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I have been severely criticized by some of my friends for having agreed to speak to you this evening. Lest this seem too blunt a statement, let me point out that in times such as we find ourselves now living, there is great need—an ever-increasing need—as suspicion and mistrust of one’s neighbors spreads throughout the world—for an organization which seeks to protect those who espouse new and unorthodox ideas and see that they are accorded the individual liberties and freedoms which are the heritage and right of every free American. As Americans we have rights preserved for us by our forefathers, but we also have correlative duties. The primary is to save and protect the America which we depend upon to save and protect us—to uphold the Constitution and its Amendments as we seek to have it uphold us in our rights, liberties and freedoms. To those of you who feel as I do that this is a great country, deserving of our deepest pride, our greatest loyalty, our greatest sacrifice, I address this talk tonight. To those persons who would substitute a totalitarian dictator— for the form of government we now have, I would recommend their immediate departure so that they may live under a government of their choice. I am unable to understand how anyone who
has been the recipient of the benefits, the opportunities and the privileges which this country has to offer, can be so misled that he would subscribe to any movement that has for objective the overthrow of this Government by force.

It is because there has been criticism of the views and conduct of some members of this organization that my friends have criticized me for speaking here tonight. But because I believe, with all my heart, that every person is innocent until proven guilty beyond a reasonable doubt, and because I believe in freedom of speech, together with all of the other freedoms enumerated in the Bill of Rights, I accepted your invitation.

I believe I can say without reservation that I no fear of personal consequences. I have a philosophy which I believe is peculiarly American because it is postulated upon the basic concepts of liberty and freedom embraced in our fundamental law—the Declaration of Independence and the Constitution of the United States. While these concepts still sway the American heart, they are being challenged by demagogues who are spreading philosophies of fear, hate and intolerance which are preying on the minds of hopeless and frustrated men.

Fear is the most devastating and costly force in the world today; it makes puppets out of those who fall under its spell; it makes dictatorships and totalitarian governments possible. War with its terrible cost in lives lost, lives ruined,
bodies maimed, and the accompanying cost in dollars and cents in endeavoring to rehabilitate those who have been deprived of loved ones, homes, livelihood, the astronomical cost of re-building not only cities but entire countries, is the aftermath of fear and hysteria. President Roosevelt was right: The only thing we have to fear is fear itself, because fear leads to hatred of one's fellow men and such hatred leads to war.

The situation in which we find ourselves now living should be considered in the light of the terrifying power of fear. The world is divided into hostile factions each with its own interests, all of which are adverse one to the other. Nations are spending themselves into bankruptcy not only so far as money is concerned but, more important, so far as manpower is concerned. To paraphrase Lincoln, a world divided against itself cannot stand.

Fear brings about another grave problem. In a country where fear has the upper hand, and distrust of one's neighbor prevails, any person who has an idea or philosophy different from that shared by the majority of the people is a pariah, one to be shunned, and feared most of all. Inasmuch as this is a country of government by a majority, such fear of new, or different, or unorthodox philosophies leads to legislation directed at suppressing such philosophies or theories. Suppressive legislation is contrary to our Constitution and its Bill of
Rights which guarantee freedom and liberty to every man. Suppressive legislation is not in accord with the ideals of democracy and the America which our forefathers sought to establish. Fear, hate and hysteria should not be substituted for laws and decisions based on reasoning, common sense and evidence.

Hatred of unorthodox ideas is not a guarantee of love for democracy and its ideals. One may vocally protest faith only to have his actions belie his words. In other words, the truth of democracy must be lived; we must see that our legislation and our court decisions do not controvert the great principles of truth, liberty, justice and democracy for every man laid down for us to follow by the Constitution and the Bill of Rights. Suppressive legislation and qualifying court decisions based on spurious reasoning are, in reality, lies used to conceal the fear and hysteria which engendered them. One falsehood leads to another with the result that more and more concealing must be done to obviate the danger of exposition of the first concealment.

