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Samuel Grafton Defends Free Speech In the New York Post

Free speech is sick in our country today; it is at least suffering from scattered local ailments, if not from a general malaise—and it is not going to be cured by the Supreme Court's decision in the case of the Rev. Mr. Arthur W. Terminiello.

The Rev. Mr. Terminiello was convicted in Chicago of disorderly conduct in breaching the peace by a sensational 1946 speech in which, according to a Supreme Court Justice's summary, he attacked Mrs. Roosevelt, Wallace, Morgenthau and Jews. The Supreme Court has reversed this conviction, rejecting the trial court's construction of a local ordinance on breach of the peace, even though the Rev. Mr. Terminiello's speech was delivered in an atmosphere of tension, with a hostile crowd milling outside the hall, and responding with great anger to the speaker's opinions. In delivering the 5-to-4 majority's decision, Mr. Justic Douglas nobly holds that speech is "often provocative and challenging" and upsetting to people, "as it presses for acceptance of an idea," and that therefore it must be protected against punishment unless the danger it seems to produce "rises far above public inconvenience, annoyance or unrest." A speaker has a right, in other words, to be annoying, or even infuriating, and the public can do nothing about it.

One can well believe that Mr. Justice Douglas and those who voted with him, Justices Black, Murphy, Rutledge and Reed, are not at all in sympathy with the Rev. Mr. Terminiello's opinions, as expressed in the Chicago speech, any more than are the four minority Justices, and that therefore the Court has given us a glowing re-enactment of Voltaire's famous crack about disagreeing, etc., but defending to the death, etc., etc. Check. Very good. The decision is a sound one, and I am happy it was handed down. Love that free speech.

But there is a danger involved in this legal incident, taken as a whole, as a social-judicial phenomenon, and I want to point out what the danger is. The danger is that we are going to become too fond of ourselves because of this decision, too proud of ourselves, too easily convinced that free speech has been saved in a difficult time—when, as a matter of fact, the real, actually existing danger to free speech today is not touched upon in this decision at all. The danger to free speech today is not that the police will prosecute rightwing speakers, but that, in increasing areas around the country leftwingers are, because of private opposition, being denied forums. The sad point highlighted for us by the Supreme Court's decision is that the real peril to free speech today is quite beyond the power of the courts to act upon.

The Court has acted to protect a man's right to speak freely when he stands on a platform, but that must be small comfort to followers of Wallace, for example, or devotees of other unpopular causes, who find themselves denied the use of platforms, as in the case of campus speaking facilities, etc. In a democracy, every citizen is a member of a kind of larger supreme court, handing down fundamental decision by his every act, and the orthodoxy which is gradually creeping over us is limiting freedom of speech in a way that no formally constituted tribunal can counteract.

I am in political opposition to Mr. Wallace, but I often find myself feeling sick over the humiliations to which he is subjected, and, especially, the gleefulness with which, on occasion, those seem to be administered. In this area the Supreme Court cannot act at all. The free speech problem of 1949 is not that of over-zealous police action against individuals; it is that of community unconcern about the denial of rights and privileges which were once taken for granted. Here the decision has to be made within ourselves, and in our rejoicing over the Court's disposition of a 1946 free speech problem, let us save a corner of our concern for the special and characteristic free speech problems of 1949.

Who Should and Who Shouldn't?

A question hammered over our radios daily is this one: Who should and who shouldn't be granted scholarships for atomic energy studies?

Some say, "Certainly not the Communists." While others contend that a man's political views should in nowise interfere with his citizenship rights.

These issues arose when a scholarship was awarded to Hans Freistadt, an Austrian-born graduate of North Carolina University, who openly declared that he was a full-fledged Communist.

If the question is solely that of a man's political views, there should be no argument. He should be entitled to the scholarship. But there are those in our government who are bent on hurling

the political tools of Big Business.

Hans Freistadt's frank statement that his belief in the principles of Communism did not alter his loyalty to his government, the United States of America—spoken in the open, expresses far greater faith in our government than all the "loyalty tests" foisted upon the people by Jack Tenney and other members of the Un-American Committee.

When Chickens Come Home to Roost

Just about two years ago ten citizens of America in the top rank of entertainers in Hollywood, were brought before the House of Representatives Un-American Activities Committee and were questioned unmercifully concerning their political beliefs. They were writers, actors, producers.

Those ten American citizens known as "The Hollywood Ten," stood upon their constitutional rights of not answering some of those questions. Notably one: "Are you now or have you ever been a member of the Communist Party?" They declared the Constitution of the United States guarantees every citizen the right to believe what he wishes in religion and in politics. And they refused to answer that question.

