

Rights

Vol. IX No. 2

Price 25¢

April-May, 1962



ECLC challenges the constitutionality of the McCarran Act in a test case defending the Veterans of the Abraham Lincoln Brigade.

A Lesson in American History

"I discharged every person under punishment or prosecution under the Sedition Law, because I considered . . . that law to be a nullity, as absolute and as palpable as if Congress had ordered us to fall down and worship a golden image; and that it was as much my duty to arrest its execution in every stage, as it would have been to have rescued from the fiery furnace those who should have been cast into it for refusing to worship the image. It was accordingly done in every instance, without asking what the offenders had done, or against whom they had offended, but whether the pains they were suffering were inflicted under the pretended Sedition Law."

—Thomas Jefferson to Mrs. John Adams, Washington, July 22, 1804.

The quotation above tells how President Jefferson disposed of the Sedition Act of 1798—because he considered "that law to be a nullity" and had the courage to act on his conviction. In the face of such a flagrant Congressional assault on the First Amendment, Jefferson felt no need to await judicial reversal or legislative change of heart. He simply "discharged every person under punishment or prosecution."

Is it any wonder that Jefferson is universally revered as one of our three greatest Chief Executives? Washington led our revolution against oppression; Lincoln preserved the Union while abolishing our shameful "peculiar institution" of slavery; Jefferson led our forefathers onto a "new frontier" when the fainthearted would have panicked before the successes of Revolutionary France. The sage of Monticello knew we need not fear "subversion from abroad" while we guarded our own integrity.

This lesson should be brought home to our bookish young President and his professional advisers, particularly in this month of Jefferson's birthday, by every means of communication. Mr. Kennedy should start by granting amnesty to Junius Scales, latest victim of the Smith Act, and then drop all proceedings under the McCarran Internal Security Act.

Editorial

A Lesson in Political Science

"Do the people enjoy the right freely to speak, write, publish, and assemble in order to criticize the government and leaders in power?"—that is one of the tests by which a democracy can be distinguished from a totalitarian state, according to the standard textbook *World Affairs* by Professors Atwater, Butz, Forster, and Riemer. This being Academic Freedom Month, we would do well to ask ourselves how well our country meets the test.

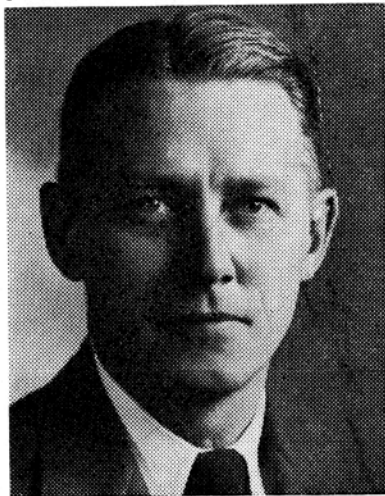
While there is an active law abridging the above enumerated rights among citizens administratively found to be members of "Communist-action, Communist-front, or Communist-infiltrated" groups, we obviously fail the test. ECLC invites all persons who are ashamed of our country's failure, to join in our campaign to repeal the McCarran Internal Security Act.

New Drive to Repeal McCarran Act

by Clark Foreman, ECLC Director

ECLC's campaign to repeal the McCarran Act was launched at a meeting at the New Yorker Hotel on Jefferson's birthday, April 13th. Over 400 people gathered there and heard Dr. Royal W. France, eminent constitutional lawyer, call the McCarran Act "one of the most vicious laws ever passed in the United States."

The meeting heard Mrs. Aleine Mufson compare the present situation with that which existed here in 1798 and 99 under the Sedition Law. Mrs. Mufson called upon President Kennedy to follow the example set by President Jefferson who pardoned all who had been convicted under the Sedition Law and declared the law a "nullity." Mrs. Mufson's speech is printed in full in this issue of *Rights*.



Prof. H. H. Wilson

Professor H. H. Wilson of Princeton gave his reflections on the Spanish Civil War which he described as "a war in which the Right, the anti-democrats, the fascists, the privileged sought to destroy democracy, socialism, the popular aspirations of the deprived and under-privileged." Deploring the attempt to rewrite and distort the great sacrifices made in behalf of loyalist Spain, Dr. Wilson said, "a society with democratic pretensions cannot tolerate the fictionalizing of past events to provide justification for contemporary policy."

Referring to the Veterans of the Abraham Lincoln Brigade, who had been charged by the SACB with being a "Communist-front," Dr. Wilson said, "They fought for us all . . . in a real not merely a poetic sense." Dr. Wilson's speech will be published by ECLC in the near future as a pamphlet.

Mr. Moe Fishman spoke for the Veterans and said they would never register but would continue to fight fascism as they had in the past. Mr. Fishman's account of the Veterans is published below in this issue of *Rights*.

The introduction of Miss Olive Van Horn to the meeting evoked a spontaneous response from the audience because Miss Van Horn is the symbol of a continuing battle that has been waged since 1950 against the McCarran Act. In 1950 the National Committee for the Repeal of the McCarran Act was formed under the leadership of the Rev. John Thompson and Miss Van Horn and such initiators as Bishop James C. Baker, Prof. G. A. Borgese, Bishop Benjamin D. Dagwell, Prof. E. Franklin Frazier, the Rev. John Paul Jones, Rabbi Leo Jung, Bishop Gerald Kennedy, Dr. Alexander Meikeljohn, Dr. Linus Pauling, Prof. Oswald Veblen and Bishop W. J. Walls, to list a few. Working out of New

York and acting as a pressure group, the National Committee for the Repeal of the McCarran Act functioned for seven years until public apathy forced it to close its doors. Now that the McCarran Act has been validated by the Supreme Court a renewed interest has developed and ECLC in its call for repeal has enlisted the leadership of Miss Van Horn, who serves on ECLC's National Council.

Miss Van Horn related to the audience how Representative Sabbath of Chicago, Illinois, had introduced a bill in the 82nd Congress (H.R. 3118) that specifically called for the "repeal of the Internal Security Act of 1950." Miss Van Horn went on to point out that the Repeal Committee was the organization that first called national attention to the fact that the U.S. Government had created and kept "ready for use" detention camps throughout the country for the imprisonment of anyone who might be classified as "reasonably suspicious" and in time of emergency might give aid and comfort to the enemy. These "concentration camps" became a scandal in the 1950's but it should be noted that they are still being maintained and are ready for use when and if the Attorney General feels the necessity of pressing them into service. The Act actually calls for the arrest and detention of all persons who, "there is reasonable ground to believe" will "probably engage in, or conspire with others to engage in an act of espionage or sabotage." The *N.Y. Times* in 1952 noted that six camps had been set up and were in operation.

