile and said, "Great! Great!" he cautioned me in his usual way, "But don't worry. I am still a realist. I still have no illusions."

That night a party was given by the defendants for their lawyers. Harry Sacher, he of my first encounter when I started out on my late career, was there. He spoke of me beyond my desert as a

lawyer and a man, but through his talk ran a perception of what was true. I had returned to the practice of law not because I love the law—indeed many of its technicalities I despise—but because I understand and love human beings who have made sacrifices for conscience's sake.

That night, for the first time, I heard a story about one of those human beings, the man I had tried to defend that day. Sidney Stein, for all his own difficulties, had in his short stay in the Federal prison on West Street brought about a change there. Negroes were being segregated and treated with contempt. Stein went among his fellow prisoners asking if they would mind sharing a cell with a Negro. All of them, he found, would be glad to have the Negroes treated with respect. Then Sidney Stein went to the warden, who instead of getting angry, issued an order ending segregation and requiring that Negro prisoners be addressed as "Mister" and not as "Tom" or "Ned." It was a victory for decency, and hearing the story I was glad on still another count that I had gone to the prison that long-ago day to see for myself the kind of man I was being asked to defend.

I yearned for his acquittal, but it was not to be. After hours of tense and anxious waiting on our part the jury came in. All the defendants were guilty—all. As the jury was polled I watched each face. There was one juror, a woman who was a member of the Ethical Culture Society. As I had looked into her strong but kindly face when I was addressing the jury, I had felt sure that she understood. When she was asked if she agreed with the verdict and replied with a firm "I do" my cup of bitterness was full.

That night was one of the saddest of my life. I sorrowed not for myself, not even for Sidney Stein and the other defendants, but for America and for humanity. The promised land of tolerance and brotherhood seemed still afar off. It has seemed so through the ages, I knew, and others besides our little band had suffered defeat as we had endured it that day. They had had no choice, though, no more than we, but to go on, for once having seen the vision of the day that is to be there is no way left except to fight for it, with all the courage one can rally, come the morning.

31

On December 11, 1956, Ethel, my life-long wife, comrade, and best of all friends, left me quietly in the night. For some time she had suffered from cerebral arteriosclerosis. Her memory was flickering but her love glowed, bright and warm to the end.

She always exaggerated my virtues and minimized my faults. She was anxious to have this record of my life published, and it is a satisfaction now to know that she knew. Word of its acceptance came just in time. My friend Ruth Crawford, who made that call, wrote me in condolence, "I shall always remember the joy in her voice when I told her."

Now, as I write, the day after the frail body which had housed for so long her pure and indomitable spirit has disappeared from my sight forever, I realize how much more of this book should have been about her. Without her constant presence and love I would have been a much worse man with more sins and failures, of which there have been enough, and fewer successes.

As I stood with my son and his dear wife and my daughter, and gazed into Ethel's strong, peaceful face, there was that in us and surrounding us for which all great religions, however blindly, have groped. That feeling was expressed in a letter from my brother Clem.

"Dear Royal, Boyd and Hannah,

"It is afternoon, now, nearly eight hours after Roy telephoned me. I hope you are all together. Closer than you have ever been before. Closer in all likelihood than you will ever be again. And perhaps I should not break into the unity of your family being. Yet, while needless to say it to you—'There is a love which passeth understanding'—it is not only so, it surpasseth endurance and courage, and in some fashion beyond our comprehension, it reaches up into a heaven of spiritual stars.

"Ethel possessed such a love for you—for each of you. There

was a greatness in her, too, which projected her power to love across the mountains, across the plains and the seas. Ethel could sing with Walt Whitman, 'Wherever a human-being dwells, there I find my home.' And I like to believe that those who love most their fellow men—love most, too, their husbands, their wives, their children.

"Boyd and Hannah, your Dad is like that, too.

"Clem."

The last paragraph praises me beyond my due, but Ethel, more than anyone I have ever known, had in her the love that knows neither class nor race nor creed. She loved just plain, ordinary human beings, but to her no human being was plain or ordinary. In every person she met she found goodness and greatness and drew it out to refresh her own spirit and to rekindle her own faith in life. A lesser person would have been made unhappy by that move of ours to New York. The contrast was great between our Florida home with its spacious grounds and that lower East Side apartment. We had lived with the intellectual elite of a college community. Now we were where friends had to be made. But Ethel was undaunted. Within days the little shopkeepers, the people whom she met going in and out of our apartment, were her friends. For her to understand and to love were as simple as breathing. For most of us it takes a conscious effort to cross the barriers that separate us from people who are poorer, or less well educated, or who have not had what we think of as a cultural background. For her it was not necessary to climb over or break through barriers. There were none. At any moment the person she was with was the most important, and the most important time was now.

It has been my sad duty to tell those new friends of hers that she was gone. There were tears. "Oh, she was such a good woman. My wife and I really loved her," they would say, and then I would be told of some little incident that had established their friendship and endeared her to them.

One incident was typical. On the corner near our apartment was a news-stand run by an old life-beaten man named Marx. He had Parkinson's disease, and his hands shook so that he could scarcely make change. I think that I always said a kindly good morning as

I bought my paper, but I knew nothing about his personal life. He was my newsman.

Since I usually bought the papers I did not know that Ethel even knew Mr. Marx. When she told me that she had been to see Mrs. Marx I asked, "Who in the world is Mrs. Marx?" I scarcely knew my old newsman by his name. Then the story came out. She and the old man had become acquainted, and he had told her about his wife, a bedridden invalid. They lived in a third-floor walk-up apartment in a nearby tenement. Ethel had gone to take Mrs. Marx some flowers, and she had gone again.

I hated to think of her, with her frailties, climbing those steep flights, but what could I say? Once, I protested. "Oh, but Roy," she said, trying to make me understand. "You should see her face light up when I come. She says she waits for my visits. . . . She is so alone."

When Mr. Marx passed on, Ethel was one of the few there to give his poor sick wife the consolation of a friend.

From the first moment that I met Ethel Camp to the last, our minds clicked and our hearts beat to the same music of life.