Because they refused to answer, the Un-American Committee, then headed by one Congressman Thomas who has since been indicted for attempting to cheat the United States government, declared they were guilty of contempt of Congress.

As a consequence of this stigma, their jobs were taken from them in Hollywood. The brave, progressive, forward-looking spirit of Hollywood, which had made "The Blockade" and had served its country well during the war by producing pictures that helped cement friendship among the allies, including Russia, this spirit drooped and finally trailed away in the darkness.

Nothing progressive, nothing forward-looking, nothing even remotely suggesting that we might be friends with the USSR, or that the spirit of Communism was not so black as painted by the un-American Committee, was permitted in the same room with the powerful motion picture producers of Hollywood.

But it is a long lane that has no turning. And, Brother, chickens do come home to roost.

The motion picture moguls are finding that out today. The "Hollywood Ten" have turned the tables. They have sued nine Hollywood studios, a producers association, and 200 John Does for damages amounting to a total of $51,858,975. They have made it an anti-trust suit, charging that the studios have conspired in killing their stories, in denying them employment, in a manner altogether illegal.

The significance of this suit, aside from the immense amount of money involved, was explained by Robert W. Kenny, one of the lawyers for the Hollywood Ten, at a meeting held last evening (Wednesday) in the El Patio theatre.

The damages sought are three times what they actually lost, according to their accounts, but according to the law they are allowed to ask that much if they feel there is a conspiracy that suggests a trust being formed among the producers. They have said that is the case.

And now the producers, the ones who fired their writers and their actors, are on the defensive. To pay the full amount would ruin almost any corporation in America. It may not ruin the motion picture Big Business men. But it surely will cripple them.

But they're simply getting what they had dished out to their employees. Their chickens are coming home to roost. And they're squawking loud and long.

Roybal for Council

The 80-year-old Parley Parker Christensen's long career as member of the City Council from the 9th District, has been an honorable one. Come July, there will be the beginning of a new term.

But perhaps not since Mr. Christensen has been in office have the people in the Ninth District had an opportunity to place in office one of their very own.

Edward R. Roybal is a true son of the District. He is the real Voice of the working people, and if elected will be the exponent of a better life for the struggling masses whose children are suffering from mal-nutrition because their parents are not able to pay the high prices for food. Suffering from polio and other dreadful diseases due to the rat and cockroach shacks they are forced to live in.

The young girls and boys tempted to lead lives of crime because their surroundings, such as play spots and other places of recreation are mean and ugly, void of the beautiful trees, flowers, and shrubbery that surround and make Hollywood, Beverly Hills, and other sections of the city almost heavenly.

These are the things Edward R. Roybal knows from the ground up. These are the things he will know how to fight. And these are the things he will fight with all his heart and soul, to make the Ninth District as a part of Los Angeles, one of the beauty spots and home-like spots of this City of the Angels.

The California Eagle proudly and unreservedly endorses Edward R. Roybal for member of the City Council from the Ninth Councilmanic District. He will be a real representative of his people.

No CIO Edict . . .

In all its majesty and power, the CIO executive board has declared that Maurice Travis, secretary-treasurer of the Mine, Mill & Smelter Workers is not blind.

And it has officially rebuked Mine, Mill for "villification, calumny, slander, falsehood" when it asserts the contrary and insists that Travis lost one eye after an attack by officials of the CIO Steel Workers.

But now comes the terse bulletin that Travis' right eye was removed at Passavant Hospital, Chicago, in order to forestall total blindness in both eyes.

This is a medical fact. No majority votes in the CIO executive board can change it. Threats of expulsion against left-wing unions will not restore Maurice Travis' right eye. And pompous CIO edicts full of falsehood will not forever obscure the truth from the millions of CIO members.

THE BIG MAN WOULDN'T TALK . . . Uncle Tom's son . . . Ah takes ordahs from the Big Man and Ah gives 'em t' you . . . and Ah don't want no back talk. But they must clear with the five wise men who speak for the people.

+ Letters to the Editor +

Los Angeles, California
May 22, 1949

To the Editor:

It is hard to believe that the present leadership of our Los Angeles Branch of the NAACP has the best interest of the Negro people at heart.

When one witnesses the fear that gripe Mr. Griffith and Company when a new idea is introduced that might necessitate action on the part of the branch, but which action is necessary to the **building** of the branch; or when one witnesses the discouragement received by young people, desirous of doing branch work on committees, or neighborhood work, aside from securing memberships from which no one is barred; or when one observes the way in which those membership meetings are conducted, especially the amount of **time** given the **rank** and **file for discussion** of old business and motions pertaining to new business—none at all; and the way that **delegates** and chairmen of committees are chosen—appointment in most if not all cases, hardly ever by the vote of the membership, (watch the forthcoming delegates to the National Conference).