Miss Van Horn was successful in getting many leading citizens and organizations to call for the repeal of the McCarran Act. Newspapers such as *The N.Y. Times* and the organizations including the C.I.O., the A.F. of L. and the NAACP all called for repeal. Senator William Langer stated that the McCarran Act "is the product of hysteria and frantic, unthinking fear. It merits the opposition of all who cherish liberty." Representative John A. Blatnik commented that "the Sabbath Bill merits the support of every American who believes in democracy. The McCarran Act violates the spirit and letter of the U.S. Constitution and its Bill of Rights and it must be repealed."

Miss Van Horn referred to the following passage from President Truman's veto message as she told the audience that the only solution to the McCarran Act was its repeal:

"There is not a more fundamental axiom of American freedom than the familiar statement: In a free country, we punish men for the crimes they commit, but never for the opinions they have. And the reason this is so fundamental to freedom is not, as many suppose, that it protects the few unorthodox from suppression by the majority. To permit freedom of expression is primarily for the benefit of the majority because it protects criticism, and criticism leads to progress."

BOUDIN ON THE LAW

General Counsel Leonard B. Boudin told in the following words the current status of the McCarran Act:

Just as hard cases make bad law, so periods of political stress make bad legislation. Recent examples are the Internal Security Act of 1950 and the Immigration & Nationality Act of 1952 passed during the Korean

War, and the Communist Control and Immunity Acts of 1954 passed in its aftermath and at a high point in what is known as the McCarthy period.



Leonard B. Boudin

tax deductions and exemptions with respect to contributions to the organization.

In 1954 the Communist Control Act created a new type of Communist organization, the Communist-infiltrated organization, by which the application of the principal law was extended to labor organizations which were not directly related to the Communist Party or controlled by it but infiltrated by it. *Some day the Congress may create a fourth category, namely, an organization misled by the Communist Party.*

Only one organization to date has been found to be a Communist-action organization, namely, the Communist Party, against which the statute was, of course, directed.

There are proceedings now pending in the Court of Appeals for the District of Columbia against the American Committee for the Protection of Foreign Born, the New York Council of American-Soviet Friendship, the Veterans of the Abraham Lincoln Brigade and the United May Day Committee, which have been called Communist-Front organizations. There is another proceeding against the International Union of Mine, Mill & Smelters Workers, which has been called a Communist-infiltrated organization. (see p. 13)

The Emergency Civil Liberties Committee has undertaken the responsibility of litigating the Veterans case, which promises to be the first test case in this field. The United May Day Committee case is complicated by the fact that each year there is a new May Day Committee which has a life of only about three days, and that it may be somewhat difficult to make a final adjudication with respect to this ephemeral organization.

Following the decision of the United States Supreme Court last term upholding the constitutionality of the McCarran Act, the Communist Party refused to register on the ground that any officer who registered would be incriminating himself. For the Supreme Court, in the critical case, had upheld the constitutionality of the statute and the registration order, but had refused to pass upon the question as to whether registration did or did not violate the self-incrimination provisions of the Fifth Amendment. The refusal of the Communist Party to register led to the

indictment of the Communist Party and two of its officers. That case will probably be tried in the Fall and re-raises the constitutional issues undecided by the Supreme Court to date.

In addition, the Government has been subpoenaing a large number of persons before a Federal grand jury in Washington, apparently for the purpose of enforcing the McCarran Act. (In order to make this effective, it has decided to apply the Immunity Act of 1954.) Among those subpoenaed were two persons connected with *The Worker*, a Communist newspaper, who were asked concerning its source of finances and whom it consulted in its determinations of what to write. The apparent purpose of this inquiry is to determine whether *The Worker* should be labelled, "Disseminated by a Communist Organization." The witnesses here were found in contempt because they had refused to testify notwithstanding their having been given immunity from prosecution under the Immunity Act of 1954. You may recall that that statute provides that in a case involving national security, the Government, by guaranteeing the witness immunity against criminal proceedings, can compel him to testify with respect to criminal matters notwithstanding his plea of the Fifth Amendment. That statute was held constitutional in the *Ullman* case. However, the *Worker's* case raises a number of procedural problems not involved in *Ullman* and two new issues, namely, does not the Government have to prove that national security is involved before it can apply the Immunity Act, and secondly, is it not interfering with the First Amendment right of freedom of speech and press in its inquiry into *The Worker*? It remains to be seen whether the *Ullman* case, which allegedly involved an inquiry into espionage—although it was ultimately dismissed when the witness there denied any knowledge concerning that subject—can be extended to the routine operation of the McCarran Act when the Attorney General of the United States has elsewhere insisted that the Communist Party does not present a threat to national security.

Indeed, one wonders why the Government of the United States is engaged in 1962 in the use of this massive apparatus directed against so small a group of people, against whom there are no charges of crime under the ordinary criminal laws relating to conspiracy, espionage, sabotage and so forth.

The psychologists may speculate as to the influence of the early formative years upon the persecution complex, the political scientists may insist that this is related to the cold war, the economists may argue that the failure to use these laws would result in technological unemployment in the Federal Bureau of Investigation and in the several hundred thousands of security officers whose economic security depends upon their continued employment in this field.

I find an interesting parallel in a discussion by John Maynard Keynes on the continuance of the British Blockade notwithstanding the Armistice of 1918. He said:

"But I attribute it more profoundly to a cause inherent in bureaucracy. The Blockade had become by that time a very perfect instrument. It had taken four years to create and was Whitehall's finest achievement; it had evoked the qualities of the English at their subtlest. Its authors had grown to love it for its own sake; it included some recent improve-

ments, which would be wasted if it came to an end; it was very complicated, and a vast organization had established a vested interest. The experts reported, therefore, that it was our one instrument for imposing our Peace Terms on Germany, and that once suspended it could hardly be reimposed."

However, in determining most problems, whether political or literary, I return to my favorite novelist, John Galsworthy, who, in writing "A Modern Comedy" in 1927, has the following interesting colloquy:

"What do they think about lynching in the north?"

"They squeal a bit, they've no call to. If we've got negroes, they've got the Reds, and they surely have a wholesale way with them."

Thirty-five years later it can still be said that "they surely have a wholesale way with them."

ECLC's PROGRAM FOR REPEAL

Mr. Phillip Abbott Luce, recently appointed as ECLC's Assistant for Campus Activities, spoke of the fear and intimidation now prevalent on the university campuses of the country. He reminded the audience that most college students had been born since the end of the civil war in Spain, and most were in grammar school when the McCarran Act was adopted. He stressed the great need of helping the students fight for freedom of speech and discussion on the campuses.

The McCarran Act is claimed by HUAC as proof that the committee is responsible for legislation. It is true that the prime initiators of the Act were members of HUAC and the committee has recommended many amendments; some of the worst are now pending in Congress. The program for repeal of the McCarran Act includes the abolition of its begetters, Mr. Luce said, emphasizing that ECLC will continue its efforts against all repressive legislation.

