

CIVIL LIBERTIES

and the LEGACY of

HARRY S. TRUMAN



Edited by
Richard S. Kirkendall

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Edited by
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To Mike Devine, a founder of the Truman Legacy project

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EDITOR'S PREFACE

This book emerged out of a conference held in 2011 at and near the Truman Little White House in Key West, Florida. Although dominated by a theme, the work is also complex. The theme concerns President Harry S. Truman and civil liberties. How should we describe, explain, and evaluate his record in this important component of his presidency? The book offers a diversity of topics connected with the theme and more than one point of view. The contributors share an interest in the theme, but they view it in varied ways. It seems likely that readers of the book will differ with one another in the conclusions they reach about the record of the thirty-third American president.

The first two chapters focus on Truman's definition of himself and his response to the most serious violation of civil liberties in the United States during World War II. In the opener, I show that Truman defined himself as a civil libertarian, was concerned as well about national security, and attempted to educate Americans in and out of government about the great importance of civil liberties even during a period of war, both a Cold War and a hot one. Roger Daniels, in the second chapter, deals with the president's efforts to mitigate the effects of the incarceration of Japanese Americans, emphasizing his public recognition of the bravery and accomplishments of Nisei soldiers.

Moving on, four contributors offer major examples of the ways in which the emerging national security system worked and the tensions between it and civil liberties. Athan Theoharis portrays J. Edgar Hoover quite differently than Truman pictured him, showing that the director of the Federal Bureau of Investigation was much more interested in shaping American politics than in uncovering Soviet spies, and that the men of that agency concealed some of what they were doing from the president and deceived him. Emphasizing the establishment and workings of the Employee Loyalty Program, Landon Storrs demonstrates that the campaign against "Communists in government" began well before the Cold War, was driven by conservatives whose objections were broader than the eradication of the Communist Party, and ensnared some high-ranking people

who were neither spies nor low-level clerks, were not “un-American,” and were supported by the president. Michal Belknap raises questions about the “standard history” of the Dennis case, which upheld convictions of Communist leaders, but concludes that it was “a political prosecution that dealt a severe and unjustified blow to the First Amendment,” and David Greenberg deals with Truman’s skirmish with the press over an executive order that expanded the government’s power to classify and restrict information on national security grounds and raised questions about his claim to be a civil libertarian.

The next three historians shift the focus to three individuals who participated in the Red Scare of the Truman period, an event of great significance in the history of civil liberties. Two were victims of the phenomenon; the other promoted it. Bruce Craig explores Alger Hiss’s conception of Truman as a betrayer of the Roosevelt legacy and Truman’s conviction that Hiss, by denying that he had passed on secret documents to Soviet agents, had betrayed him and his own friends. Spotlighting the conflict between the president and Senator Joseph McCarthy, Richard Fried begins by suggesting it was inevitable that when the senator “took up the Red menace, it would turn out poorly for the Truman administration” and concludes “that it is hard to see how much tactics or timing could have eased . . . [the administration’s] torment.” Writing about diplomat John S. Service, Lynne Joiner offers a case study of the Employee Loyalty Program and portrays this victim of the way it worked as an “honorable survivor” of a “tumultuous time.”

Finally, three authors survey the topic of civil liberties. In a graphic essay, Raymond Geselbracht supplies documents and photographs, all of them from the rich resources of the Truman Library, and adds commentary, enlarging the body of evidence and ideas that must be considered when appraising Truman’s legacy. Next, Ken Hechler and Robert Watson propose that Truman was both a “cold warrior” and a “civil libertarian” and insist that a program that balanced national security and civil liberties was “the only politically tenable course of action” at the time. Finally, three appendices, developed by Geselbracht, add a large collection of documents from Truman’s speeches, messages, and remarks, his news conferences, and his executive orders, a directive, and publicly released letters, all of them related to civil liberties.

No essay in the book tells the whole story of Truman and civil liberties. Readers will be pressured to compare all of the essays with one another, breaking each one into its parts and fitting the most important parts together into a new essay, either in their minds or a written form. Or perhaps the clash of essays will stimulate quests for more evidence and

other perspectives, regarding what we offer here as only an introduction to a large topic.

What seems most obvious in this book of essays and documents is that Truman was not a simple man. In the political history featured here, he did not find value in only one part of the story. He considered both civil liberties and national security as worthy of his attention when making decisions during his challenging period as president. And political considerations, a desire to hold on to power, also influenced his policy making. But how did he weigh and rank these different values? Who was he? Was he chiefly a politician or a former soldier or a liberal? How should we define him when we focus on the history of civil liberties in America?