If on the other hand, fear and hysteria is recognized for what it actually is and dealt with accordingly, we shall only be doing what is in consonance with the truth of a democracy and the principles of the Constitution. It appears to me that it is time again for all of us to remember what Jefferson said in his First Inaugural Address: "If there be any among us
who would wish to dissolve this Union or to change its republi-
can form, let them stand undisturbed as monuments of the safety
with which error of opinion may be tolerated where reason is
left free to combat it." Truth brings courage and trust to all
who know and love it. God's promise, "Ye shall know the truth
and the truth shall make you free," stands as a rainbow of hope
and a beacon of light in the stormy darkness of these days. As
seekers of truth let us turn to those things which are self-
evident--basic concepts of freedom and liberty which are found
in our fundamental law--the Constitution and Bill of Rights.

When each phrase of the great Preamble to our Constitu-
tion is thoughtfully considered, there is no need to resort
to far-fetched theories to determine the intent of our forefathers
as they framed it and the first ten great amendments. The Con-
stitution and its Amendments were written by men who had suffered
persecution and tyranny and were imbued with the firm resolve
that this should be a country of free men. They undoubtedly
felt as Thomas Jefferson did, when he wrote to Benjamin Rush:
"I have sworn upon the altar of God eternal hostility against
every form of tyranny over the mind of man." As depicted by
Mr. Justice Brandeis in Whitney v. California, in words that
will forever be a part of America's heritage: "Those who won
our independence by revolution were not cowards. They did not
fear political change. They did not exalt order at the cost
of liberty. To courageous, self-reliant men, with confidence in the power of free and fearless reasoning applied through the process of popular government, no danger flowing from speech can be deemed clear and present unless the incidence of the evil apprehended is so imminent that it may be fatal before there is opportunity for full discussion. If there be time to expose through discussion the falsehood and fallacies, to avert the by the processes of education, the remedy to be applied is more speech, not enforced silence."

The first ten amendments, or the Bill of Rights, were intended by our forefathers as a bulwark, or shield for the individual. It was felt necessary to enumerate certain inalienable rights in order to protect the individual against every form of tyranny, and to insure domestic tranquility, the general welfare, the common defense, so that to us, and our posterity, might be secured the blessings of liberty. What our forefathers fought to achieve for this great country was a democracy. In writing the Constitution and the Bill of Rights, they laid the foundation for our democratic way of life, but that was all they could do because democracy is not a finished project—it is, and should be, subject to change and growth. As our world changes and progresses, the laws, their interpretation and construction should change also. Social conceptions must constantly be retranslated re-expressed in contemporary language to accord with contemporary conditions. The framers of the Constitution had the ideal
of freedom for every man in mind--it is the duty of the lawmakers and the courts of today to preserve those freedoms set forth in the Bill of Rights by their interpretation in the light, not only of past, but of present day conditions.

The Bill of Rights guarantees, among other things, freedom of speech, of the press, of religion and the right of peaceful assembly; the right to be secure in one's home; the right to trial by jury; and guarantees that one's life, liberty or property may not be taken from him without due process of law. It is the duty of the courts of the land, and, in the last analysis, the Supreme Court of the United States, to see that these guarantees are, in fact guarantees, and not mere empty words. It may be conceded at the outset that these freedoms are not wholly unqualified; they must be exercised reasonably with the welfare of the people as a whole in mind. But as Mr. Justice Jackson said in the Barnette case (West Virginia v. Barnette, 319 U.S. 624), "The very purpose of a Bill of Rights is to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections."

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It is my purpose tonight to tell you how, in my opinion some of these basic freedoms are being challenged, or, in other words, how the qualifications are being extended, thereby leaving less of the freedom which is guaranteed to the individual.

