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"SATELLITE JUSTICE ON TRIAL"

ADDRESS

BY

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Since the end of World War II it has become clear that the Communist Party in the United States is a closely knit, highly disciplined conspiracy. It seeks to overthrow our Government by force and violence. There is no fly-by-night program. The Communists know that they can be successful in their effort only if they first break down the confidence of our people in our Government and leave it weak and helpless in the face of a coup. To this end they champion all causes which will embarrass the Government or bring ridicule to our constitutional form of government.

High on their list of objectives is a program designed to instill in our citizens contempt for our judicial process. They know that our court system, which is fair and impartial, is one of the strongest bulwarks of democracy. Consequently, as we expose their members for what they are, and try them for their crimes, they have used every device available in an attempt to turn our judicial process into a "three-ring circus" in order to bring it into disrepute.

Unfortunately, they have been partially successful in this program. Some people have been highly critical of the Rosenberg trial, the trial of the 11 Communists in New York, or the Communist trials in Hawaii and California, because they were permitted to last so long. They feel that convictions, such as Judith Coplon's, were reversed on mere "technicalities". They have been annoyed at the time spent to review such preliminary matters as jurisdiction, the validity of the indictment, or bail. Just

the other day, for example, the trial of the Philadelphia Communists was again postponed by the court because the defendants did not find counsel to represent them. However, the bar is trying to find counsel for them. They have criticized these trials because defense counsel have been allowed to argue at great length every conceivable point of law, whether frivolous or not. Upon conviction, so many appeals, stays, or motions for new trial have been sought and granted, that many have concluded that justice was lost in "red tape".

The members of this National Conference on Citizenship, however, have recognized that "citizenship" in a democracy imposes upon each one of us heavy responsibilities. This includes the obligation to be informed of the reasons why we insist on the safeguards we accord to individuals accused of crimes, even to those who would abuse them. To me this means we should stop and consider the alternative -- what happens when these safeguards are not observed?

Many prominent persons in the satellite countries behind the Iron Curtain have been tried and convicted of treason, espionage, sedition, or for having been leaders of movements seeking the overthrow of the Communist regime by force and violence. Laszlo Rajk, former Hungarian Minister of the Interior, was found guilty along with seven co-conspirators of espionage and sedition. Rudolph Slansky, former Secretary General of the Czechoslovak Communist Party, confessed to treason. He with 12 other prominent Party members were found guilty of "Trotskyism, Titoism, and Zionism". Many clergymen, among them Cardinal Mindszenty, Prince Primate

of Hungary, have also been convicted on similar charges. This week the papers are carrying the story of a trial in Poland charging four Roman Catholic Clergymen with "espionage, anti-state propaganda and diversionist activity". And with the arrest of Lavrenti Beria, Stalin's right-hand man and former head of the Secret Police, it is reported that another major treason trial will soon be held in Moscow, the first since 1939.

Are these people afforded a trial in any real sense of the word? They are not!

The purpose of a trial, by definition, is to "establish or verify something which is uncertain". It presupposes that at the outset the result is in doubt. Accordingly, persons charged with crime in civilized countries are entitled to procedures which will guarantee them a fair trial, and, at the same time, get at the truth of the matter in issue. We demand "due process of law" which means "fair play". Experience has proven that a fair trial will also be a just trial.

One of the basic tests of whether a person has had a fair trial, particularly where a confession is made, is the treatment accorded the accused after arrest and before trial. And this is particularly true where the charge is high crime against the State -- where those holding the prisoner are vitally interested in the outcome of the trial. If the accused is denied the right to counsel, is held incommunicado in secret places for long periods of time, then whatever follows must be highly suspect.

A confession which is not voluntary is likely to be untrue. For this reason we do not condone "third degree" methods in the United States. The Supreme Court has held that basic rights of an accused were violated where a lad of 15 was questioned continuously and without rest by relays

of police from midnight until dawn before he confessed.<sup>1/</sup> Being held incommunicado for five days is reversible error.<sup>2/</sup> A confession obtained by any sort of "physical or . . . mental ordeal" is inadmissible.<sup>3/</sup>

In addition, we ordinarily permit defendants to go free on bail. The 11 top Communists, headed by Eugene Dennis, were all released on bail. They were free until the Supreme Court finally passed on the validity of their convictions. The reason? To "avoid the hazard of unjustifiably imprisoning persons".<sup>4/</sup>

In not one of the trials in Communist countries have I been able to discover a single instance in which an accused was released on bail after arrest. Whether any of them had the benefit of counsel during this period, I do not know. So far as the record shows all of them were held incommunicado for long periods of time. What happened to them during this period we can only surmise from what followed. Laszlo Rajk was arrested on June 19, 1949, and not heard of again until he appeared and confessed, approximately three months later, on September 16. Some of those who confessed in the Slansky trial were in solitary confinement for as long as two years before the trial. Cardinal Mindszenty was arrested December 28, 1948, and, as you will recall, no disinterested person was able to see him until he appeared in Court to confess on

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1/ Haley v. Ohio, 332 U.S. 596.