I wish to thank the authors mentioned above and a number of other people, beginning with Michael Devine, director of the Truman Library, and Raymond Geselbracht, Mike's special assistant, who invited me into this intellectually stimulating enterprise. Robert Wolz, director of the Truman Little White House, and his associates in Key West contributed mightily to the conference. Ray helped me from beginning to end; Lisa Sullivan of the Truman Library Institute gave assistance at an early stage, and several historians (Ellen Schrecker, Mary Ann Heiss, Dennis Merrill, Bryan LeBeau, and Richard Fried) gave advice on people I might ask to join the project. Another historian (Alonzo Hamby) challenged me to avoid making the conference seem like a political rally. Bryce Barrick, my history department's senior computer specialist, provided much-needed help—lots of it—all along the way. Four other members of the University of Washington community, John Findlay and Kent Guy in the History Department and Paul Constantine and Tim Pemberton in the University Libraries, helped in other essential ways. Furthermore, I was fortunate to work with two representatives of the Truman State University Press: Nancy Rediger, the director, and Barbara Smith-Mandell, the copy editor and acquisitions editor. My thanks go out to every one of these contributors.

Richard S. Kirkendall
June 2012

GENERAL EDITOR'S PREFACE

Until the eve of the United States' involvement in World War II, the question of how to protect individual liberties during a time of national crisis (real or perceived) had arisen only occasionally throughout American history. During the administration of John Adams in the final years of the eighteenth century, the short-lived Alien and Sedition Acts threatened the civil liberties of immigrants as well as any citizens who criticized the thin-skinned president or his administration. Faced with a genuine national crisis that threatened the very existence of the Union, President Abraham Lincoln took unprecedented emergency measures, including suspension of habeas corpus, to deal with rebel leaders, spies, and those suspected of aiding the Confederacy. In the post-World War I era, a Red Scare led to a brief period of suspension of civil liberties for those accused of having sympathy for the Soviet Union or the communist philosophy. And, in the months prior to Pearl Harbor, the Franklin D. Roosevelt administration began to restrict immigration because of fears that new arrivals from Europe might include foreign agents in their midst.

With the United States' entry into World War II, the issue of loyalty became a pervasive and permanent characteristic of American political culture. Shortly after the Japanese attack on U.S. military bases in Hawaii, thousands of Japanese living in the United States, many of them U.S. citizens, were denied their Constitutional rights, forced from their homes, and placed in remote camps because of unfounded fears that these people might pose a security threat. By the end of the war, it had become clear that Soviet spies, operating within the United States, had systematically provided secret information to the Soviet leadership. U.S.-Soviet relations soon deteriorated into a Cold War, and within a few years the Harry S. Truman administration began to institute a series of programs, including loyalty oaths for federal workers, aimed at identifying and excluding from employment those considered threats to national security.

Nearly six decades after the end of the Truman administration, loyalty oaths and background security checks for federal employment are now considered routine. In addition, a huge national security industry, greatly

enlarged following the terrorist attacks of 9/11, has grown to include over 1,270 government organizations and 1,930 private companies, employing an estimated 854,000 people and producing 50,000 intelligence reports each year. (*The New Yorker*, August 20, 2010, p. 17). In our current national security state, to which the Truman era gave birth, the protection of traditional American civil liberties has taken on a scope of compatibility that leaders of earlier generations could never have imagined.

The *Civil Liberties Legacy of Harry S. Truman* is the ninth volume in the Truman Legacy Series. It examines the record of the Truman administration in balancing national security and individual rights in the light of the most recent scholarship and within the context of a post-9/11 America. The papers in this volume were, for the most part, presented at the annual symposium held in Key West, Florida. There, scholars sought to re-examine in the context of post-9/11 America the record of the Truman administration's efforts to address unprecedented challenges to national security while maintaining civil liberties that the Constitution guaranteed all Americans.

Michael J. Devine

June 2012

CIVIL LIBERTIES AND HARRY TRUMAN'S PEACE PROGRAM

Richard S. Kirkendall

"I believe in the Bill of Rights," President Truman proclaimed to a conference of journalists in 1947. "I think it is the most important part of our Constitution."¹ By May, when he gave this testimonial, the Cold War and the Red Scare were mounting rapidly, bringing new concerns about security and fresh challenges to civil liberties in America. The president, who had been in office since April 12, 1945, responded to the concerns but tried to contain the challenges. He regarded respect for civil liberties as an essential American characteristic. These liberties were not his highest priority; peace—the avoidance of World War III²—was, but his foreign policy of Communist containment and his civil libertarian philosophy were, in his mind, closely linked. When Americans behaved in harmony with that philosophy, their nation was attractive to other people and had strengths that authoritarian regimes did not have. He came to believe that many of his critics did not value civil liberties as highly as he did and were weakening his pursuit of peace. Their reckless charges in a quest for security (and political gain) attacked the nation's essence and weakened the United States in the eyes of people elsewhere, suggesting to them that America was moving away from what it had long been, the great model of liberal principles. To strengthen respect for civil liberties, the president sought to educate Americans, those in government as well as out of it, about the great importance of these liberties.