Any objective person will draw the conclusion that Mr. Griffith and Company are not desirous of activating as much of the membership as possible, or interested in the least in advancing the cause of the Negro people. This group is a narrow-minded stumbling block in the path of the advancement of the Negro people.

I suppose that Mr. Griffith has received a number of congratulations by this time for keeping the Local Branch "safe" as stated in one such letter a couple of years ago from Leonard Roach, County Supervisor, addressed to Griffith.

Yes, if "safe" means inactive, stifling of all progressive thought, or strangulation, Mr. Griffith is a success, but the final word has not yet been said. For if this leadership believes that by so conducting themselves they will permanently hold in abeyance the expression of the Negro masses for justice and equality, they are so wrong, if history is any gauge. I want to remind them that **nothing is permanent.** The NAACP, itself, was organized in the early nineteen-hundreds because the existing organizations of that period did not express the feeling of the Negro people, nor did they take up the struggle militantly for the Negro people, thus making it necessary for some other organization that would meet the requirements to come into existence. The NAACP did meet and has met the requirements for some forty years in one form or another, but that does not give it a guarantee of permanent existence.

Any organization must continuously express the **feeling** and desires of the people it represents. In order to do this, the **represented** must be allowed if not requested to **express** its **opinions** frequently. If not, which is true in our case, the **represented** is often **misrepresented** and turn away displaying little interest in the organization. The less the organization represents the Negro people, the smaller the membership becomes. Hence, the condition is created whereby some other organization can win the [illegible] the representative of these people.

I am hoping that the leadership of the NAACP will prevent such from happening by making the necessary changes in time. Nevertheless, all the hopes in the world will mean nothing unless Mr. Griffith and Co. forget about personal prestiges and other advantages for themselves and begin thinking about the Negro people as a whole.

If steps are taken to democratize the organization here, and young people are encouraged to **take the lead,** fifteen or twenty thousand memberships would be a cinch here in Los Angeles. Especially so, when there is a population of some 150,000 Negroes. Although I am going to do all I can as an individual, that won't stop the downward trend unless policy changes are made on the part of the leadership.

I challenge Mr. Griffith and Company to prove that they are working in the best interest of the Negro people by taking steps to right the wrongs mentioned here dealt the membership of the National Association for the Advancement of Colored People. Future events will decide whether or not these words were considered seriously.

Very truly yours,
Eugene E. Purnell
1303 E. 109th Street

(The following letter from Rev. John H. Owens, associate editor, SPAN Magazine, tells pertinently in a few words the dangers of the North Atlantic Pact.)

Editor, California Eagle,
42nd and Central Ave.,
Los Angeles, Calif.

Dear Editor:

There is much confusion in the minds of the people concerning the "North Atlantic Pact." Especially should that group of citizens which is already at an economic and social disadvantage, understand its implications with relation to the social order in which they must function. Obscure thought and reckless speech is the bane of the great masses of people.

To begin with, despite any fancy phrases which may be used to describe the pact, in my considered opinion the "North Atlantic Pact," is definitely a war measure, an offensive weapon and not a weapon of defense because it is not a bilateral treaty, but a multilateral treaty which creates a closed grouping of states and what is particularly important, absolutely ignores the possibility of a new German aggression, consequently not having as its aim the prevention of a new German aggression.

In international diplomatic tradition, closed multilateral treaties are usually considered as war instruments. Now the great **powers** today, if there are any great powers, are considered to The United States, Soviet Russia, England and France. Now since **these nations** would not have to invoke a defensive treaty against a smaller or weaker state, it is obvious that this is to be a weapon of offense to be directed against some large and powerful state.

Such great powers as the Unit[illegible] Britain and Fra[illegible] the North Atla[illegible], the treaty is n[illegible] either the Unit[illegible] Britain or [illegible] from among the parties to this treaty, which can be explained only by the fact that the Pact is directed against the Soviet Union, or other countries of peoples' democracies.

Since, as I have pointed out, the Pact does not have as its aim the repetition of a new German aggression, which nation has been the only serious threat to world peace by provoking two world catastrophies within a single generation, and inasmuch as, of the Great Powers which comprised the anti-Hitlerite coalition, only the USSR is not a party to this treaty, the North Atlantic Treaty must be regarded as a treaty directed against one of the chief allies of the United States, Great Britain and France in the late war.