One of the ways in which the individual's freedom is being encroached upon is by injudicious legislation effected by a non-liberal judicial interpretation. The so-called loyalty oaths are an example. The concept that a person exposed to subversive activity may be immunized against such exposure by the taking of a loyalty oath opens the door for vast exploration in the field of metaphysical research. While this process is taking place, the loyalty of every public employee is impugned even though he has taken an oath to uphold the Constitution of the United States and has obeyed it religiously. Conceding that "eternal vigilance is the price of liberty," it should not follow that vigilance against disloyalty of public employees requires that they be dismissed from their positions without being accorded due process of law. Because of legislation enacted within the last decade, guilt is established by association, organizations may be classified as subversive with no reason therefor disclosed and upon secret information. The trial of the issue of the loyalty of a citizen may be had upon secret, undisclosed information obtained from unknown persons or secret agents and without granting the accused person the safeguards
ordinarily afforded in the trial of both civil and criminal cases under our Constitution. "The standards by which guilt or disqualification is established have been progressively broadened. Proof of overt acts has been replaced by appraisal of beliefs or expressions. Proof of guilt beyond a reasonable doubt has given way to proof of a reasonable doubt as to innocence.

"As standards of guilt have broadened, procedural safeguards have been narrowed in unprecedented fashion. Persons have met with secret, undisclosed information furnished by anonymous sources, and have been afforded no hearing in any realistic sense...." ("Changing Attitudes Toward Freedom," John Lord O'Brian.) These procedures are alien to our judicial system, so they are being conducted by administrative officials who possess broad powers to determine the issues of individual liberty—all of which involves the guarantees contained in the Bill of Rights. Mr. Justice Frankfurter has emphasized the necessity of fair play in this field and suggested that elemental conditions of fair play ought to be imported into the constitutional guarantees of due process of law in order to preserve its basic meaning (Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123, 149, 162).

In an excellent article entitled "A Prayer for the President" (Saturday Review, January 17, 1953), Mr. Herbert Agar
says "And worst of all, we commit our follies [legislation] in such a hurry, and at times with such attendant discourtesy, that we suggest to a worried world that we must be scared or hysterical. The suggestion is unjust; but it arises from our own acts and it does us damage. Who wants a frightened ally?"

As an example, he cites the law which excludes from the United States (even when on a visit) any alien "who is a member of, or affiliated with, any organization that displays any printed matter advocating the overthrow by force of the United States Government, the unlawful damage to property, etc...." He notes that this, as he calls it, "lunatic" provision would, if taken seriously, ban any official of the British Museum, or of other great library in the world, either public or private, and that it suggests to the world that we were in a "stampede" when we accepted such nonsense. He suggests the hypothetical, but not impossible, case of a famous European man of letters who has been requested to appear in the United States and who given "insulting" papers to fill out--insulting because they presuppose that he is a potential enemy who must prove his innocence. He says "Is this the way we want our America to behave? Would any American accept politely such treatment from a foreign government? And in any case, what are we scared about? So long as we exclude our casual visitors from places of secrecy like Los Alamos, what do we care whether they have always admired us? If they were allowed to see us here at home--friendly,
decent, wanting no harm—might we not hope to convert them? Or can we improve their opinion of us by insulting them?"

Historical experiences demonstrate that test and inquisitorial oaths are tools in a political battle, that under the pressures of the times their scope expands, that they often injure innocent bystanders, that they are an integral part of an arsenal of legal barbarities. (Samuel M. Loenigsberg and Morton Stavis, members of the New York Bar; from article in 11 Lawyers Guild Review, pp. 111-127.) So far as the recent University of California loyalty-oath controversy is concerned, the dismissal or departure of the professors who refused to sign, and about whom there had never been the slightest stigma of subversive activity or belief, lost to the University the services of some of its most eminent teachers. Is this upholding the freedom of thought, expression, and belief which are guaranteed to us by the Bill of Rights? Universities, until the recent hysteria and witch-hunting regime became effective, always taught students what the differing political philosophies of the world were, leaving it to the logic and reasoning of student to decide, as he must of necessity decide, that the democratic way of life provides the greatest opportunity for advancement. But his reasoning is then based on a knowledge of all the facts. He has not made a decision, if it could be called that, based on the teaching of only one philosophy. Such a state of affairs reminds me of the man who told his tenant
he had one choice—to get out! A decision which has been made after learning all the facts is in accord with the "freedom of thought" guaranteed to us. Man is a reasoning animal—he think things out for himself—he does not want to have his knowledge, or his education, "spoon fed" to him. He wants to read and listen, and make up his own mind. If we proscribe the teaching of differing philosophies in our universities, are we also to take the books relating to such philosophies from our library shelves? Does this promote a democracy where every man is entitled to his own belief? Is this freedom of speech?