Her sickness caused frequent dizziness and sometimes she fell and hurt herself. She refused to have a nurse or companion. For a time when I had to go out in the evening—the close of the day was her worst time—I brought in a practical nurse, but Ethel would not have it. "Roy, dear," she pleaded against my protests, "believe me, it will be all right."

The failure of her memory distressed her. She hated to worry me. She wished always to serve, not to be served. But something had to be done. The week before her death she had a bad fall. I came home to find her on the floor. It was no longer safe. On the morning of the day she died I received a letter from a private hospital that I had visited agreeing to take her and care for her. That afternoon she phoned to my office, telling me that she was sick and asking that I have dinner out.

As soon as I could break away, I hurried home. She had forgotten that she had phoned and dinner was ready and waiting. After dinner we cleared up together. I felt so tender that I knew we must talk. I could not bring myself to tell her of her threatened hospitalization. The very thought of separation from her and all that it would mean to us both appalled me. So we just talked, reminiscing

over old times and friends, and the childish pranks of our boy and girl.

Later, when she was settled in bed, I sat beside her. "Just hold my hand," she said softly. We sat for a long silence, holding hands like lovers. I patted her hand and said good night. As I was almost to my room, she called, "Roy, come back a minute."

She was worried, because she halfway remembered having said something cross to me the day before and she was distressed. "I never want to be cross with you," she said. "I adore you."

"Of course you did not mean to be," I said. "We never mean to be. We love each other too much."

"We do, indeed. I don't know why you love me so much," she whispered. "I only want to serve you, and now I am becoming just a worry and a burden to you."

"Don't say that," I said. "You always serve to the limit—even when you are not well."

"But I can't see why you love me so much."

"Of course you can't, because you don't know yourself as I do. I know you better than you know yourself. We love each other."

"We do. We do."

Those were her last words. In the morning I found her on the floor in the kitchen where she had gone for something in the night. One arm was outstretched, as though she had taken flight.

A great spirit had gone, but where? Could that frail, cast-off garment of flesh be Ethel? At such moments we understand what religion has been groping for and why people have had to believe with their hearts, even against the dictates of their minds. At least there is one immortality for Ethel. Her spirit lives in the lives of her dearest ones and her friends.

If ever my faith in the goodness and greatness of humanity wavers, I will remember that love has its own greatness. I will remember Ethel Camp France and all those like her who have loved greatly and served truly and well.

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There comes a time in a man's life when his concern is no longer for his own being. There is nothing ahead for him but the sunset. His concern is for life itself. So it is for me now.

I expect to live out my remaining days with sufficient material things, sustained by the love of family and friends. Nevertheless I am troubled, trying to pierce the future. It is then that I realize that I care for something more deeply than my own life. I care not merely what happens to my own children and grandchildren and all those of my own blood who come after them. I care for that great never-ending stream of life of which I am, have been, and will be an inherent part. Into my creation has flowed not only the blood of countless ancestors but the thoughts and feelings and beliefs of all those in ages past who have sought the good life. I long to have this bountiful and beautiful earth become the commonwealth of brothers, the commonwealth of which the dreamers have always dreamed. You dreamers of the past and present and future, thy will be done, thy democracy come!

Today our country moves in a perilous course, without great leaders and with no clear vision. There are warnings. The radar screens of the *Andrea Doria* and of the *Stockholm* revealed the approach of death-dealing power through the fog, but disaster was not averted. Our ship likewise is plowing through fog—the fog of suspicion, fear, ignorance, and hate. Many eyes see the danger. Many voices warn of peril, but as yet we have not altered our course. We are still stockpiling atom bombs and missiles in the hold of that ship. We are still reviling other peoples for doing what we do ourselves, for following the course we set; and we are still silencing dissenters, putting in chains below deck, as it were, all who would protest that course. On such a fearfully laden ship, with protest silenced, we are like the crew of the *Pequod* with mad Ahab at the helm. For us to see and not to act is to be like Starbuck

who might have averted the disaster, but instead went down with the others.

Yet there, in another direction, lies the open sea of hope where a different kind of future might be found—an abundant world, *a world without war*. There lies the harbor, and beyond it firm ground.

Is there any hope that a new course will be set? Is democracy capable of taking hold of the pilot's wheel and turning the ship toward that safe shore? That is the question.

I know of no better way of selecting those who are to lead us—those who are to take command of the ship—than by counting heads, but if the heads we count are empty heads, if, despite all our expenditures for universal education, the masses of our people seemingly neither know nor care about the decisions to be made, or who makes them, where lies our hope?

We who have been involved in the struggle to keep the way open to the minds and hearts of the American people have had more reason than most to ponder this problem of the electorate. Where has been the protest that ought to have been raised here in America against infringement of the people's right under the First Amendment which guarantees the information that is so necessary to the intelligent deciding of their destinies? Where has been even the demur against the other flagrant violations by the government of the safeguards written into the Constitution by the founders of this Republic, this great experiment in man's ability to determine his own destinies through participation in the governing?

When Thomas Erskine, the great British advocate of free speech and a free press, stepped from the courtroom after eloquently but unsuccessfully defending the publisher of Tom Paine's pamphlets—this was in a time not unlike our own—he was met by the roar of the crowd. It was not a roar of hate but of approval. Hands were laid on him, but not hostile hands, and he was borne from Guild Hall on the shoulders of friends and amid their cheers.

It was the plain people who made up that crowd, but alas, the plain people of America have not risen as did the English then, to defend freedom. They have not been outside the courts to cheer those who have fought the battle in their name. That day of our stunning defeat in the Foley Square courtroom, where an issue no less grave than that of Erskine's time was decided against us, there

was no one there, except the relatives of the defendants and a few devoted friends and a few bored reporters. The world we walked into as we left that courthouse could not have been more indifferent than it was. There was no expression of interest, one way or the other. And so it has been at the end of these other latter-day trials of the heretics and dissenters.