Truman's thinking about this issue had roots in his reading of history and was influenced by the negative model supplied in his time by Adolf Hitler's Germany. A strenuous reader since the age of ten, Truman emphasized history and his reading introduced him to Thomas Jefferson, a man, the president said, who had "dedicated his life to liberty, education,

and intellectual freedom.”³ By offering a radically different view of how powerful the state should be, Hitler had enhanced Jefferson’s attractiveness to Americans. Hitler’s Germany, the new president proclaimed early in his presidency, had been “one of the darkest tyrannies that has ever tried to enslave mankind”; it had embraced “the false doctrine that man exists for the benefit of the state.”⁴ In sharp contrast with that, the United States, inspired by Jefferson, among others, was a “Nation of free men and women.” “Certain political rights,” Truman maintained, “are fundamental to freedom—free speech, a free press, the right of peaceable assembly, freedom of conscience, and the right of the people to choose their own form of government.”⁵

To the new president, the United States was exceptional but not unique. It was not the only nation that embraced liberal democratic principles. Truman hailed France and Czechoslovakia as others and expressed confidence that other nations, Japan included, desired to and could become liberal democracies. Also, he portrayed the Philippine Islands, which became independent of the United States on July 4, 1946, as evidence of what Americans could do on behalf of others. They had introduced the “ideals of democracy and human dignity” to the islands; those ideals had taken root “so firmly as to survive every savage effort of the Japanese to uproot them,” and the American-promoted transition to independence offered a model for other imperial nations.⁶

In March 1946, after receiving reports that some people in the Philippines had collaborated with the enemy during the war, Truman expressed confidence that “the heroic people [Filipinos], out of their own devotion to democratic ideals, will eliminate from their national and political life all those of questionable allegiance to those democratic principles.”⁷ As he advocated this purge, agents of his administration conducted similar purges in Germany and Japan, doing so on behalf of peace and liberal democracy.

The emergence of the Cold War between the United States and the Soviet Union and the consequent rising fear of Communists elevated issues of civil liberties and forced their champion in the White House to respond. A Baptist, a former soldier, an early and active member of the American Legion, and a founder of the Reserve Officers Association, Truman had long been an anti-Communist, but for many months, he had, in pursuit of peace, tried to get along with the Soviet Union. Dissatisfied with the results, he embarked upon a new foreign policy in 1947, a policy of containment, both to prevent expansion of the Soviet Empire beyond Eastern Europe and a third world war, and also to guarantee the survival and triumph of the liberal democratic way of life.

In promoting the new policy, Truman portrayed the international politics of the era as dominated by a contest between two alternatives. "One . . . is based upon the will of the majority, and is distinguished by free institutions, representative government, free elections, guarantees of individual liberty, freedom of speech and religion, and freedom from political oppression," he declared in a special message to Congress on March 12, 1947. "The second . . . is based upon the will of a minority forcibly imposed upon the majority. It relies upon terror and oppression, a controlled press and radio, fixed elections, and suppression of personal freedom." In October, he said to editorial writers, "There are two ideologies in the world now. . . . The right of the individual is the foremost thing in the formation of our form of government. The other ideology believes that the individual is the slave of the state, to be sent where they tell him, to do what they tell him, to act as they tell him to act."⁸

At the same time that the president embarked upon the new foreign policy, he established an Employee Loyalty Program, doing so by executive order. Although he did not regard Communists inside the United States as a powerful force, capable of overthrowing the American government, he did see them as seriously misguided and unsuitable for employment in that government. Not long after establishing the program on March 22, 1947, he explained his point of view at a news conference: "I am not worried about the Communist Party taking over the Government of the United States, but I am against a person, whose loyalty is not to the Government of the United States, holding a government job." And he added, "I am not worried about the country ever going Communist. We have too much good sense for that."⁹

As the program moved forward, Truman recognized that it could turn into a "witch hunt," but he expressed confidence that "every effort" was being "made to guarantee full protection to those who are suspected of disloyalty." We must not "permit employees of the Federal Government to be labeled as disloyal or potentially disloyal to their Government when no valid basis exists for arriving at such a conclusion." Confident that the "overwhelming majority" of the employees were loyal, he explained that he had ordered the government agencies to set up loyalty boards to give hearings to those who were charged with disloyalty. They could defend themselves, helped by a representative of their choice, and could appeal unfavorable rulings, first to their department heads and then to a Loyalty Review Board within the Civil Service Commission. The government, he concluded, "must be the model of a fair employer. It must guarantee that the civil rights of all employees . . . shall be protected properly and adequately." Here, the president's targets obviously included both civil