In California's recent loyalty oath cases where the loyalty oaths were upheld on the ridiculous theory that they did not differ from that prescribed by the California Constitution, I dissented. I say the theory was ridiculous, and merely a means to an end, because the loyalty oath under consideration looked backward and demanded to know what organizations any prospective, or present, employee had belonged to in the past preceding five-year period, whereas the constitutional oath merely required the employee to support the Constitutions of the United States and California, and to undertake the duties of his employment to the best of his ability. It now appears that the Supreme Court of the United States, in Wieman v. Updegraff, has held an Oklahoma loyalty oath unconstitutional. The Oklahoma loyalty oath is almost identical to that involved
in the California case and that which is now prescribed by our Constitution as the result of an amendment adopted on November 4th, 1952. The Supreme Court in the Wieman case specifically held that "indiscriminate classification of the innocent with knowing activity must fall as an assertion of arbitrary power. The oath offends due process." In other words knowledge of the illegal nature of the organization is now directly made an indispensable element.

At this point, I cannot refrain from quoting the words of warning contained in the powerful concurring opinion of Mr. Justice Black in the Wieman case: "History indicates that individual liberty is intermittently subjected to extraordinary perils....The first years of our Republic marked such a period. Enforcement of the Alien and Sedition Laws by zealous patriots who feared ideas made it highly dangerous for people to think, speak, or write critically about government, its agents, or its policies, either foreign or domestic. Our constitutional
liberties survived the ordeal of this regrettable period because there were influential men and powerful organized groups bold enough to champion the undiluted right of individuals to publish and argue for their beliefs however unorthodox or loathsome. Today, however, few people and organizations of power and influence argue that unpopular advocacy has this same wholly unqualified immunity from governmental interference. For this and other reasons the present period of fear seems more ominously dangerous to speech and press than was that of the Alien and Sedition Laws. Suppressive laws and practices are the fashion.

Oklahoma oath statute is but one manifestation of a national network of laws aimed at coercing and controlling the minds of men. Test oaths are notorious tools of tyranny. When used to shackle the mind they are, or at least they should be, unspeakably odious to a free people. Test oaths are made still more dangerous when combined with bills of attainder which like Oklahoma statute impose pains and penalties for past lawful associations and utterances.

"...Our own free society should never forget that laws which stigmatize and penalize thought and speech of the unorthodox have a way of reaching, ensnaring and silencing many more people than at first intended. We must have freedom of speech for all or we will in the long run have it for none but the cringing and the craven. And I cannot too often repeat my
belief that the right to speak on matters of public concern must be wholly free or eventually be wholly lost." (Emphasis added.)

I agree with everything said by Mr. Justice Black and, in addition, I want to say that to my mind those who rush to take loyalty oaths, are, in effect, guilty of violating the vows they had previously taken to uphold the Constitution of the United States, because the so-called loyalty oaths are repugnant to the very spirit of our Constitution. In so doing, they pay lip service to the Constitution but ignore its plain provisions.