How, we ask, can men and women, nurtured in a great tradition of civil liberty even as we were, not realize the danger to that tradition and to themselves if this attack is not halted? One can excuse the failure somewhat by remembering what it is they have been told, day after day after day, through the mass media of communication. One realizes, too, that many organizations that might have called them to protest have already been silenced or rendered ineffective by fear. And so the trials of the dissenters go on, and the Congressional investigations and state inquiries into the thoughts and beliefs and associations of upstanding and often outstanding American men and women. Many of those who are being called to account today have rendered great and unselfish service to their country, in both war and peace; many helped to organize the very labor unions that now lend themselves to the attack.

Those of us who have been the champions of the accused have had to take comfort in our knowledge that this, too, shall pass away. The deliberately created hysteria that has brought these men and women to trial and to prison, and in the case of the Rosenbergs to their death, will end, as such periods have ended. We know too, that as unconcerned as the people now seem, they can, in the end, be counted on. What they are really thinking we do not know, no more than do those who have silenced them—that is the nature of our own incipient fascism, as well as that of all other forms of repression the world over. The people may stand silent, but they do not stay "hitched"—they never have and they never will, and that is the certainty to which we must hold, even in our discouragement.

But laws and mores do not change unless men change them. We American liberals have important and immediate tasks ahead of us.

The Smith Act, the McCarran Act (the Internal Security Act of 1950), and the Communist Control Act of 1954 are all thought-control acts, and must be recognized for what they are by those

in a position to rid the statutes of them. They violate both the letter and the spirit of the Bill of Rights. We do not need them to combat sabotage and espionage—the argument made for such laws; there are effective laws dealing with such overt acts, laws that have been in existence for many years.

The witch hunting of Congressional committees must be brought to an end, and with them the black lists that have been accumulated in that hunt. The Attorney General's list of subversive organizations must be abolished. No individual is wise and good enough to decide what organizations Americans may join. Wire tapping and other invasions of the privacy of individuals, and the use of anonymous informants and accusers, without the right of confrontation, are an abomination. The right to travel must be restored and the State Department's right to restrict it for political reasons ended. Those sections of the Taft-Hartley Act that conflict with the First Amendment must be repealed.

The list of what needs to be done, just to recover the ground that has been lost in this era of the "cold war" and the repression, could be expanded.

Alone, we who care about these matters can do little, but fortunately there are still organizations left to carry on the fight, although under harassment—the American Civil Liberties Union and the Emergency Civil Liberties Committee, the National Lawyers Guild, the Religious Freedom Committee, and others. Some protesting organizations have already been put on the list, and others stand in threat of it. We must understand that they are on that list precisely because they can be effective: the people must be frightened away from them. Yet every person who joins in the struggle for freedom through an organization that is in the fight thwarts the sinister purposes of the defilers who draw up such lists and brings the day of our return to tolerance and sanity closer.

What a great day that will be, when once we take hold again of our destinies, once we take hold of that danger-laden ship, alter its course, and brings it to safe harbor!

The possibilities before us are grand beyond imagining. Few Americans realize the extent to which this country and the world have been transformed in the brief span of a quarter of a century, or even in the last decade. That transformation has not all been in the wrong direction, even as far as freedom is concerned, though it

may sometimes seem so to us who are so close to the struggle. Many, even here in our own country, are learning for the first time what it means to be free, and many more stand to learn it by exercising it, in the South and elsewhere.

The economic gains, too, have been great and beneficial. I was brought up on the stories of Horatio Alger Jr. Employers were benevolent; unions evil conspiracies to deprive the wise and thrifty of their just due. Every American boy, if he would work hard, be respectful to the boss—especially if the boss had a daughter—would find his just reward. Those ideas must seem funny to young Americans brought up in an age of corporate management and powerful labor unions, with the government taking increasing responsibility for the regulation of our economy and the protection of our citizens against its hazards. The Alger ideas, though, were part of the American creed of that earlier day, just as the ideas of socialism then were looked upon as Utopian, if not dangerous and subversive. Yet much that the Socialists of the early twentieth century sought has been enacted into law. Much more needs to be, to conserve our resources, both material and human.

A bright future lies ahead for an increasingly socialized and internationalized world, and I could wish to be with those who are going to live in that world. I could wish to be born now rather than to be near the end of the journey, to walk with my fellow Americans into that promised land. Never do I doubt for long that they will be there, once they act upon the danger that now threatens us, for this America of ours is more than a land or a name. It was the new world toward which weary and oppressed men turned, and were given their chance. The pioneering, striving, restless men and women who spread over a continent fashioned a new life that was better than the life they had left behind, and they were fashioned by it. That life was in the pattern of a new freedom, and that idea of freedom has grown through the years, until it now embraces not only freedom of speech and of religion, for which our forefathers fought, but freedom from want and its concomitant, freedom from fear.

We have never realized even the first two of those freedoms wholly, and have fallen far short of achieving the other two. The table was there that might have been set with an abundance for all, but the bounty was always held back, because those who had gotten control

of the table set the conditions for its use. It was done at a time when little or no opprobrium was attached to what they did, though it might be well in passing to remember that scattered over the land were the little settlements of those who sought here to develop the cooperative way of life, Robert Owen's New Harmony Colony among them. Those who broke the prairies, sent shafts into the earth, laid railroads across the continent, and all else that is in today's industrial complex, were men of their time, acting within the mores of it. It was a competitive world in which the profit motive was the be-all and the end-all of the enterprise, and a profit was to be made only when things were scarce. So they held to that scarcity, by force when necessary, by locked factory gates, by fields plowed under and people driven from the land, with little thought to the human cost. In America, with all its wealth, millions were brought into a frightful insecurity, a slavery to hopelessness and fear.

What those in control would not, or could not, accept under the circumstances was that mass production, ever increasing in volume, demands as its absolute equivalent mass consumption. They and we must face that basic fact of economics now, with automation not only in prospect but in practice already in the factories, the mills, and the mines. More and more can be made with less and less labor, but instead of making use of it to spread the bounty, the old motivation of profit and scarcity still holds.