ECLC's program for repeal was described by Mr. Luce as a five pronged attack, in addition to defense in the courts of the Veterans of the Abraham Lincoln Brigade:

First, the widest possible distribution of the excellent pamphlet by Alexander L. Crosby called "The Rape of the First Amendment." Mr. Crosby who is well known as a pamphleteer outlines in popular terms the menace of the McCarran Act to our freedom.

Second, the publication of the Black dissent in the McCarran Act decision accompanied by the statement written by Prof. Edmond Cahn of the New York University Law School and co-signed by many distinguished professors of law.

Third, the submission to the President and fifty governors of a formal appeal for amnesty of all political prisoners.

Fourth, active work on as many campuses as there are students who are willing to meet and discuss the McCarran Act or the defense of the Veterans of the Abraham Lincoln Brigade.



Phillip Abbott Luce

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Fourth, active work on as many campuses as there are students who are willing to meet and discuss the McCarran Act or the defense of the Veterans of the Abraham Lincoln Brigade.

Fifth, the use of Constitution Week as recently proclaimed by President Kennedy for September 17 to 24 as a time of concentrated activity and possible intensive school for those wishing to understand better just what the McCarran Act is.

Mr. Luce ended his talk by calling upon the audience to do their best to spread the information they had received during the evening and to help ECLC with the necessary financing of the program which he had outlined. "It is clear," said Mr. Luce, "that the success of our work depends largely on the financial response of our friends."

"Communist Action"

Because of a general feeling of intimidation on the part of the mass media in this country many of our readers may not have had an opportunity to read the Communist Party's reasons for not complying with the McCarran Act provisions concerning registration. *Rights* is reprinting sections of a press release from the Communist Party of March 30, 1962 in order that our readers may have that opportunity:

"The arrest of Gus Hall and Benjamin J. Davis, well known Communist leaders, and the indictment of the Communist Party is part of the plot to substitute the McCarran Act for the Bill of Rights. That means a basic change in the way of life for all Americans. . . . Registration not only means subscribing to the false charges that Communists are foreign agents, advocate the violent overthrow of government, commit espionage, use trickery, deceit and every foul means. Registration to such blatant lies is political degeneracy and violates every tradition and standard which has contributed to the greatness of our land, our Constitution and Bill of Rights. No Communist and honorable American can possibly submit to such registration which scuttles the Constitutional liberties of all Americans.

"The Supreme Court's five to four decision of June 5, 1961, upholding the Subversive Activities Control Board order requiring the Communist Party to register made no claim to settle the issues involved nor the fate of the law itself. That court postponed decisions on several Constitutional questions including all points under the Fifth Amendment. The high court openly admitted that it did not review the findings of the House Un-American Activities Committee and yet upheld those findings which bring a verdict against the Communist Party without a trial. Those 'findings' become a built-in verdict. That violates the Constitution.

"The fact is that in the entire 43-year history of the Communist Party, not a single member has ever been convicted or indicted as a foreign agent or for engaging in sabotage or treason. Nor has a single member ever been convicted of an act of force directed against the government. No responsible attorney general or district attorney has ever produced evidence for such a conviction. There is none. Yet, the McCarran Act writes a 'guilty' conviction into the law without a trial. That is unconstitutional. This trick of the McCarran Act 'finding' is calculated to keep the fascist big lie out of the court room in the trials of Gus Hall and Benjamin Davis of the Communist Party. When people face thirty years imprisonment on the basis of a big lie and are denied the right to

present the facts, the truth, in evidence in the court, that spells danger for all Americans.

"Every American has a right to know the full McCarran Act danger to this country. The Attorney-General has deliberately evaded his responsibility by his false comparison to other 'registrations.' The Supreme Court narrow majority failed in its responsibility to examine the 'findings' and in postponing certain constitutional questions. Public officials have hesitated to speak when voices must be heard. President John Kennedy has allowed his vote for the McCarran Act in 1950 to stand as a barrier against appointing a Presidential commission to examine and expose the danger of this law to the institutions of American democracy. The President bears the onus of enforcement under the pressure of the ultra-Right."

"Communist Fronts"

Just why our government is trying at this moment in history to prove that organizations for American-Soviet Friendship, Protection of the Foreign Born, and the Veterans of the Abraham Lincoln Brigade must be driven out of existence is hard to understand.

Because the Emergency Civil Liberties Committee believes that the McCarran Act is a gross violation of our Constitution, we are pleased to support the Veterans of the Abraham Lincoln Brigade in their court battle to reverse the decision of the Subversive Activities Control Board. We present here a statement by Mr. Moe Fishman of the Veterans regarding that group's history and functions. We are also pleased to present similar statements by Professor Louise Pettibone Smith, Co-Chairman of the American Committee for the Protection of the Foreign Born, and by Mr. Rockwell Kent, Chairman of the National Council for American-Soviet Friendship.

Although the McCarran Act has set up the machinery wherein certain organizations might be deemed "Communist-fronts," this listing may be appealed in the courts. All three of the above mentioned organizations have been "indicted" by the Subversive Activities Control Board, but the Constitutionality of the whole procedure is in question. Since it is still law in this country that individuals and organizations are innocent until proven guilty, we think it is important to hear from the organizations themselves.

VETERANS OF THE ABRAHAM LINCOLN BRIGADE

by Moe Fishman

The Veterans of the Abraham Lincoln Brigade are the survivors of the 3,200 American volunteers who from 1936 to 1939 fought on the side of the legally elected government of the Spanish Republic.

These men crossed continent and ocean not only out of a sense of solidarity with the Spanish people who were trying to preserve their democracy but also because of their hatred of fascism and their foreknowledge that the victory of Hitler and Mussolini and Franco in Spain

would inevitably usher in World War II, involve our own country, and cast into jeopardy its existence as a democratic nation.

For this—their exposure to battle before it became our government's policy to admit that theirs was the course of honor—their opponents in the State Department dubbed them "premature anti-fascists."

This appellation the Veterans proudly embraced. And of them, the *New York Times* editor and correspondent, Herbert Matthews who saw them in battle in Spain, wrote twenty-four years later in his book "The Yoke and the Arrows" that the Vets were "the finest group of men I ever knew or hope to know in my life."

1800 Americans died in Spain. Almost all who survived were wounded. The Veterans was formed by those who first returned, so as to take care of their medical needs and help them get resettled. Of the survivors all who were able fought a second time in World War II, in the armed forces of our country, many of them winning battlefield promotions and citations. One such was Herman Boettcher, elevated to captain in the field for his daring behind the enemy lines in the Pacific, and killed in action while on such a reconnaissance. Of their performance wherever they were to be found, Major General Clayton Bissell had this to say, "They are upholding our government by force and violence."