The freedom of speech guaranteed by the First Amendment, and read into the Fourteenth by implication, was qualified by Mr. Justice Holmes' "clear and present danger" test. (Schenck v. United States, 249 U.S. 47.) In the Dennis case (Dennis v. United States, 341 U.S. 494), even the qualification was qualified. Mr. Justice Holmes had felt that speech might be limited if it was likely to lead immediately to some dangerous act. In the majority opinion in the Dennis case, it appears that any speech may be forbidden if there is even any threat of the overthrowing of the government. Mr. Justice Douglas, in a great dissent, said that speech alone cannot be proscribed unless an immediate injury to society is likely if the speech is allowed; unless it appears that "Immediate serious violence was to be expected or was advocated, or that the past conduct furnished
reason to believe that such advocacy was then contemplated." He said that advocacy alone was not enough; there must be incitement or indication "that the advocacy would be immediately acted on." He also said that "Unless and until extreme and necessary circumstances are shown, our aim should be to keep speech unfettered and to allow the process of law to be invoked only when the provocateurs among us move from speech to action." The essence of the Dennis opinion is that eleven "miserable merchants of unwanted ideas," as Mr. Justice Douglas called them, could be shipped off to jail for the expression only of political ideas. It may be conceded that the security of the country as a whole is the dominant factor in all our lives and thoughts, but should not Justice Holmes' test that the danger be clear and present—in the sense of immediacy—be a sufficient qualification on freedom of speech? Nothing in any opinion in the Dennis case intimates that any danger was present, in its heretofore accepted sense, of being imminent, immediate or probably threatened in the foreseeable future. The theory of Mr. Chief Justice Vinson that the anti-Communist oath of the Taft-Hartley Act "-touches only a relative handful of persons, leaving the great majority...completely free from restraint" (see American Communications v. Dougs, 339 U.S. 382, 404) is not in accord with the principle that freedom of speech is guaranteed to the individual. As Mr. Justice Brandeis said in his concurrence in Whitney v. California (272 U.S. 357, 377): "No danger flowing from freedom of
speech can be deemed clear and present, unless the incidence of the evil apprehended is so imminent that it may befall before there is opportunity for full discussion. If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence."

Another freedom of speech restriction is that found in Feiner v. New York, 340 U.S. 315, decided in 1951. Here, a college student was addressing a street audience on the inequities suffered by negroes at the hands of white people. Apparently one white onlooker threatened violence if the police did not interfere. "To preserve order and protect the general welfare," the police asked the student to leave his soap box; when he refused the third request, he was jailed and convicted of a breach of the peace. The Supreme Court upheld the conviction not because the student was making the speech, or for its contents, but because of the "reaction which it actually engendered." The Court said the local police might interfere with a speaker who "passes the bounds of argument or persuasion and undertakes incitement to riot." In Terminello v. Chicago, 337 U.S. 1, 4, decided in 1949, the Supreme Court held freedom of speech best serves its "high purpose" when "it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger." The Feiner decision
leaves me with this question, "Is freedom of speech only the right to speak to others who will agree with what you have to say? Throughout the history of this country, ideas have been freely expressed to anyone who would listen. Some of them have been adopted by the majority of the people; some of them have not. If the ones which looked forward and told of things to come, or which might be accomplished through change, had not been heard, or promulgated, we might still be living in the horse and buggy age, without telephones, without modern conveniences, and we might also have been living under a dictatorship or in a totalitarian state.

Any official restrictions of the freedom to express beliefs will in the first instance be the work of the legislative and executive branches of government. Such restrictions will, by their very nature, tend to forestall minority efforts to influence public opinion, thereby depriving those persons affected of full opportunity to undo the restrictions through the workings of the political process. Furthermore, the availability of the political process as a means of checking official abuse of economic or other personal interests, is lessened when legislative or executive action curtails free expression. Accordingly, an especial responsibility for safeguarding free expression should devolve upon the Court. (50 Michigan Law Review, December, 1951, pp. 261-296.)
As Arthur S. Katz wrote for the Southern California Law Review (December, 1951, pp. 22-35) "In its 175 years, the United States of America has faced and surmounted many crises, yet never has the threat to its freedom, from forces within and without, been greater than it is today. Armed aggression [sic] might threaten us from abroad, subversion from within. But the greatest threat is none of these. The greatest threat is the growing perversion of the principles guaranteed by the first ten amendments to the United States Constitution, the ignorance and bias one sees demonstrated daily whenever constitutional questions are discussed. Professor Robert Cushman, relative to the growing implication in the minds of many, observed 'that somehow there must be something wrong, something dangerous or subversive about a man who has too keen an interest in the Bill of Rights and civil liberty' (Cushman, "Civil Liberty and Public Opinion," Safeguarding Civil Liberty Today 1945), page 98).