A precarious balance is being maintained in the old and outworn economy by vast and wasteful production for the "cold war"—a cold war now of ten years' duration. It is not the wasted money that concerns me; it is the waste of irreplaceable raw materials—the wealth of this good earth; the waste of our spirits in suspicion, fear, and hatred, and the waste of our talents in the useless pursuits of that war. Yet we have no alternative plans ready against the stoppage of those expenditures. Should that stoppage be ordered tomorrow, the crash of the stock market would herald a new and worse depression than that of the 1930's. To whom and to what leadership would the country turn as the bread lines lengthened and the misery increased? Both old parties are bankrupt in ideas and ideals, and no possible third party is in sight.

What needs to be done?

That America of our dream—that America conceived in liberty—

needs to be fashioned now in terms of the four freedoms of the modern world. The America of that possibility is here, within ourselves, if we would but see it that way. The true America is the people of America, nourished by more than food, clothed by more than raiment. It is the America whose ideal is the Bill of Rights and the Emancipation Proclamation—emancipation not merely from physical slavery but emancipation from poverty and from fear as well. It is the America of bold and adventurous people, people who undertook the impossible unafraid.

Will we leave their dream, and ours, to rot away in moldy parchments?

For the moment we seem to be turning away from the bright future to the blood-rusted past, but we are still at heart a pioneering people, a vital, adventurous people, and above all, a people of good will, and we shall again find the way. Because I am so certain of this I could wish to be at the beginning rather than near the end of my own life. But that does not matter. If, to the slightest degree, I have helped America toward the path of its true destiny, I am content.

I have had a good life, and at seventy-three I am continuing to have one, despite my loss and loneliness when the day's work is done. To be engaged in the struggle for that which one holds dear, to be doing one's part, as one can, to help to save that which has been won for us at such great cost by those who have gone before, to have before one the vision of the world that is to be, that is good life enough for any man. And, oh, what fun life is when compounded of love, beauty, humor, wonder, and a firm belief that whatever happens man, despite gullibility, cruelty, fear, tyranny, and self-betrayal, is and has been creator and conqueror, dreamer and fulfiller of dreams.

AFTERWARD

ON READING *MY NATIVE GROUNDS*: *PERSONAL REFLECTIONS*

Royal France lived long enough to see the Red Scare atrophy but not to witness the dismantling of its apparatus. In December 1954, four years after McCarthy began his rampage against American civil liberties, the Senate censured him for violating that body's rules and traditions. After he died in 1957, Wisconsin voters elected Democrat William Proxmire who had branded McCarthy a disgrace to the state. Within a couple of decades the Red Menace as a political issue had disappeared, the US Supreme Court in several decisions had gutted the Smith Act, and in 1966 Congress withdrew appropriations from the House Un-American Activities Committee. The committee was abolished in 1975. The era of what is now known as McCarthyism faded into its inglorious past.

I was in the military and then in college during the McCarthy era. I fell under the spell of the Red Scare and blindly accepted the belief that America was in the grips of a Communist conspiracy. I became concerned and suspicious, however, when I realized that right-wing Republicans were using the Red Scare to discredit liberal ideals and to discredit New Deal policies. I began to realize that the tactics of McCarthy and HUAC were not significantly different from those employed by the Soviet Communists whom they were asking us to condemn and fear. Then McCarthyism reached into my own personal life. After graduate school, when I applied for a teaching position at Georgia State University, I was required to sign a form stating that I had not ever been a member of or associated with over two hundred organizations listed in the Attorney General's List of Subversive Organization. My decision of whether or not to sign in no way reached the seriousness of the issues faced by those hauled before Congressional committees, but the requirement forced me to face the same troubling dilemma. Like the overwhelming majority of Americans I had never known a Communist, much less associated with one, nor had I even heard of any organizations on the AG's subversive list. On the one hand, I knew that constitutionally and even morally it was wrong to ask me to reveal my political beliefs or my political associations as a requirement of employment. On the other hand, I badly needed a job to support my family. If I refused to sign I would not be hired. I signed but the decision left me with an empty feeling and more importantly with a deep compassion for those who were forced by Congressional committees to provide names of associate and even friends in order to save their careers. As Arthur Miller (who refused to name names) reflected, it was exceptionally cruel for the members of the Congressional Committees to exploit such human weaknesses. Some were stronger than others. Many faculty members refused to sign and lost their jobs or were never hired. I now realize that by signing I willfully participated in a wrong and was therefore guilty of complicity. Over fifty years later my decision to sign still weighs heavily on my conscience. I have no doubt that Royal France, as a matter of principle, never would have signed those forms.

Reading *My Native Grounds* reawakened in me painful memories of my experiences in the McCarthy Era but even more made me acutely aware of the kind of courage and sacrifice Royal France exhibited when he decided to devote the balance of his life to help save American society from itself. Along with France, I believe that McCarthyism threatened to destroy the fundamental constitutional and moral core of American democracy based on free speech, free association and above all, on trust. Naming names of friends and associates threatened to tear apart the democratic social fabric. Playwright Arthur Miller believed the Red Scare's closest historical parallel was the seventeenth century Salem witch trials. Both were driven almost entirely by fear, by the hysterical belief that someone, some amorphous, fearful other, was threatening the society. What characterized both the witch hunts and hunt for Reds was the menacing naming of names. The pressure from authorities to coerce friends to inform on friends not only harmed the victims, but

created a moral dilemma for the accuser that reverberated throughout society and did untold damage for several generations. Arthur Miller meant his play, *The Crucible*, to peel back this dilemma in the starkest terms. Miller has the imperious Salem trial prosecutor Reverend Danforth proclaim the arrogant certainty of authorities in both period of hysteria

This is a sharp time, a precise time—we live no longer in the dusky
afternoon where evil mixed itself with good and befuddled the world.
Now, by Grace of God, the sun is shining upon them that fear not
light but surely praise it.

When John Proctor is asked to confess to witchcraft and name others, he struggles with his conscience: save his life or salvage his dignity: “Because it is my name. Because I cannot have another in the life. How may I live without my name. I have given my soul. Leave me my name.”