Now since the only country left out is the Soviet Union, one might be safe in speculating as to whether this treaty is directed against that nation. Could it be that the Pact is designed to daunt states which do not agree to obey the dictates of the Anglo-American grouping of powers that lay claim to world domination even though the untenability of such claims was once again affirmed by the Second World War which ended to the debacle of fascist Germany which also had laid claim to world domination?

Rev. John H. Owens,
Associate Editor,
Span Magazine

Dear Mr. Lee:

Your article in the California Eagle dated May 12th was a source of great encouragement to us and we heartily agree with the sentiments expressed therein. Newspapers mold public opinion and certainly this is a time when West View must have the undivided and wholehearted support of each and every one.

West View has been endorsed by the City and County of Los Angeles, the State Department of Public Health and by the Federal Government. In February 1949, the Federal Government gave us a commitment of $140,000 as an outright grant, providing we can raise our share of $280,000 by July 1, 1949.

You can see that reading words of appreciation, such as yours, means a great deal to us in this hour of our greatest struggle. Again thanking you, we are

West View Hospital, Inc.
Allen C. Woodward,
3rd President

May 24, 1949.

The California Eagle,
Los Angeles,
California.
Gentlemen:

It has just been brought to my attention that you published, under date of May 12th, an editorial under the heading "The Sidewalk," some comments relative to the situation at Lake Elsinore.

We are pleased to see by this publication that you have an open mind and are willing to publish both sides of the controversy—which has not been done in some of our local publications.

Thanking you for your attitude in this matter, I am

Very truly yours,
G. R. Conklin[illegible] Major, C.N.G.

Statement by Bar Committee Against Test Oath Bill for Lawyers

The State Bar Association, in its fight to avoid the shackles that are threatened by Tenney Bill No. 298, has issued the following statement. They ask your help to prevent this bill from becoming a law.

Aimed at lawyers as the members of a named profession, Senate Bill 298 confronts the Bar four square with the current "loyalty oath" program. Believing Senate Bill 298 to be politically unsound, philosophically unwise, and legally unconstitutional, we set forth our views herein and call upon our fellows in the profession to join us in opposition to the proposed law.

At first blush S.B. 298, setting up a test oath for lawyers as a condition to the continued practice of their profession, and to admission therein, may appear innocuous. The question will be asked, "Why should not a lawyer be willing to sign this oath?" The real question is whether the government is to be given power to censor the lawyer's ideas, his representation as a counsellor and advocate and his community and civic activities.

We apprehend that the author of this lawyer's loyalty oat bill and his somewhat impassioned followers, when confronted by our public and continued attack upon his measure, will hurl the hoary charge of "fellow travelers" or the even less polite term "dupe." But the issues at stake are far too grave to permit surrender of historic guaranties to those whose objective is to paralyze by fear in order to control by fiat. Similar challenges to constitutional rights have in the past been met and repulsed by an enlightened bar.

The bar has a long and honorable tradition of battle in defense of the civil rights of others.* It is now incumbent upon the members of the bar of this State to do battle on behalf of their own civil rights. For there are only two alternatives in the face of SB-298—either abject acquiescence in the proposition that the Legislature may prescribe how a lawyer shall think, what he may say, and with whom he may associate, or unceasing resistance to such encroachment upon our rights as lawyers and as citizens.

At present the lawyer, as a condition of admission to the bar is required—and is proud—to take an oath to support the federal and state constitutions. Why, then, should a lawyer now be required to give an additional oath relating to his beliefs, his advocacy, his associations? What is the purpose of such a requirement? What will its effects be upon the lawyer both as citizen and as member of the bar? It is the purpose of this memorandum to deal with these questions and to answer them.

S.B. 298 WOULD UNDERMINE THE LEGAL AND TRADITIONAL OBLIGATIONS OF THE LAWYER AND WOULD RELEGATE HIM TO SECOND-CLASS CITIZENSHIP

The bill requires adherence to the Constitution, not as interpreted by the courts, but as by the Committee on Un-American Activities.

The purpose of the legislation is not to measure the fitness of an attorney to practice by his adherence to the constitution of the state and nation. This is already provided for in existing law whereby every attorney upon his admission is required to "take an oath t osupport the Constitution of the United States, the Constitution of the State of California, and faithfully to discharge the duties of an attorney at law to the best of his knowledge and ability." (B. &P. Code, Sec. 6067) The bill would extend the meaning of the oath by defining such adherence so as to exclude from practice those who by speech or organizational activity had expressed views falling within the sweeping ambit of the bill's proscriptions. Thus, as a condition of practicing law, the attorney must demonstrate not adherence to the Constitution as interpreted by courts and the practices of a democratic people but as interpreted by Senator Tenney and his legislative committee or by Congressmen Thomas and Dies and Rankin and the Congressional counterpart of Tenney's Committee, or by the Attorney General of the United States.