2/ Turner v. Pennsylvania, 338 U.S. 62.

3/ Watts v. Indiana, 338 U.S. 49.

4/ Jackson J. in Williamson v. United States, 184 F. 2d 260, C.A. 2.

February 3, 1949. The Soviet Press has hotly denied that he was mistreated or drugged. But I suggest that had anyone been allowed access to him, the inference that his confession was procured by coercion could not even have arisen.

In the United States confession to crime, particularly espionage or treason, is the exception, not the rule. However, confession is the rule to which there is no exception in the Satellite Trials. In every one of the public trials held behind the Iron Curtain, the accused -- and usually all of them -- have confessed fully and completely to all the charges brought; confessions proven true only by other confessions. For example, all 13 defendants in the Slansky trial confessed at length to treason and espionage.

Are these confessions voluntary? Kleinerova, one of the 13 tried in Prague in 1950 as "War Conspirators", said this about his confession during his last plea:

"I have nothing to say in my defence . . . . I would only like to add in the interest of truth that I did not . . . confess immediately after my arrest. I did not confess for a full four months . . . . I would only like to say that I thank the Security officials for their patience in trying for a full four months to show me that, which I finally clearly understood: the basis of my guilt, its being directed against my nation."<sup>5/</sup>

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<sup>5/</sup> Italics added, Record, p. 182.

Another basic right accorded to an accused is the right to cross-examine those who testify against him. It is a right which Mr. Wigmore, one of our foremost authorities on the law of evidence, has described as "the greatest legal engine ever invented for the discovery of truth".<sup>6/</sup>

In the Communist trials meticulous care is taken to ask defendants and their counsel if they have any questions to put to the witnesses or to co-defendants. The right is never exercised. Instead, the answer ordinarily made by the defendant to incriminating testimony is typified by Laszlo Rajk's remark:

"I agree with what he said."<sup>7/</sup>

With this sort of procedure, or lack of it, the entire transcript of one of these trials can be found in a small volume of approximately 300 pages, as compared to the 12,750 pages of transcript, made mostly by defense counsel, in the Dennis case.

Failure to assert the right to cross-examine has led to the most flagrant examples of proving guilt by association. In the trial of the Vatican Agents in Czechoslovakia in 1950, the judge announced that he was admitting in evidence the transcripts and files of ten other treason trials "in order to complete the picture of the entire activity of the hierarchy and its ramifications"<sup>8/</sup> No defense lawyer jumped up to object to this method of establishing guilt.

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<sup>6/</sup> Wigmore on Evidence, 3d ed. 1940, § 1367.

<sup>7/</sup> Record, p. 104.

<sup>8/</sup> Record, p. 140.

Apart from confessions there is practically no independent evidence of any overt actions of treason or espionage. While the defendants confess in great length and detail to transmitting state secrets to foreign agents, these documents are not introduced in evidence, and proof of delivery is not shown. Yet this is the conclusion reached:

"Prosecutor: Let us put it like this: the economic report [not identified] concerning a certain enterprise [not named] reaches the hands of Mr. Ripka or Zenkl [alleged but unproven Anglo-American spies] who pass it on to the American espionage system. And the American espionage service then send their agent saboteur here. And in this way the intelligence report dispatched abroad, returned in the form of sabotage [pure speculation]. Do you realize that, Mrs. Horakova?"

Mrs. Horakova replied: "Yes I do", thus proving the crime of treason for which she was sentenced to death.<sup>9/</sup>

Also the defendants usually confess to being adherents of some person whose policy has already been determined to be hostile to the state. Laszlo Rajk was charged with following a "Trotskyist policy". This he defined as "a refutation and disruption of everything which is in the interests of the revolutionary working class movement, on a political basis that completely lacked all principle".<sup>10/</sup>

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<sup>9/</sup> Record, Czech. War Conspirators Trial, p. 45.

<sup>10/</sup> Record, p. 39.