Miller, like Proctor, refused to name names when he was brought before the HUAC tribunal and was charged with contempt while his best friend Elia Kazan, to save his career, destroyed their friendship by succumbing to the Committee's demands. In his autobiography Miller gives us an insight facing all those forced to testify before HUAC: The HUAC and McCarthy disgracefully and without conscience exploited a flaw in the human condition: the mistakes we make in our lives that we wish to hide. The Committee forced good people to choose between revealing those mistakes and losing their livelihood. If this was not sordid enough, the Committee then demanded the accused to commit the corruptible offense of implicating others and thereby destroying the moral trust implicit in friendship.

The *real* un-Americans then were those who forced good people to inform on others to save their livelihoods. From the perspective of several decades we can now see that those who resisted the Congressional committees and paid a heavy price in no small measure helped to ensure our fundamental rights. They and activists like Roy France deserve our undying gratitude. One way to repay a part of this debt to him and to the resisters is to make public once again France's account of those struggles.

NOTES

1. **Hamilton College** is a private liberal arts school located in Clinton, New York. Chartered in 1812, the school is ranked academically among the twenty best colleges in the nation. Hamilton's unique "Open Curriculum" allows students to construct their own courses of study. Alumni of Hamilton include abolitionist Theodore Weld, former Secretary of State Elihu Root, renowned poet Ezra Pound, and psychologist B.F. Skinner.

2. **The Big Brother Movement** originated in Cincinnati in 1903. The organization assigned adult mentors to help guide rebellious urban youths to more appropriate social behavior. The American organization, which recently merged with the Big Sister Movement, operates in more than 200 cities. A different kind of Big Brother Movement was established in Australia by Richard Linton in 1924. The Linton organization brought wayward British youth to Australia, assigned each an adult mentor, and then put them to work on local farms. The program ended with the outbreak of World War II.

3. **Joseph Irwin France**, Royal's older brother, achieved much more fame than his younger sibling. A graduate of Hamilton College, he received a medical degree from Clark University in 1894. After serving in the Maryland Senate for two years, he was elected in 1916 to the United States Senate. Within the Republican Party, Joseph France was considered something of a maverick. He vigorously opposed the Sedition Act of 1918 calling it a law more appropriate to the Middle Ages. He introduced an anti-lynching bill in the Senate and when it failed to pass he attempted to place an anti-lynching clause in the 1920 Republican platform. A vigorous opponent of segregation, he attempted to get a measure through the Senate that would desegregate passenger trains. As Royal discusses, he was one of the first Americans to visit the Bolshevik Russia where he met and befriended Lenin. All of this maverick behavior led to his defeat for reelection in 1922. He entered the Republican primary in 1932 against Herbert Hoover but failed to accumulate enough delegates.

4. Congress passed the **Espionage Act of 1917** shortly after the United States declared war on Germany. The act made it a crime to convey information, give false reports or make false statements which tended to interfere with the Armed Forces. The Sedition Act of 1918 extended the Espionage Act by making it a crime to express publicly an opinion that cast dispersion on the government and its war effort. The Supreme Court upheld the Espionage Act in the famous case *Abrams v The United States* (1919). In one of its most controversial cases, the Court confirmed a lower court decision to send presidential candidate Socialist Eugene Debs to prison for violating the Act. Congress repealed the Sedition Act in 1920 but not before Attorney General A. Mitchell Palmer used it to arrest several suspected radicals during the First Red Scare. The Espionage Act is still on the books. In June 2013, the Justice Department charged Edward Snowden with two counts of violating the act.

5. **Marguerite Elton Harrison**, whose life could serve as plot for Hollywood movie, was born into inherited wealth, but abandoned an assured life for a reporter's job at the *Baltimore Sun*. In 1918 the War Department sent her as a spy to Europe under the guise of a war correspondent. Later, the Department sent her to Russia to spy on the Bolsheviks. The Russians quickly discovered her activities, arrested her and interned her in the notorious Lubyanka prison. Primarily as a result of Joseph France's effort she was released. She recounted her experiences in a memoir entitled *Marooned in Moscow: The Story of an American Woman Imprisoned in Russia* (1921).

6. **William Rose Benet**, the older brother of Stephen Vincent Benet, was an early twentieth century prolific writer and poet. His *Dust Which Is God* won the Pulitzer Prize for poetry in 1942. His wife, **Teresa**, was a suffragette who played a major role in the campaign for women's right to vote.

7. France's brief paragraph on **Triangle Motion Picture Company** neglects to mention that he had participated in a major development in film history. As France notes, Triangle, a brainchild of three of the film industry's most influential pioneers—Thomas Ince, D. W. Griffin, and Mack Sennet—was intended as experiment to advance beyond the prevailing methods of filming. France was hired to mediate between these three strong personalities and bring some order to the distribution process. The film company made several films but ultimately the trio abandoned the effort and the company was finally absorbed by Paramount Pictures.

8. **Ten Nights in a Barroom and What I Saw There**, a temperance novel, was one of the most popular books at the turn of the century, rivaled only by *Uncle Tom's Cabin*. It was turned into a play and made into films several times.

9. **Margaret Woodrow Wilson**, daughter of Woodrow and Ellen Wilson, was a singer of some prominence who made several popular recordings, one which was the *Star Spangled Banner*. While her older sister Jesse became involved in reform and politics, Margaret converted to Buddhism, and lived most of her life in India.

10. The liberal lawyer **Karl Kirchwey** was the son and brother to two of the nation's more prominent reformers. His father **George**, after graduating from Yale College, became professor of law at Columbia University, and later dean of

Columbia Law School. Near the end of his career, he was chosen as president of American Peace Society. Karl's sister, **Freda**, achieved renown as a writer who championed feminist and liberal causes. She served as journalist and editor for *The Nation* from 1918 to 1935. In later years she became active in several peace and civil rights organizations including the League of Women Voters and the NAACP. She was a caustic critic of HUAC, calling its leader Martin Dies, the "Gestapo from Texas." She died in St. Petersburg, Florida in 1976.

11. France's discussion here is inaccurate. **Oliver Wendell Holmes** issued the "clear and present danger" doctrine in *Schenck v US* (1919) at which time he employed the metaphor of "falsely shouting fire in a crowded theatre." Holmes actually dissented in the *Abrams* case stating there was no clear danger present. Holmes also dissented in the *Debs* case, arguing that it was similar to *Schenck*. Today "clear and present danger" has been replaced by the "imminent lawless danger" doctrine.