If the Veterans are being persecuted today, it is because they remain loyal to their original ideals and to each other. They exercise their constitutional right to differ with our State Department in its embrace of Franco, and to argue that this undermines our image as a champion of democracy. They continue to help the opponents of Franco, 6,000 of whom are political prisoners in his jails. The Veterans have sent money, clothes, and food to them and their families. They have helped break the silence around the fact that some of these have been rotting in jail for 25 years since the end of the Civil War in Spain. They are participating in the world-wide move to obtain amnesty for these people.

It is for these legitimate activities that the Veterans of the Abraham Lincoln Brigade now find themselves indicted with the phony label of "Communist front" by the SACB, which under the unconstitutional authority of the McCarran Act seeks to turn our anti-fascist history into unpatriotic activity.

THE AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN

by Louise Pettibone Smith

The ACPFB began its work in 1933, at a time when the depression had brought ever increasing attacks on foreign born Americans both locally and nationally. The basic position of the Committee was and is that formulated by Justice Murphy of the Supreme Court: "Once an alien lawfully enters and resides in this country, he becomes invested with the rights guaranteed by the Constitution to all people within our borders."

From its beginning the ACPFB undertook to give all possible aid to those who asked it, regardless of race, color, creed, country of origin or

political opinion. This policy has remained unchanged for almost thirty years. The emphasis in the Committee's work has varied with the changing situation—legal defense, aid in naturalization, help against industrial discrimination, educational publicity. Since the beginning of the "cold war," when most organizations have refused to take "political" cases, those charged with "Communist affiliation" have naturally sought our help, as at the beginning of World War II, Germans charged with Nazi affiliations sought our office.

Since "freedom is indivisible," denial of constitutional rights to any, endangers the rights of all. But under the present immigration law "the foreign born are subject to a government of unlimited powers." Individual cases have been carried to the Federal Courts, some of them to the Supreme Court, with varying results. In spite of the Supreme Court ruling in 1957 against the deportation of 74-year-old Charles Rowoldt for alleged Communist Party membership in the 'thirties, deportation is still a present danger; the harassments of "supervisory parole," although mitigated, still continue. A re-instatement of a time limit on deportation and denaturalization proceedings is badly needed. For this the ACPFB is currently working.

But meantime the ACPFB has been ordered to register under the McCarran Security Act as a "Communist Front" organization. The hearing before the SACB began in 1955 and their decision is now being appealed to the Federal Court. Much of the evidence offered is true. We have always insisted that no matter what the charge, the foreign born were entitled to a fair hearing; that kidnapping by the Immigration Service, whether of a Mexican-American labor leader or a William Heikkila, is a violation of the law. Through the years, in pamphlets and leaflets, in the LAMP, in public meetings, the Committee has opposed all anti-alien legislation in Congress. We opposed the Hobbs "Concentration Camp" Bill, the Mundt-Nixon Bill, the Alien Registration Act, the McCarran Security Act (which had many provisions affecting the foreign born), the Walter-McCarran Immigration, and Naturalization Law.

Those bills were also opposed by the Communist party. Therefore, since the actions of the ACPFB have at times "paralleled the actions of the Communist Party," the Committee can by the wording of the Security Law come under the classification of "Communist Front." If this section of the law is upheld in the Courts, many other organizations will be eligible for the same classification.

THE NATIONAL COUNCIL OF AMERICAN-SOVIET FRIENDSHIP

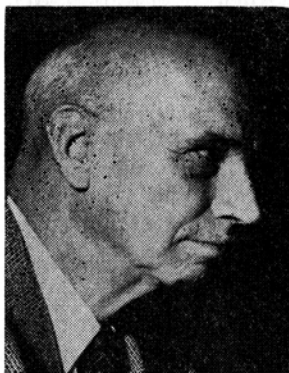
by Rockwell Kent

The establishment of the National Council of American-Soviet Friendship at the outset of World War II was an expression of the changed attitude toward the Soviet Union that had swept the country. The Council was the child of the new friendship and respect for our great ally that had arisen, and it may be said that throughout the years of its active

existence it has aimed to honor its father and its mother. May its days be long in this land of ours.

The National Council's first important public action was the convening of the Congress of American-Soviet Friendship in New York City on November 6th, 7th, and 8th, 1943, "in celebration," as stated by its Chairman, Dr. Corliss Lamont, "of the Tenth Anniversary of the establishment of American-Soviet diplomatic relations and the Twenty-sixth Anniversary of the founding of the Soviet Republic." "The statements made at the Congress," continued Dr. Lamont, "by Henry W. Morgenthau, Jr., Secretary of the Treasury, Donald W. Nelson, Chairman of the War Production Board, and E. C. Ropes, of the United States Department of Commerce, underline the determination of our Government to give a firm economic foundation to American-Soviet friendship. The published 90-page commemorative volume of testimonials by leading American industrialists is eloquent of the wide support the purposes of the Council received."

The activities of the Council were aimed, and have continued to be aimed, at promoting broader, truer understanding of Soviet life: of its social structure and institutions, and of its culture. As stated in the Council's recent brochure, "The *Only Way To Peace*," the Council aims "to provide accurate, up-to-date information to ever widening circles of the American public concerning the major phases of Soviet life and American-Soviet relations, through books and pamphlets, fact sheets, news bulletins, pictorial exhibits, documentary films and other material." The Council is making these educational services available to libraries, to schools, colleges and universities; and implements them by the publication of such factual pamphlets on Soviet structure, life, and social relations and activities as may bring to the American people—and in particular to awakening American youth—such understanding of the Soviet people as is basic to the friendship on which peace must rest.



Rockwell Kent

heart—presumably of various political beliefs and faiths—united in purpose by the conviction that world-wide peace must be established; that peace in our day depends mainly upon friendship between the Soviet people and ourselves; that the foundation of lasting friendship is understanding. To advance that understanding has been, and is our fixed and most determined purpose.

Again as stated in its recent brochure, it is the Council's particular aim today "to stimulate and bring about increasing cultural, scientific and education exchange, both in written materials and personal visits."

The first Chairman of the Council was Dr. Corliss Lamont, its subsequent chairmen having been, successively, Dr. William Howard Melish, Dr. John A. Kingsbury, and, at present, the writer of this statement. For many years the Council has had the devoted services of the Rev. Richard Morford as Executive Director.

The National Council of American-Soviet

Friendship is made up of Americans of good

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“Communist Infiltrated”

The third category of organizations labeled for destruction by the Subversive Activities Control Board was brought into being by the action of the SACB on May 4 with respect to the International Union of Mine, Mill and Smelter Workers. The union was officially charged with being “Communist infiltrated” after seven years of preliminary hearings and legal maneuvering.

President John Clark speaking for the union announced at once that the union had “instructed our counsel to seek judicial review of the board’s order and also to file the petition (to dispute the finding) with the board without delay.”

Should the Supreme Court validate the charge of the SACB against the union it would almost certainly destroy the union and gravely impair the right of its members to work. The union has in the past been one of the most militant protectors of the rights of the miners in the West.