I think we might be inclined to complain -- even take an appeal -- if we were charged with Malenkovism or Vishinskyism.

Such independent evidence as there is is more often than not either ancient or innocuous, or both. In the trial of Maniu for treason in Bucharest, part of the proof that he was a "pillar of the Habsburg Monarchy", a high crime in 1947, was the fact that in 1906 he made a speech before the Hungarian Parliament in which he stated: "To support Hungary and in general Austro-Hungarian Monarchy, is a political and national necessity."<sup>11/</sup> Of course, nobody observed that Hungary was a Monarchy in 1906. And Zeminova, one of the Czech war conspirators, was shown to have transmitted a copy of the book "Hiroshima" as part of the proof that he approved the use of the atomic bomb against Czechoslovakia.<sup>12/</sup>

To whom are all these alleged secret reports and information transmitted? Well, Allen W. Dulles, now head of the Central Intelligence Agency, and formerly with the Office of Strategic Services, is prominently mentioned in this respect. Consequently, as proof that the defendants actually committed the crimes involved, it was sometimes requested that they identify Mr. Dulles as the recipient. The following represents an identification of Mr. Dulles by Szonyi, co-conspirator with Rajk, to which no objection was made:

The President of the Court ordered "Step forward" and asked:

"Do you know the people in these photographs?"

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<sup>11/</sup> Record, pp. 35-6.

<sup>12/</sup> Record, p. 70.

He showed three photographs to Szonyi who had stepped to the President's platform. Szonyi replied:

"I know them."

"Who is that?" asked the President as he showed him one photograph.

"Noel Field", Szonyi answered.

The President showed another to him and asked: "This?"

"I don't know him", Szonyi replied, adding: "This man I don't know."

"You don't recognize Allen Dulles here?" the President asked.

"Oh yes, I do recognize him", Szonyi then testified. "At that time he did not wear spectacles", Szonyi continued.

The President then said: "He did not wear spectacles. That must have confused you." To this, Szonyi remarked: "Yes."<sup>13/</sup> I might add that during the many years I have known Mr. Dulles I have never seen him without glasses.

After the confessions are in, the prosecutor sums up. Usually, this amounts to nothing more than a well-phrased, impassioned restatement of all the crimes to which the defendants have confessed. But perhaps some insight into these trials can be gleaned from the summation made in the Rajk trial; where the prosecutor in the course of his speech said:

"At the trial, honoured People's Court, not only the charges included in the indictment were fully proven but

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<sup>13/</sup> Record, p. 159.

also new important facts came to light, which had been brought up neither in the indictment nor in the course of the investigation. Thus, for instance, it was a novelty in Brankov's testimony that Tito and his clique, . . . carried on their work . . . in those capitalist countries which have strong labour movements . . . . The disclosure that Tito . . . intended a role for Antal Ban in the new government . . . was also new. We had not known this before; Brankov, confessed this only at the trial, . . . <sup>14/</sup>

Notice that in addition to the surprise shown that any new facts could possibly be disclosed, the real defendant in this trial was Tito, just as in the Mindszenty trial it was the Vatican, and in the Slansky trial, the Zionists.

What is defense counsel doing during the trial? Nothing but sitting in the courtroom as a spectator so far as the records of these trials show. Their sole function is to make a speech at the end of the trial. Cardinal Mindszenty's counsel made a typical statement; he said he was in court "as an attorney selected by the defendant, a circumstance which testifies to the fact that the defendants, according to law, have been free to defend themselves". However, his only contribution was a plea to mitigate punishment since his client had "admitted committing offenses outlined in the Indictment . . . and he is infinitely sorry for what has happened".<sup>15/</sup> Counsel for Abbot Opasek, defendant in the trial of the

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<sup>14/</sup> Italics added, Record, pp. 255-6.

<sup>15/</sup> Record, p. 154.

Vatican Agents in Czechoslovakia, defended his client by stating:

"The confession which my client, Abbot Opasek, has made before you, was penitent, sincere, and particularly, it was absolutely complete."<sup>16/</sup>

Then followed a plea to mitigate sentence.

Since everyone confesses, it comes as no surprise that everyone, without exception, is found guilty. Indeed, having admitted their guilt at the outset, one wonders why a trial was necessary, unless to serve some ulterior purpose.

Perhaps a most important right accorded an accused is the right to appeal and have his conviction reviewed in the calm atmosphere of an appellate court. In the United States, as you know, an appeal follows almost as a matter of course and usually the Supreme Court is requested to review the conviction at least once. But in the Iron Curtain trials the right to appeal is almost invariably waived, the one notable exception being the Mindszenty case, which by the time of judgment had become an international issue.