12. **Titus Salt** was an innovative entrepreneur in the early stages of British industrialization. He built a highly successful textile factory in Bradford, England, and later expanded to the United States. Typical of early industrialists, he possessed a paternalist desire to take care of his workers, and thus constructed a Victorian model village called **Saltaire** near Bradford, which included such amenities as running water, bath houses and a recreation center. The village is now designated as a World Heritage Site.

13. **Kip's Castle**, located on a ten acre estate on First Mountain ridge near Montclair, New Jersey, is a 9,000 square-foot mansion designed to resemble a medieval Norman castle. In 1981 an Indian guru and his cult followers purchased the property and advertised the mansion as a place for sexual liberation. After a public outcry, the cult left for Oregon. The structure was destined for demolition in 2007 when the Essex County Division of Cultural and Historic Affairs purchased it and turn it into a cultural resource center.

14. **The Taylor System** was an innovative approach in factories during the first decades of the 20th century. Through time and motion studies, Frederick Taylor designed a system intended to create more efficient workers. His revolutionary methods immediately increased productivity and transformed the factory system but the system required greater management control and more regimentation that left workers disgruntled. Sometimes referred to as "scientific management," it was a component of the Progressive Movement's obsession with greater efficiency.

15. **Rollins College**, chartered in 1885, was Florida's first institution of higher learning. A group of New England Congregationalists founded the college to serve wealthy northern immigrants who were settling the little village of Winter Park.

Hamilton Holt, appointed president in 1923, had already established a national reputation as editor and owner of *The Independent*, one of nation's most influential magazines at the turn of the century. A prominent supporter of the pre-World War I peace movement, he was one of the founders of the League to Enforce Peace, a precursor to the League of Nations. In 1920, he entered the Connecticut senate race as a Democratic candidate, but was defeated by his Republican opponent. He served as Rollins's president for 24 years during which time he transformed the college into a progressive, innovative teaching institution.

16. **Marianna** is a small town in the Florida panhandle. Founded in 1828 at the center of a slave plantation economy, Marianna emerged from the Civil War with a strong Southern tradition and a rigid segregation system. A sign at the town's entrance reads: "Welcome to Marianna: A City of Southern Charm." The murder of **Claude Neale** on October 18, 1934 was one the most brutal and sadistic in the long history of lynching. The graphic depiction in newspapers of Neal's mutilated body galvanized the nation to end one of the most shameful practices in Americana history.

17. **David Scholtz** was elected governor of Florida in 1933 at the depths of the Great Depression. An avid supporter of New Deal recovery policies, he brought aid to the unemployed, mandatory free school books to poor counties, and instituted other reform measures. His reputation a reformer undoubtedly led France and Holt to believe that Scholtz would immediately intervene to prevent the lynching in Marianna. As was usual in lynching cases in the South, no one was arrested and even a new investigation by the FBI in 1977 failed to find the culprits.

18. **Zora Neale Hurston**, whose national literary reputation would come long after her death in 1962, established a close relation with Rollins College and several faculty members during the 1930s. Osgood Grover, Professor of Books, help to get her first book published and introduced her to theatre director Robert Wunsch who made it possible for Hurston to present her folk play, *From Sun to Sun*, at the college. She later dedicated her book *Jonas Gourd Vine* to Wunsch.

19. **Herbert Hoover** headed a massive international effort to bring relief to Russia during the famine in 1921. Whether he used aid to "foster counterrevolution" as France claims is debatable but there is no doubt that Hoover, a vocal anti-Bolshevik, hoped the aid would encourage the Russia people to overthrow Lenin's government.

Colonel Raymond Robbins was an American economist and writer who was active in social work in the first decades of the twentieth century. He helped organize the Progressive Party and served as Party convention chairman in 1912. He headed the American Red Cross Relief to Russia in 1917 and issued a detailed report on the dire conditions when he returned which many thought was too favorable to the Bolshevik government. In 1904 Robbins purchased the Chen-segut Hill Mansion located near Brooksville, Florida. When the 1929 crash deleted Robbins' funds, he offered Chensegut to Rollins College but Holt refused the offer. He then donated it to the state of Florida which in turn sold it to the University of Florida. It is now under the governance of the University of South Florida.

Raymond's wife **Margaret Drier Robbins** was a prominent leader in the women's labor movement. She served as president of the Women's Trade Union League where she organized women unions, provided education for women and championed progressive causes. When she retired to Florida with her husband in the early 1930s she was appointed Trustee of Rollins College where her nephew, Theodore Drier, taught math.

20. Norman Thomas assumed head of Socialist Party of America upon the death of Eugene Debs. Thomas graduated magnum cum laude from Princeton University in 1904. At Union Theological Seminary he came under the influence of the Social Gospel movement which, after a few years as a Presbyterian minister, led him to politics and the Socialist Party. He ran for president six times. His main interest was always in the social justice platform of the Socialist Party.

21. The Socialist Party of Florida was founded in 1902 as a branch of the Socialist Party of America. Although the party attracted enough members to allow it to be a registered party in the 1930s, it always remained on the fringe of Florida politics. It had branches throughout central and south Florida, with its largest contingent in the Tampa area among the cigar workers in Ybor City. Today it is mostly an activist group working on behalf of the Coalition of Immokalee Workers, gay rights and other social issues.

22. Joseph Shoemaker, who arrived in Tampa in 1935, immediately became involved in the effort to organize cigar workers in Ybor City and to clean up Tampa's corrupt politics. Although France misspells his name, he describes correctly the lynching incident.

23. Lazaro Cardenas, who succeeded Elias Calles as president of Mexico in 1934, remained in office until 1940. Historians consider Cardenas Mexico's most successful reform president.