Jeffersonian Democracy— A Radical Heritage

by Mrs. Aleine Mufson



Mrs. Aleine Mufson

I’m sure that when the staff of ECLC decided to celebrate the birthday of Thomas Jefferson, they took no cognizance of the fact that it fell on Friday, the 13th. I may be mistaken. They may have purposely chosen this foreboding date. For nothing could be more symbolic of the spirit of Jefferson than to defy superstition. A true son of the Enlightenment, he too would have put his faith in man, and man’s ability to reason as the only factors which would determine the outcome of tonight’s meeting.

Much lip-service is given today to the principles of Jeffersonian Democracy. It is well for us to pause at this juncture of world history, and examine both the philosophy and the political battle for Jeffersonian Democracy, so that we may substitute insightful understanding of our democratic heritage for meaningless generalities.

What needs re-emphasizing today, is the revolutionary nature of the concept of democracy in the 18th and 19th centuries. It represented a complete break with the feudal institutions of Europe. It wrested political and economic power from kings, nobles and priests. It aimed at placing that power in the hands of the common man.

The underlying faith of the democratic philosophy of the Enlightenment was in Man—in his ability to reason, to govern himself, to grow

through education and reason, so that, in Jefferson's word, "no definite limit could be assigned" to his progress. Today, this humanistic faith in man is still a radical philosophy. The self-proclaiming democracies of both the East and the West distrust man's ability to reason. The governments of both sides prohibit dissent and free debate. Who can doubt what the verdict of mankind would be, if people throughout the world were left free to debate and choose between nuclear testing, world destruction, or peace. The lack of belief in man may well be the cause of the destruction of man. Basically, it is upon continuation of the Jeffersonian's radical struggle for humanism that the fate of the world hinges.

That the struggle for Jeffersonian Democracy *was* a radical one is the theme of my remarks tonight. It is commonly believed that American democracy was achieved as a result of the American Revolution. But democracy did not fall into our laps automatically. It was fought for, in an era similar to our own, when all of western society was undergoing the throes of revolutionary social change. The Jeffersonian movement for democracy was an aspect of the social movement of this era. It represented the forces of the rights of man and social change, in opposition to the forces of privilege and the status quo.

Once the American Revolution was won, this battle for democracy began. As in most wars, the men who fought for democracy on the battlefield, found that victory brought the need to fight anew for their cause. The Federalists, who took hold of the reins of government in the new nation, represented primarily the established elements in the commercial class. Having won their economic liberation from British colonial rule, they sought to establish what the Jeffersonians branded an "aristocracy" of the own—a government of the gentlemen of wealth, for the protection of the property of the wealthy. To do this they clearly understood they must oppose popular control of the government. As one of their spokesmen expressed it: "The tendency of universal suffrage is to jeopardize the rights of property and principles of liberty." Democracy tends to "place power in the hands of the worst men, the fiercest and most turbulent spirits in society."

For these same reasons, the Federalists dreaded the influence of the French Revolution. In the war of the confederacy of kings against the new French Republic, the Federalists directed their policies in England's favor.

Inevitably, a movement arose to oppose the Federalists. This was the Republican movement, inspired by Jefferson, and representing primarily the agricultural interests—the vast majority of the population. Essentially, this movement was a continuation of the radical social movement of the American Revolution. The Jeffersonian Republicans saw in the Federalist rule a repudiation of the popular aspirations of the Revolution. They echoed the charges of Vice-president Jefferson that the Federalists were an Anglican-Monarchical, Aristocratical Party.

In place of government in the interests of the financial aristocracy, the Republicans sought government in the interests of the agricultural majority.

In place of the authoritarian direction of the Federalists, which sought to strengthen the power of the government over the people, the Repub-

licans sought to strengthen the power of the people over the government. "Government in the hands of the rulers of men always deteriorate" warned Jefferson. "The people are its only safe depository."

In place of the Federalists' pro-English foreign policy, the Republicans sought friendship with the French Republic. To them, the aims of the French Revolution were similar to those of the American Revolution: republicanism, democracy, the end of privilege.

The unfolding of the excesses of the French Revolution were a source of dismay and concern to the Jeffersonian Republicans, but not a justification for opposing the revolution and joining its enemies. Their attitude is perhaps best summarized by several statements of their brilliant leader in the House, Albert Gallatin:

"Although I think they have been guilty of many excesses, that they have men among them who are greedy of power for themselves and not of liberty for the nation, and that in their present temper they are not likely to have a very good government within any short time, yet I firmly believe their cause to be that of mankind against tyrants. . . . Upon the whole, as long as the combined despots press upon every frontier. . . . I think they and they alone are answerable for every act of severity or injustice."

The People Resist

Between the parties of these two diametrically opposed views, an intensive conflict raged throughout the 1790's. Starting out as an unorganized minority opposition in Congress, the Republican movement assumed national proportions by the middle of the decade and posed a serious threat to the ruling Federalists.

Two instruments were responsible for the phenomenal and unexpected growth of the Republican opposition movement: the press and popular societies. Then, as now, the avenues of information were monopolized by the ruling men of wealth, but then, unlike now, it was comparatively simple for the people to inform themselves by establishing competing newspapers. This republican-minded men did in community after community. Hand in hand with a Republican press arose Democratic and Republican Societies, to the great consternation of the Federalists. They branded these spontaneous organizations as "demoniacal societies," "Jacobin Clubs," "nurseries of sedition . . . formed for the avowed purpose of a general influence and control upon measures of government."

Vehement and vitriolic as the Federalist opposition to the Republican movement was, they were unable to justify suppressing it on domestic grounds alone. It took a crisis in our relations with France, the notorious "XYZ Affair," to give the Federalists the excuse they needed to repress the Republicans.

Exaggerating beyond all proportion, what were admittedly insulting demands of the French directory, the Federalists contended that France was bent on invading the United States. By preying on fears for the national security, they were able to divert the republican direction of the population, and embark the nation on a hysterical war preparations program.

The corollary to the idea of invasion was that the Republicans would rise up to join the invaders. Branding them as "Jacobins," the "French Party," "French agents," the Federalists maintained they were "trained, officered, regimented and formed to subordination" and "it is as certain as any future event can be that they will take arms against the laws as soon as the they dare."

Thus, the manufactured war threat gave the Federalists the justification they needed to repress the opposition Republican movement. Accordingly, they passed the notorious Sedition Act of 1798, which made it a crime to combine to oppose any law of government, to defame any official, to plot any insurrection, or to write, print, or speak seditious libel, impugning the motives of the government of the United States.

Who were the seditious armed Jacobins that were prosecuted under this act? First, the radical Republican congressman Matthew Lyon who, in campaigning for re-election dared attack President Adams and accuse him of using religion as a "state engine to make mankind hate and persecute each other." The majority of the other victims of the Sedition Act were dedicated and courageous editors of Republican newspapers who continued to criticize the government, particularly its foreign policies, and were consequently fined and imprisoned for seditious libel.