"Conceived though it was in a time of revolution, the federal Constitution bears the blemishes of neither passion nor hate. Instead, by the wisdom of its draftsmen, so many of whom were learned in the law, a document was fashioned which was both rational and empirical.

"Reason proclaimed that men should be free. Experience indicated that merely saying so was not enough...."
It is not correct to call the present trend in Court decisions "reactionary" because the men who wrote the Bill of Rights did not intend that any such challenges to the freedoms set forth therein should ever be promulgated. Again I can do no better than to quote Mr. Justice Black when he said that "It seems self-evident that all speech criticizing government rulers and challenging current beliefs may be dangerous to the status quo. With full knowledge of this danger the Framers rested our First Amendment on the premise that the slightest suppression of thought, speech, press, or public assembly is still more dangerous. This means that individuals are guaranteed an undiluted and unequivocal right to express themselves on questions of current public interest. It means that Americans discuss such questions as of right and not on sufferance of legislatures, courts or any other governmental agencies. It means that courts are without power to appraise and penalize utterances upon their notion that these utterances are dangerous. In my view this uncompromising interpretation of the Bill of Rights is the one that must prevail if its freedoms are to be saved. Tyrannical totalitarian governments cannot safely allow their people to speak with complete freedom. I believe with the Framers that our free Government can." (Wieman v. Updegraff, supra.)

Hand in hand with the qualifications placed on freedom of expression by recent legislation and court decisions is the
movement to curb and restrain members of the Bar from represent-
ing those charged with so-called subversive activities—the dis-
semination of unorthodox ideas. We say over and over again that
every accused person must be represented by counsel but in
recent times it has become so difficult and the way so fraught
with danger of adverse criticism from fellow members of the Bar
as well as the general public that many attorneys hesitate to
undertake the defense of such persons. An attorney might
well brave the adverse criticism if it did not affect him in a
monetary sense, but when public feeling is so hostile the result
can only be that he will lose clients whom he has represented
therefore and will not be asked to represent those whom he has
not represented. These attorneys have responsibilities—families
to support. There is, also, the reaction from some members of
the Bench to be taken into consideration. This, too, cannot but
affect the attorney in his future standing as a member of the
legal profession. It is my opinion that no such stigma should
be attached, and no obstacles be placed in the way of those who
would defend anyone charged with any type of public offence. In
so saying, I do not mean to intimate that because an attorney
defends one accused of disseminating unorthodox ideas he should
conduct himself in the face of a hostile attitude from the
Bench so as to interfere with the judicial process or the order-
ly conduct of the trial of the case. There is a difference be-
tween defending one’s client to the utmost of one’s ability
to the client's best interests and conduct which falls just short of active insubordination and insolence.

Mr. Justice Jackson in his concurring opinion in the Dennis contempt case made the following pertinent remarks: "It gives lawyers an uneasy feeling to realize that a man's good name may be filched from him, his reputation attacked in most opprobrious terms, and yet that he will be denied an opportunity to put into the committee's record any evidence to refute those charges. The result is that a cautious man may be cowed
into silence. This is censorship of unpopular ideas by the majority through the use of intimidation and the threat of public castigation. It is even more disturbing to see contempt charges predicated upon a refusal by a witness, under subpoena, to answer a question on the ground that it may incriminate him. This raises the shadow of an inquisition. Americans have never approved of Torquemada's tactics.