24. Laguna Cooperative was one of many cooperatives established by President Cardenas's government. Under Cardenas the government, through its massive land reform program, expropriated almost 50 million acres of land and created thousands of farm cooperatives. These reforms led to powerful opposition, as France indicates, from the old conservative ruling faction. France's article argued in favor of expropriation as did the Roosevelt administration

25. John Haynes Holmes, one of America's leading ministers in the first half of the twentieth century, served the Community Church of New York from 1907-1918. He was both admired for his social activism (he helped found the NAACP and also the ACLU) and was reviled when, as an unwavering pacifist, he publicly opposed American intervention in World War II. After wartime tempers cooled, he was awarded the prestigious Gandhi Peace Award in 1961.

Patrick Malin, an honor graduate of University of Pennsylvania's Wharton School in 1924, served as economic professor at Swarthmore College for twenty years. In 1940, President Roosevelt sent him to Norfolk, Virginia to investigate the arrival of the SS Quanza filled with European Jewish refugees seeking asylum in the United States. Despite vehement opposition from the State Department, Malin, with Roosevelt's approval, allowed them to enter the United States as political refugees. Malin, who served as the second Executive Secretary of the ACLU, had just been appointed when he met France in 1951.

26. Walter White led the NAACP between 1931 and 1951. He was particularly active in investigating lynching and race riots in the South and pushing for anti-lynching legislation. He was active in the legal challenges that ultimately led to the *Brown* decision in 1945. White also had a successful literary career publishing a well-received novel and an expose of lynching entitled *Rope and Faggot: A Biography of Judge Lynch* (1929).

27. Harry Sacher was a labor lawyer who represented one of defendants in the infamous Foley Square trial when several Communists leaders were accused of violating the Smith Act. The contentious trial, with demonstrations outside the courthouse and shouting inside, led to a circus-like atmosphere where the defense attorneys deliberately antagonized Judge Frank Medina. He sentenced all five defense attorneys to serve in jail for contempt of the court. Sacher ultimately served several years in prison.

28. Simon Gerson was the head of *The Daily Worker*, the national voice of the Communist Party. An expert on elections and campaigns for the Communist Party, he was appointed to serve on the New York City Council, but the members refused to seat him. He was indicted in 1951 under the Smith Act but was acquitted in 1953.

Sophie, Simon's wife, was a legendary activist among textile labor union organizations. She often led demonstrations in the South supporting textile workers. Shortly after Simon's acquittal, in what Simon called a "vindictive blow at my family," the federal government attempted to strip Sophie of her citizenship and deport her. In her later years she worked in support of universal health insurance.

29 Henry F. Ward graduated from Northwestern with a BA and from Harvard with a masters in Philosophy. He taught at Union Theological Seminary from 1918 until 1941. He was best known for his religious and political activism. He helped create the ACLU and was involved in many left wing causes. Accused of being a "fellow traveler" of the Communist Party, he was forced to testify before HUAC in 1939. Ward's *Social Creed of the Churches* (1910) is still used as a guide by American Protestant churches that advocate for social justice.

30. James Duncan Phillips (1876-1954), after graduating from Harvard College in 1897, began working in the editorial department of Houghton, Mifflin Publishing Company and later became director and a member of the executive committee. He was responsible for establishing branches of the company in San Francisco, Atlanta, and Dallas. He was an accomplished writer who published several books on colonial New England history. He retired to Winter Park in the nineteen thirties.

31. Frank Donner, a graduate of Columbia University Law School, was a leading civil rights lawyer whose law firm represented labor unions and those charged with subversion under the Smith Act. His most famous client was Morton Sobel who was accused of treason along with the Rosenbergs. Donner pled the Fifth Amendment when called before HUAC in 1958 charged with being a member of the Communist Party. He published an article in *The Nation* in 1954 that exposed Justice Department's unlawful use of informant testimony before HUAC. In 1980, Donner was placed in charge of the ACLU's Project for Political Surveillance. He died in 1993.

32. Harold Buchman was renowned for defending such controversial clients as draft resister, Black Panthers and priests charged with burning their draft cards. He himself was called before HUAC to face charges of being a "fellow traveler". His most recent notorious case involved several Iranian students who were charged in 1980 with smuggling guns into Iran.

33. Dorothy Rose Blumberg, along with her husband Albert, was an official in the Maryland Communist Party when HUAC ordered a raid on the party headquarters in Baltimore where agents confiscated all party records. Required to give testimony before the committee, she took the Fifth Amendment and was convicted by the committee and forced to pay a fine to avoid jail. Dorothy Rose published several books including a biography of Florence Kelley, a leading turn of the century social and civil rights activist.

34. Elizabeth Gurley Flynn was perhaps the most prominent female activist and labor leader in the first half of the twentieth century. She was an organizer for the Industrial Workers of the World, a founding member of ACLU, and a feminist who campaigned for women rights, birth control and women's suffrage. Prior to World War I she was arrested several times for her organizing activities but was never convicted. Flynn campaigned vigorously for the release of those convicted in the Foley Square case and then she herself was charged with subversion for violating the Smith Act. She spent two years in a Federal prison. She was a prolific writer publishing over twenty books and several articles. She was the inspiration for "Rebel Girl," a folk song written by Joe Hill in 1915. John Updike fictionalized her life in his novel, *In the Beauty of the Lilies* (1986)

35. Regina Frankfeld, whose husband Frank was a member of the Communist party, was called before the Baltimore School Board to determine her political affiliation. When she testified that she was also a Communist Party member, she was immediately fired from her job at a school where she taught paraplegic children.

36. John J. Parker, a native North Carolinian, was nominate in 1930 by President Herbert Hoover to serve as justice on the Supreme Court. He was opposed by the labor unions because he had issued an opinion supporting "yellow dog" contracts which forbade membership in unions and by the NAACP because in his race for governor in 1920 he opposed the franchise for African Americans. The NAACP leader, Walter White, testified at the hearing against the nomination where he threatened to help defeat any Senator who voted for Parker. The Senate rejected his nomination, the first such rejection since 1894.

37. The Truman Doctrine was a Cold War response based on the concept of "falling dominos." President Harry Truman, faced with the British withdrawal from Greece, issued a warning that if Greece fell to the Communists it would trigger a succession of such victories throughout the Middle East and then throughout the world. He asked Congress for appropriations to aid the Anti-Communist forces in Greece. The doctrine was transformed ultimately into a global response to any future Communist aggression.