In case any of you have any lingering doubts about satellite "justice", I should like to give you the facts of another case -- a case in which the United States is directly interested and in which it is prepared to prove, when given the opportunity, that the convicted defendants were not guilty.

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<sup>16/</sup> Record, p. 202.

On November 19, 1951, an unarmed American C-47, with a normal crew of four flyers, set off from Erding, Germany, on a routine flight to Belgrade, Yugoslavia. They were carrying usual supplies to the American Air Attache' at the American Embassy. The plane was expected to make the trip and return on November 20.

Due to unexpected wind conditions, the plane was blown North at a greater speed than the crew anticipated and became lost. Emergency signals were sent out, and just as the crew was prepared to abandon ship, they were intercepted by an aircraft and led to a landing field. The crew subsequently discovered that the plane was Soviet-operated and that they had been led to an airfield near the town of Papa in Hungary.

Under these circumstances one would have expected the immediate release of the plane and its crew. Instead, from November 19 until December 3, 1951, the four American airmen were held under arrest, without bail, and incommunicado by the Soviet authorities. They were continuously interrogated with respect to the flight, despite the fact that it was obvious from the ship's cargo and flight orders that the trip was routine. During this time the Soviet Government denied any knowledge of the whereabouts of the plane or its crew. Finally on December 3 the Soviet Government announced through the press that the crew had been turned over to the Hungarian authorities.

Following the delivery of the men to the Hungarian Government they were kept under arrest in a secret prison near Budapest. They were denied access or right to contact the American diplomatic or consular representatives in Hungary or elsewhere. For three weeks, they were subjected

to continuous, pitiless questioning under the personal direction of General Gabor Peter of the Hungarian Secret Police, or AVH. By coercion, three of the airmen finally signed statements in Hungarian, statements which they were told were necessary for their release, but which in fact were confessions of willfully crossing the border for illegal purposes.

Then, on Sunday morning at 8 o'clock, December 23, 1951, without any prior warning, the men were placed on trial before a secret military court in Budapest at which the public was excluded. Three of them again signed statements in Hungarian which they were told were preliminary to their release, but which in fact were statements that they understood that they were under arrest and that they knew that they were being tried for criminal activities.

They were handed a list of eight names and told to select a lawyer to defend them. Five minutes after being introduced to defense counsel they were marched into the courtroom, and a trial was conducted in Hungarian which none of them understood. An interpreter, a paid employee of the secret police, purported to translate the proceedings into English, but if his translation was correct, no criminal activities were charged.

The sole evidence received was the testimony of the flyers, all of which took approximately 20 minutes. The defense consisted of short statements by the attorneys, and the men were found guilty, upon confession, to a premeditated crossing of the border for subversive purposes. The defendants were not advised of any right of appeal, which, under the circumstances, would probably have been a futile gesture anyway. The

plane was confiscated and the United States paid fines totaling over \$123,000 in order to procure the release of the men.

This spring, the United States Government notified both the Soviet and Hungarian Governments, through official channels, that it viewed their combined actions in this case as a violation of both international and local law. The United States Government also said that it is prepared to prove the entire falsity of the proceedings in the International Court of Justice with damages to our Government of over \$600,000. To date, no satisfactory answer has been given.

The reason the Communists are able to put on these "Hamlet-like" performances is because they deny to an accused every procedural safeguard known to the law designed to insure a fair and just trial. They coerce confessions of guilt during long periods of incommunicado imprisonment. They use them in so-called "trials" where no independent evidence of crime is introduced, where no defense is permitted, and where all have been prejudged guilty. It is little wonder that the Western world has concluded that these trials are trumped-up to provide scapegoats for unpopular measures and that the Satellite judicial process has been subverted to the interests of the State in order to make public its propaganda, policies, and edicts.

These satellite trials demonstrate what happens when procedural safeguards are not afforded to an accused and why we deem our safeguards so essential. Many people may find it difficult to understand why we accord to Communists here liberties and procedures which they deny to

all persons in all countries where they have seized control. But the Communists hope that by their tactics they will make us so impatient with our procedural safeguards that we will abandon them. They are counting on this. We must be alert to their purpose, for if in our effort to combat Communism we adopt their illegal methods, we will lose those civil liberties which are the hallmarks of our democracy.

In conclusion, I can say only three things about the Communist system -- it is swift, it is certain -- and we want no part of it!