The Republican movement staggered under the assaults of the Sedition Act. But as an everlasting tribute to the common sense of the common man, many recoiled from such abuses of freedom even at the height of the hysteria. Evidence the reaction of the farmers of Vermont, who rescued Matthew Lyon from jail by overwhelmingly re-electing him to Congress.

Another enheartening act of this period (from which we may possibly draw hope for our own times) was the role of the conservative Federalist President, John Adams. Alarmed by the drive for war of the extremists of his party, Adams defied his advisers and sent a peace mission to France. The mission succeeded, the hysteria subsided. Although John Adams wanted only one inscription on his tombstone: "Here lies John Adams who took upon himself the responsibility of the peace with France," his fellow Federalists never forgave him. The mission they claimed "threatens to revive the Jacobin faction in our bosom" and lead to "the triumph of our domestic enemies."

Their prophecy was correct. With the subterfuge of war removed, the American people reasserted their demand for republicanism and defeated the Federalists in the election of 1800.

Jefferson Pardons All Victims

Opposition to the repressive Alien and Sedition Acts was one of the key issues upon which they elected Thomas Jefferson to the Presidency. Shortly after assuming office he courageously acted on his conviction by "discharging every person under punishment or prosecution under the Sedition Law." When challenged and malignd for this action he asserted: "my motives for liberating sufferers under the sedition law . . . have been . . . the obligation of an oath to protect the Constitution, violated by an unauthorized act of Congress . . . I considered that law

to be a nullity, as absolute and as palpable as if Congress had ordered us to fall down and worship a golden image."

Let us take this occasion to call on President Kennedy to follow in the footsteps of his admired predecessor, Thomas Jefferson. Let him fulfill the obligation of his oath to protect the Constitution by giving amnesty to those who are in jail or face jail today, because of their political views. They are as innocent of any crimes as the victims of the Sedition Act. The acts of Congress under which they are prosecuted are similar nullities under the Constitution.

My purpose in recounting the struggle for Jeffersonian Democracy tonight, has not been merely to celebrate past glories, but to point out a most pertinent principle at stake today. That is the vital role of radicalism in the growth of our society.

The concepts of freedom and democracy, which we claim to cherish most dearly today, were revolutionary ideas in their origin. They were fought for, and established as institutions by men regarded as dangerous radicals, as insurrectionists, more—as agents of a foreign government.

Are not these the very same charges used as justifications for the Smith Acts and the McCarran Acts of today.

Is not the intent of the McCarran Act exactly the same as the Alien and Sedition Acts: to silence radical ideas, and to stifle opposition to government policy by dissenting groups?

Let us join the issue frankly. We are, or should be, opposed to the McCarran Act not only because it threatens to suppress the dissent of non-Communist critics of government policy, but also because it denies freedom of expression to Communists themselves. Just as in the era of the American and French Revolutions, we are living in an age of radical social change. The United States cannot hope to solve the complex economic and social problems of our century by turning backwards or even standing still. If we are to grow, if there is to be a genuine new frontier, we must nourish the best of our past with the best of the new. We dare not fear and silence radicalism. To do so, is not only to destroy our democratic heritage, contributed to us by radicals of our past, but also to destroy our capacity for progress.

Nor need we fear our government being overthrown by Communist force and violence. As Justice Black pointed out in his dissenting opinion on the constitutionality of the McCarran Act, "the Founders . . . gave the government the fullest powers to prosecute overt actions in violation of valid laws but withheld any power to punish people for nothing more than advocacy of their views."

It is the suppression of views with which we are concerned here tonight. In calling for the repeal of the McCarran Act, and the whole raft of repressive legislation, we are calling for a return to Jefferson's belief in man and his ability to discern the truth. In Jefferson's words, ". . . the opinions of men are not the object of civil government, nor under its jurisdiction . . . truth is great and will prevail if left to herself . . . she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapons, free argument and debate."

Let It Be Law

by Royal Wilbur France



Royal Wilbur France

In his somewhat mystifying article in the February, 1962 issue of the American Bar Association Journal, J. Edgar Hoover gives lip service to the right of Communists and other left wing dissenters to legal defense. "The battle," he says, "most truly is one of the law versus tyranny, individual liberty versus mass repression, human personality versus man as a slave of the State." He adds, "The Communist Party has every right to all the legal processes available to men and women in our free society."

Having thus made obeisance to good American principles, Mr. Hoover proceeds to gloat over the fact that only a few lawyers have been willing to come forward to the defense of Communists. "Actually the Communist Party," he says, "has been able to recruit only a very few attorneys. Support of the aims of Communism and faithfulness to the law of our land are irreconcilable."

In other words, Communists are entitled to legal defense but lawyers should not defend them. Actually, the issues raised in the cases involving freedom of speech, press, travel and association in the cases involving Communists or other groups which Mr. Hoover says are "transmission belts of Communism" have involved fundamental constitutional questions. The issues before the courts have not been whether the views of Communists were right or wrong but whether they had a right to express them. The First Amendment is explicit.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievance."

Mr. Hoover describes the attempts of lawyers defending First Amendment rights as an assault "on the integrity" of our institutions. Quite the contrary, it has been an attempt to protect the integrity of the Bill of Rights. Far from being what Mr. Hoover describes it as "an assault against our judicial institutions" it has been an appeal to those institutions to protect the individual liberty which Mr. Hoover lauds as the majesty of our system. Often the Supreme Court has upheld the rights of Communists or alleged Communists as against the assaults of the Department of Justice of which the FBI is a part. More often, recently, by a majority of one, it has held to the doctrine that the Court has the right to balance the individual rights guaranteed by the First Amendment against the need of government to protect itself. But that is not what the First Amendment says. It could have said that Congress has no right to abridge freedom of speech except in time of war or when Congress considers that there is a national emergency. It did not do that and in the cases involving

freedom of speech for Communists which have been decided in favor of the government, there has always been a militant minority of the Supreme Court supporting the views of those attorneys whom Mr. Hoover, by implication, condemns. But without attorneys who were willing to risk appearing for the defendants in unpopular causes, our judicial system could not have functioned.

Mr. Hoover seems to believe that for the Communists to assert in the courts that they cannot constitutionally be required to register under the Subversive Activities Control Act is a "defiance" of law. Regarding that law Justice Black said in his dissenting opinion:

"This whole Act, with its pains and penalties, embarks this country, for the first time, on the dangerous adventure of outlawing groups that preach doctrines nearly all Americans detest. When the practice of outlawing parties and various public groups begins, no one can say where it will end."

Are lawyers to be condemned for defending principles for which Justices of the Supreme Court speak thus eloquently? Rather, should not those lawyers examine their conscience, who through fear or ignorance have failed to join in a meaningful fight to defend the Bill of Rights?

Mr. Hoover entitled his article "Shall it be Law or Tyranny?" Let there be no tyranny either by or against the Left! Let it be law!