"The price of free speech is that we shall hear unpopular as well as popular truth. If speech is to be free, men must be left free to speak slander and falsehood; free to give vent to malicious and emotional feelings for political and propagandist purposes. In the absence of a clear and present danger, the remedy provided by the law of defamation has in the past been considered adequate. A democracy is based on the assumption that the people are capable, after hearing all sides, of sorting the wheat of truth from the chaff of error. If the test of truth is its ability to get itself accepted in the competition of the marketplace of ideas, truth must expect to be jostled about in that marketplace by defamation, exaggeration, falsehood and propaganda. Truth will be tough enough to survive the jostling.

"Lawyers must be both discerning and courageous enough to stand their ground when that jostling reaches the point where fundamental constitutional liberties are infringed."
Their duty is to encourage and to exhibit that true spirit of temperate and patriotic consideration of the facts which lead to the truth. Members of the Bar will best fulfill their traditional responsibility for leadership of public opinion if they adopt the middle ground of temperate consideration and avoid both hasty or radical snap judgments on the one hand and the mistaken conservatism of blind obstinacy on the other. They will not forget Tom Paine's warning: 'An avidity to punish is always dangerous to liberty. It leads men to stretch, to misinterpret, and to misapply even the best of laws. He that would make his own liberty secure, must guard even his enemy from oppression; for if he violates this duty, he establishes a precedent that will reach to himself.'"

With the foregoing declarations of Mr. Justice Jackson I am in full accord. But the chief difficulty lies with the application of the philosophy expounded by him. In other words what are the bounds and limits beyond which an attorney may not go in the defense of his client? Obviously, the solution of this problem brings into play concepts of professional conduct which are to say the least, nebulous. My study of recent cases in which the conduct of defense attorneys has been severely criticized leads me to the considered conclusion that had it not been for the prejudice in the public mind against the defendants or the crimes with which they were
charged, the conduct of the attorneys would not have merited comment either by the courts, the Bar or the public. While not expressing approval or disapproval of the conduct of defense counsel in any particular case, the thought I wish to convey is that because of the prejudice in the public mind which is quite often reflected in the judicial mind, lawyers have been criticized, reprimanded and punished for conduct which in another type of case would have gone unnoticed. It behooves us, therefore, to exert every effort to see that tolerance and fair play are accorded members of the Bar who engage in the defense of unpopular causes.

The reason for the present trend of court decisions interpreting the Bill of Rights is a simple one. Judges are men who live in the same world as we; they do not exist in a vacuum, but are the products of their backgrounds, education, environment, and their thinking is influenced, perhaps unconsciously, by the political conditions under which we are all living. This is a time of national hysteria, general suspicion and distrust. As I have said earlier, it is for the courts in almost every instance to invalidate unconstitutional legislation--legislation which deprives the individual of the rights guaranteed to him. But, the circle is a small one, because courts are made up of judges who are human beings. This country has survived other crises, and will do so again, although to some of us the present one seems needless since inner strife is
the thing which will please our enemies the most. We need to put up a united front, looking toward our Constitution as the cohesive factor which it was intended to be. It should be borne in mind that the philosophies expressed in dissenting and concurring opinions, do not always remain the views of a minority; they frequently become the law of the land. So long as we have groups of persons who will fight, as our forefathers fought, that the freedoms enumerated in the Bill of Rights shall remain inviolate, whatever the penalties and stigma attached thereto, we shall not lose, but shall go forward toward that America which our forefathers envisioned. As I stated at the beginning of this address, we have nothing to be afraid of but fear itself. It is fear which engenders hysteria, distrust and suspicion. I have no crystal ball--I cannot foresee the future, I can only hope and pray that groups of people like the National Lawyers Guild--now minority groups--will fight on and continue their efforts to defeat the reactionary forces which are challenging our freedoms.