38. Roger Baldwin helped found the ACLU and served as its first executive director from 1920 to 1950. While he was director the organization was involved in some of the nation's landmark legal cases: Scopes Trial, Sacco-Vanzetti Trial, the trial of the Scottsboro Boys and the censorship case against James Joyce's *Ulysses*. In 1947, General Douglass invited him to Japan to help introduce the concept of civil liberties to the Japanese. While in Japan, he founded the Japanese Civil Liberties Union. For his work, the Japanese awarded him the Order of the Rising Sun. Later Germany and Austria invited him to advise their nations on civil liberties.

39. Corliss Lamont, like France and others, followed a curious path to left-wing politics. He was the son of Thomas Lamont, a partner of JP Morgan and Company. He earned a doctorate in philosophy from Columbia University and taught there for many years. Moved by the suffering caused by the Great Depression, he declared himself a socialist and began championing leftist and civil liberty causes. He served as executive director of the ACLU from 1932 to 1962. In 1954 the McCarthy committee cited him in contempt of Congress when he pled the Fifth Amendment during his testimony. He was never sentenced. He was a prolific writer who remains the preeminent authority on the philosophy of humanism.

40. Eugene Dennis served as head of the American Communist Party between 1935 and 1959. In 1948 he and eleven other party members were arrested and charged with violating the Smith Act. He was one of the defendants in the infamous Foley Square trial. He was convicted and his case reached the Supreme Court which ruled against the defendants six to two—Black and Douglas dissenting. In *Dennis v United States*, a landmark decision, the Supreme Court validated the Smith Act which in effect made membership in the Communist party a crime.

41. Harry Slochower came to the United States from Austria in 1913. After earning a MA from CCNY, he began teaching German and comparative literature at Brooklyn College in 1930. After the Supreme Court case, he was reinstated at the college with more than forty-thousand dollars in back pay but was immediately suspended for making false statements to the Congressional Committee. He resigned from Brooklyn College and spent the rest of his life practicing psychoanalysis. He died in 1991.

42. Elizabeth Bentley became an American spy for the Soviet Union from 1938. In 1945, she defected. In 1948 she made sensational public revelations before HUAC claiming she knew one hundred and fifty American citizens, over forty of whom worked in the Federal government, were spying for the Soviet Union. She provided no documentation for these charges.

43. Daniel de Leon. Socialist editor and Marxist theorist, was the intellectual leader of the socialist movement in the United States in the late nineteenth century. He headed the Socialist Labor Party of America from 1890 to 1914.

44. John A. MacKay came to the United States in 1936 from Inverness, Scotland, in order to head the influential Princeton Theological Seminary. He was a charismatic preacher and speaker who championed liberal causes in the 1930s through the 1950s. The statement France refers to "Letter to Presbyterians" which was surprisingly influential in encouraging opposition to McCarthyism. The letter led to his being called before HUAC.

45. France summarizes **Claude William's** life and work well. The transformation of a fundamentalist Southern preacher into a dynamic social activist, who gained a national repatriation for civil rights, race relations and labor advocacy, is an inspiring story of courage and resiliency. Like many leftist preachers, Williams interpreted the Bible as a militant social text which emphasized social justice. He is most famous creating the People's Institute for Applied Religion, started in 1940 as a way of training the grassroots religious leaders in the South to engage in social and economic activism. The PIAR reached out to tenant farmers and industrial workers by arguing that their religion provided justification for their struggle against oppression. Williams moved to Alabama near the end of his life and continued his social activism until he died in 1971.

46. Judge Irving Kaufman presided over the Julius and Ethel Rosenberg case. Even though recent evidence seems to indicate the Rosenberg's guilt, Kaufman's death sentence remained controversial for decades and plagued him throughout his long and distinguished legal career.

47. Morton Sobel was employed as an engineer at General Electric where he worked on government contracts in the early pre-war period. In 2001, Sobel admitted he turned over what he called "junk" documents to a Soviet spy, even though to that point he had denied being a spy.

48. Rabbi Stephen S. Wise was a leading liberal spokesman in the first half of the twentieth century. An early supporter of Zionism, and a friend of Franklin Roosevelt, he was most famous for his unwavering effort to alert Americans to the dangers of Nazism. He was a cofounder of the NAACP and a fervent opponent of McCarthyism.

49. Carl and Anne Braden were anti-racist activists working out of Louisville, Kentucky. After Carl served eighteen months in jail, he and Anne, blacklisted from any employment in Kentucky. They later became field workers for the Southern Conference Educational Fund in New Orleans, and organization designed to gather support of white southerners for desegregation. In 1958 Anne wrote *The Wall Between*, a best-selling memoir of their ordeal in the Wade incident. It was runner-up for the National Book Award.

50. Fearing the Korean War would end a nuclear encounter, W.E.B. Dubois, chemist Linus Pauling and physicist Phillip Morrison joined forces to create the **American Peace Crusade** in 1951. HUAC claimed that the organization was a front for the Communist party and attempted unsuccessfully to disband it. APC voluntarily disestablished in 1956.

ACKNOWLEDGEMENTS

I discovered Royal France when I was researching the centennial history of Rollins in 1985. At that time the Archives were located in the top floor of what was then Mills Memorial Library. Situated in such an isolated place meant that hardly anyone knew the depository existed. Moreover, it was not a very pleasant place to do research. There was no reading room, so I sat at a table in a dark corner among the boxes of historical material. Fortunately, Fred Hanna, one of the college's most famous historians and most significant leaders had directed the organization of the Archives that made it possible for me to complete my nine chapter history in time for the centennial.

Now the Archives are located in the basement of Olin Library in delightfully pleasant surroundings and run by two very special people, Darla Moore and Wenxian Zhang. I wish to acknowledge with deep appreciation and gratitude for the care with which these two people guard and protect our most precious assets. I have worked with archivists all over the United States, including the Library of Congress, and none exceed the professionalism of Darla and Wenxian. This project particularly would not have been possible without the help, encouragement and guidance of Wenxian.