J. Edgar Hoover Reports

According to J. Edgar Hoover, who should know, the Communist Party in the United States has lost 90% of its membership since reaching its numerical strength peak 17 years ago. The FBI report is that there were 80,000 communists in the United States in 1944. The Soviet Red Army was crushing "Hitler's Supermen" in Europe, and in America there was a tolerance for homegrown communists. At present, the FBI estimates the numerical strength of the Communist Party has nose-dived and is between 8,000 and 10,000. At most there is one communist in the U.S. for every 18,000 non-communists. The odds in favor of free institutions being 18,000 to one. Suppose 80,000 people were witnessing a Big Ten football game in Columbus or watching the Cleveland Browns in the Cleveland municipal stadium, the chances are that four would be communists and 79,996 would not. What can we do to prevent these 4 from harming the rest of us? Furthermore, we have on our side the city and state police, the FBI and the army, air force and navy—never forgetting the marines. Shades of Valley Forge and Iwo Jima. Do we need Robert Welch, Jr. and ex-Major General Walker to gallop to our aid? If they claim that we no longer are the land of the free, let us at least be the home of the brave.

—from "Straight from Washington," a monthly report by Senator Stephen M. Young. (Dem. Ohio)

McCarran Act on the Campus

Hardly had Phillip Abbott Luce announced at the meeting of ECLC on Jefferson's birthday (see p. 6) that he would visit the campuses in Ohio in two weeks, before an effort was made to prevent the visit.

On Easter Sunday, ten days after the ECLC meeting, the *Columbus* (Ohio) *Dispatch* carried a flamboyant account of the meeting in which Luce's word "visit" was changed to "invade" and the whole campus program of ECLC was given the character of an assault on the sacred institutions of Ohio.

The following day, the President of Ohio State University, Novice G. Fawcett, issued a statement to the press that alumnus Luce was not welcome on the campus. Dean Bonner reassured the hysterical by issuing a statement that he had his ear to the ground and it had heard no sounds of invasion.

Efforts by the President and Dean to persuade the faculty adviser of the Students for Liberal Action to cancel the meeting, which that organization had called for April 24th to protest the HUAC hearing in Los Angeles, were of no avail. Prof. Shephard Liverant, the adviser, took the position that the SLA group had complied with the regulations and the speakers, Clark Foreman of ECLC and former President of the Bay Area Students Committee, Burton White, in addition to Mr. Luce, were acceptable. The President is said to have appealed to the head of Prof. Liverant's Department to force him to withdraw his approval, also without avail.

Then the President called upon the Advisory Committee of the Faculty to overrule Prof. Liverant, and the Committee unanimously refused. One hour before the meeting was to have taken place the President ordered the auditorium locked and the building surrounded by the campus police. In a statement issued to the press the President gave as his reason, that Luce "and his associates . . . had nothing to contribute to the intellectual activity of the campus."

Fawcett added falsely that Luce had been dropped from the university. Actually Luce had been conspicuous as a student because he had not lost the will to dissent and had led the fight to establish NAACP on the campus, to abolish discrimination by the fraternities and finally had led a protest against the participation of our government in the invasion of Cuba. He left the university of his own free will in August and continued his work for a Ph.D. in the freer environment of New York.

Fawcett's avoidance of the red issue gained him a temporary advantage, as the press outside Ohio apparently assumed the matter was a personal one. When, however, Dr. Foreman pointed out to the Ohio press that Luce's educational qualifications were the same as Fawcett's—an M.A. and that the President's alibi could hardly be taken at face value, no more was heard from the Administration on that line.

The student body and the faculty have moved with vigor against the President's violation of university rules and freedom of discussion. As we go to press the following protests have been made:

- President of the Student Body: all students "should have the right to hear all speakers, even though we may not personally agree with them."

● The *Lantern* (student newspaper) editorially called Fawcett's action "a severe blow to academic freedom."

● A protest rally of over 550 heard faculty and student leaders repudiate the President's action.

● The Ohio State chapter of the American Association of University Professors have called for an investigation by the national body unless the matter is cleared up to their satisfaction.

● Central Ohio chapter of ACLU has called Fawcett's action absurd.

● Over three hundred members of the faculty signed a petition calling for a special meeting of the faculty to take up the matter of the President's "lock-out" of the meeting. Only 39 signatures were necessary for the petition to become effective. The petition was submitted by Prof. Foster Rhea Dulles, Prof. Robert M. Estrich (Chr. of Dept. of English), Prof. Julian B. Ratter and Prof. Howard J. Pincus (Chr. of Geology Dept.).

McCARRAN ACT AT WORK ON THE SUPREME COURT

When Sen. James O. Eastland of Mississippi put into the Congressional Record (May 2) his evaluation of the members of the Supreme Court based on their decisions over the past forty years, he was merely carrying out the spirit of the McCarran Act, which the Supreme Court upheld in June 1961.

A test set up by that Act for penalizing any organization is "the extent to which the positions taken or advanced by it from time to time on matters of policy *do not deviate* from those of any Communist-action organization." Clearly on that ground some members of the court could be held culpable.

It might be said that we are becoming a nation of deviates, but it is encouraging to read that Mrs. Roosevelt is holding to an independent position. "Senator Eastland," she wrote in her column of May 6th, "would not have us act or think in free and independent fashion. According to him, we must first ascertain what the Soviet opinion is and then we must disagree with it.

"This is a weak and idiotic position in which the United States would lack freedom—not the Soviet Union. Russia would be making the first decision."

THE PREDICAMENT OF DEMOCRATIC MAN

by Edmond Cahn, New York, Macmillan, 1961, 194 pages

Reviewed by Robert S. Cohen

Dept. of Physics—Boston Univ.

Along with Alexander Meiklejohn, Justice Hugo Black is a member of my personal band of heroes in America today. Since Justice Black says that this book expresses his idea of a true democratic philosophy, I (and you too) had better pay serious attention to it. Edmond Cahn is a lawyer and professor who has turned his mind toward the moral foundation of democratic civilization in a trio of immensely readable but

weighty books. First was *The Sense of Injustice* (1949), and then *The Moral Decision* (1955). Cahn now has treated *The Predicament of Democratic Man* (1961) with the same intelligence, and with the same combination of philosophical common sense, tolerant toughness, and informal good humor. Occasionally he sneers at Western philosophers since Aristotle (excepting Dewey), but he himself should be respected as a moral philosopher as well as a meditating lawyer.

Of course, politics is socialized morality. To be democratic, therefore, is to live a particular kind of moral life in a particular kind of society. And morality entails choosing among alternative actions. Not holding opinions, not merely praising and blaming, but acting upon decisions, or perhaps choosing not to act. When *must* a man act? To this question may be added, when *should* a man act? There are several answers possible according to philosophical or psychological presuppositions. Kindness, and fair play, self-love and love for family, a feeling for a tribe or a feeling for abstract humanity, respect for a moral authority or fear perhaps, these and other sources may provide the material for moral principles. But Edmond Cahn singles out the unusual source of morality which characterizes a democratic society. It is so unusual that he calls it the democratic predicament.