How, under such circumstances, will a lawyer's representation of persons alleged to be advocates of force and violence or of support of a foreign government be construed? Can a lawyer safely take a position one way or the other on this country's foreign policy without fear that as a result he may be faced with a charge of support to a foreign power endangering his right to practice law? Will a lawyer be free, without fear of injury to himself to undertake representation of clients and to take forthright positions according to his own conscience and belief? Or must he at every turn say to himself: What will Tenney think; will Thomas approve; will this pass muster with Rankin; does this have the Attorney-General's approval?

The bill would permit intimidation of lawyers to induce them to decline representation of minority persons or groups because of fear of being called disloyal and thus to violate their duties under present law.

[illegible] clude, among other things, the obligation,

"Never to reject, for any consideration personal to himself, the cause of the defenseless or oppressed." (B. & P. Code 6068 (h).)

The proposed legislation would by fear of disbarment put pressure upon the attorney to forsake this duty. The organizations listed by the Attorney General and the Congressional Un-American Committee have, by and large, been the dissident, minority groups on the left. One may agree or disagree with their programs, but the attorney has a right, and a duty, to give them counsel on the same conditions as others. In this the bar has traditionally performed a courageous role in defining and preserving the dignity and liberties of individual citizens. When Charles Evans Hughes, Morgan J. O'Brien, Louis Marshall, Joseph M. Proskauer and Ogden L. Mills defended the right of five Socialist Assemblymen to sit in the New York Assembly in 1920 and struck out at the "Lusk Committee" (the New York prototype of the Tenney Committee), it was not because they believed in what the Socialists believed in but because they knew that American freedom depended on the right of all men to be free to believe and to advocate whatever they chose. When, in 1939, the "Committee of the Bill of Rights of the American Bar Association" argued to the Supreme Court in Hague v. C.I.O. (307 U.S. 496) in support of the rights of freedom of speech, assembly, affiliation and association of alleged radical organizations which had been forbidden to exercise those rights in Jersey City, it was not because the Committee was in sympathy with the objectives or belief of those organizations but because its members knew that the preservation of their own rights depended upon a system of law which preserved the rights of others. No member of the bar can afford to sit idly by today when the civil rights of members of the profession are under attack, resting upon the false assumption that one's own orthodoxy today will protect him tomorrow.

The attorney would, by S.B. 298, be subjected to coercion to be false to this tradition of his calling and to his obligation under the law, for his representation of dissident groups could be used to identify him with their policies and might, as it has been the case recently,** lay the basis for a charge o fmembership in an allegedly proscribed group. History tells us all too vividly of the abuse heaped upon those who in the past placed professional duty ahead of personal welfare—upon Jefferson for his representation of persons accused under the Alien and Sedition Laws, upon Richard Henry Dana for his defense of those accused under the Fugitive Slave Law, upon Governor Altgeld who was so conscientious as a lawyer that he sacrificed his political career to free men whose convictions were obtained without a fair trial.

Recent experiences before legislative Un-American committees have repeatedly seen lawyers denounced as "subversive" and "un-American" because they represented, before these committees, individuals and organizations whose views and policies the committees had denounced. The records of the House Committee on Un-American Activities is filled with reckless condemnations as "subversive" of lawyers who have represented individuals or organizations distasteful to the Committee.

The Attorney General's list of "subversive" organizations includes groups which have been organized around litigation in which the constitutional rights of representatives of minority groups have asserted—AND defended successfully. These include the Schneiderman-Darcy Defense Committee (As noted above, Schneiderman was represented in the Supreme Court by Wendell Willkie and his position was sustained by the court, Schneiderman v. United States, 320 U.S. 118); and The Citizens Committee to Defend Harry Bridges (It will be recalled that the United States Supreme Court set aside the deportation order against Bridges, Bridges v. Wixon, 326 U.S. 135. The House Committee on Un-American Activities has similarly condemned the Sleepy Lagoon Defense Committee which was organized in connection with the defense of 12 Mexican-American youths who had been charged with murder and denied the constitutional right to consult with counsel at their trial. On appeal, the convictions were reversed and the cases were later dismissed, People v. Zammora, 66 Cal. App. (2d) 166.

Thus the lawyers who had truly defended the Constitution in the courts in those cases could find themselves, under S.B. 298, forbidden to practice their profession just because of their devotion to the Constitution. Because it is the lawyer's duty to represent the dissident and un-