Whether direct or representative, democratic government involves its people in its work. Lincoln's formula expressed democracy concisely: of, by, and for the people. But in the second of these essential prepositions appears Cahn's puzzle of political morality. Government by the people means social actions, social decisions, responsible moral decisions, by the people. We the People established our government, and hence we are responsible for its behavior among men, here and abroad, now and future.

Should we take this responsibility to heart, we may be soaked with guilt for the social crimes of greed, arrogance, hypocrisy, ignorance, cruelty, the lust for power and for the fruits of human exploitation. Are the people morally responsible for their elected and appointed representatives? Cahn takes us through several detailed case-stories wherein the innocent are wrongly caused to suffer by the action of political institutions. It is a familiar cast: the zealous district attorney, the corrupt city official, the hateful cruelty of an immigration service administrator, an arrogant and not always ignorant racist legislator, a criminal cop, an irresponsible or intellectually slothful judge. Not only the cast of characters but the entire series of plots shows that these are old stories. What is new is our democratic responsibility. We are the first to be personally involved in the misdeeds of others by virtue of the kind of social order in which we live. On this we have no choice. Not even Thoreau's choice is a withdrawal from moral involvement. And a decision to decide nothing, to take nothing to one's conscience, is but bleak evasive action, with consequences rippling through society just as certainly as those taken by heartfelt choice.

We have, in the United States, a social system which rationally calls upon John Donne's religious poem. Citizen and alien, voter or one who neglects to vote, law-maker and policeman, we are each part of the entire mainland, and every bell tolls for each of us. How then is the enormous burden bearable? How crushing is the guilt we all must share? How responsibly can we judge? How must a man behave if he would be honest? Not only the powers of democratic government are drawn from

the governed, but also the warrant for just applications and exercises of those powers, says Cahn. And it is the impressive purpose of his book to show that members of a democracy are able to carry the heavy load which necessarily falls upon them. If he is right, a genuine democracy is still possible. Free speech which is not accompanied by administrative justice is empty wind. Accompanied by active justice, free speech can make a moral society. The American opportunity then, in Cahn's vision, is to transform private obligations and private virtues into social morality.

Such transformation depends upon an understanding of the individual's stake in actions taken in his name. And further it depends upon what he himself can do. Cahn distinguishes collective responsibility from individual responsibility. Collective responsibility divides into three kinds of activity: prevention, reparation, and protest. Individual responsibility is moral guilt, and we are given seven tests for our inner searching. With respect to any socially committed evil, ask yourself these bothersome questions:

- (1) Did I incite the official to commit a wrong?
- (2) Did I authorize the wrong?
- (3) Was I reckless in helping to install a conspicuously dangerous public instrument?
- (4) Did I remain silent or passive when I might have prevented a wrong about to be perpetrated?
- (5) Did I ratify the act of wrong or knowingly accept its fruits?
- (6) Did I suppress the truth when it came to my notice and thus become an accessory after the fact?
- (7) Before the wrong was committed, had I contributed to the vulnerability of the victim?

Even the members and friends of the Emergency Civil Liberties Committee have need to engage in Edmond Cahn's Self-Search! The results are not, of course, to be viewed as exonerating the principal culprits but rather as determining whether you are accessory to the crime. And furthermore, guilt is not a matter of subjective feeling only, but rather a matter of objective action. Cahn takes an example from outrageous official attempts to deport aliens, and he quotes Hugo Black's remark in the *Mezei* case of 1954: No society is free where government makes one person's liberty depend upon the arbitrary will of another.

To some readers, Edmond Cahn may seem to be concerned with a relic of Puritan sterility. Indeed his purpose is to show the decent man how to bear an intolerable guilt. But Cahn offers a penetrating clarification which makes several things attainable. Matters of private and public judgments about right and wrong, innocence and guilt, become rational. Individuals can become active but also serene, spontaneous and secluded as well as political animals. And to the democratic official Cahn offers a special Self-Search, which only the rare Just Official might face with equanimity. (At this point, Cahn needs Brecht).

There are other criticisms to be offered I suppose. Civil liberties are necessary for a just society, we may agree with Cahn. Are they sufficient? Cahn agrees they are not, as seen in his discussion of active and passive equality, and his fine gloss on the Declaration of Independence to the effect that all men are *to be created equal*, not merely found to be equal or treated as if equal. But he offers no theory of the frustration of liberty

in America, or of the corruption of those who rule over others by legal force or illegal subterfuge. Without offering us an understanding of power, of political and economic institutions and of human domination, we are left wondering about the kernel of the democratic predicament, as I see it: what is the political economy of freedom? It is an old puzzle but still a lively one throughout the world. Are there social and economic pre-conditions for a just society? or, are political liberties and individual responsibilities necessary before social and economic justice can prevail? It is depressing to observe how little chance the world has had to answer these questions with peaceful experiments.

Cahn is clear that the American experiment has only one decisive advantage: civil liberties. If we lose these, we lose all. If we preserve these, we may carry through the most noble experiment of history. But to preserve liberty, we must understand responsibility. There is no better guide to that understanding than Edmond Cahn.

PROGRESS ON ECLC TEST CASES

EXPATRIATION:

RUSK vs CORT. Case involved 1, the right of the Government to expatriate a native citizen who remained abroad "for the purpose of evading or avoiding training and service in the Military, Air or Naval forces of the U.S." and 2, whether such person could litigate the issue in the District of Columbia without returning to the country in person. Supreme Court decided the procedural question (2) in favor of Dr. Cort and ordered reargument in October 1962 Term of the substantive constitutional issue (1).

GUERRIERI vs RUSK. Following the Supreme Court's decision in the Cort case, the Court of Appeals affirmed a decision by District Judge Holtzoff declaring that the government was wrong in trying to deprive Mrs. Guerrieri, a naturalized citizen, of her citizenship. The decision revolved around the importance of a visit to this country by Mrs. Guerrieri. Judge Holtzoff in reversing the Government's stand held the visit sufficient to preserve citizenship.

CIVIL RIGHTS AND POLICE BRUTALITY:

THE REV. ASHTON JONES vs HARVEY D. TEASLEY. U.S. District Judge Dawkins held that the Rev. Jones's complaint against the Chief of Police and other police officials of Shreveport, La. and the Sheriff and Warden of Caddo Parish, La. did state a cause of action under the Civil Rights Act. The case will probably come on for trial before a jury in the fall of 1962.

EMERGENCY CIVIL LIBERTIES COMMITTEE

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The Emergency Civil Liberties Committee was formed in 1951 to give uncompromising support for the Bill of Rights and the freedom of conscience and expression it guarantees.

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