HARRY S. TRUMAN AND JAPANESE AMERICANS

Roger Daniels

In a paper read at this symposium two years ago, I argued that Harry Truman had “played a more important role in the development of immigration policy than previous historical research has indicated.”¹ This essay deals with Truman’s efforts to mitigate the effects of the worst violation of civil liberties since slavery, the wartime incarceration of 120,000 Japanese Americans in concentration camps ordered by his predecessor. Truman’s role has been little noted by historians and the Japanese American community.²

Senator Truman was not one of those who ranted against Japanese Americans, although he, like almost everyone in Congress, voted for or agreed to measures to facilitate their wartime incarceration; in fact an examination of his senatorial papers reveals nothing about Japanese Americans generated by Truman. Nor did his assumption of the presidency affect the status of the many thousands of Japanese Americans still incarcerated in the concentration camps during the first nine months of his presidency when the camps were gradually being emptied under guidelines formulated during the Roosevelt administration.

In December 1945, Eleanor Roosevelt forwarded to the still-new president allegations she had received about vigilante activity against returning Japanese Americans in California’s Central Valley, which he ordered the attorney general to investigate.³ His investigations, and those ordered by California Governor Earl Warren, demonstrated that such activity existed and that, like similar terrorism directed against African Americans in the South, the perpetrators were often law enforcement officials. Although Truman has not left a paper trail on this issue, it seems apparent that these events focused his attention on the marginal position of Japanese Americans in American life.

Late in April 1946, the Truman administration made its first attempt to create legislation favorable to Japanese Americans. It was a proposal for an Evacuation Claims Commission to adjudicate claims against the United States for property losses suffered by persons held in concentration camps. Sent to Congress, it was never enacted.⁴

Almost three months later, on July 15, 1946, the president convoked a ceremony to honor a five-hundred-man segment of the now-storied nearly all Japanese American 442nd Regimental Combat Team. It had returned to the United States after three years of mostly hard service in Europe. After watching the soldiers march onto the Ellipse behind the White House and before affixing the unit's seventh Distinguished Unit Citation to its colors, the president addressed them:

You fought for the free nations of the world along with the rest of us. I congratulate you on that, and I can't tell you how very much I appreciate the privilege of being able to show you just how much the United States of America thinks of what you have done. You are now on your way home. You fought not only the enemy, but you fought prejudice—and you have won. Keep up that fight, and we will continue to win—to make this great Republic stand for just what the Constitution says it stands for: the welfare of all the people all the time.⁵

On December 5, 1946 Truman established the President's Commission on Civil Rights by executive order and appointed to it a number of distinguished Americans. The most prominent was Eleanor Roosevelt. Its duty was to investigate the status of civil rights in the United States, make a report of its studies to the president in writing, and make recommendations with respect to the adoption or establishment, by legislation or otherwise, of more adequate and effective means and procedures for the protection of the civil rights of the people of the United States.

The report—*To Secure These Rights*, a small book of 176 pages—is rightly regarded as an important step in the evolution of federal civil rights programs. But it was also in many respects a timid report that pulled its punches. A section on what it styled the “Wartime Evacuation of Japanese Americans” began by calling it, correctly, the “most striking mass interference since slavery with the right to physical freedom” and pointing out that the “evacuation of 110,000 men, women and children, two-thirds of whom were United States citizens, was made without a trial or any sort of hearing, at a time when the courts were functioning.” Yet the commissioners could not bring themselves to condemn it:

We have not felt that it would be proper or feasible for this Committee to try to review all of the facts of the evacuation program. We remember

well the doubts and fears of the early months of the war and we recognize that the evacuation policy seemed a necessary precaution to many at the time.

The commission went on to say that “the belief that guilt is personal” and not collective is “fundamental to our whole system of law” but it would not say that rounding up citizens based on their ancestry was lawless. Instead it likened it to a public health measure. It “was not a criminal proceeding . . . but a sort of mass quarantine measure.” The report added, “This Committee believes that further study should be given to this problem.” It did call attention to the unresolved matter of property losses.⁶

Truman himself, apart from the implications of his remarks to the Nisei soldiers, never again spoke publicly about the wartime incarceration. In his January 1948 State of the Union address he spoke of the civil rights report, which “points the way” to strengthen civil rights and promised a special civil rights message.⁷ That message, a month later, set ten specific objectives:

1. Establish a permanent Commission on Civil Rights.
2. Strengthen existing civil rights statutes.
3. Provide federal protection against lynching.
4. Protect more adequately the right to vote.
5. Establish a Fair Employment Practice Commission.
6. Prohibit discrimination in interstate transportation.
7. Home-rule and suffrage in presidential elections for the residents of Washington, DC.
8. Statehood for Hawaii and Alaska and a greater measure of self-government for our island possessions.
9. Equalize the opportunities for residents of the United States to become naturalized citizens.
10. Settle the evacuation claims of Japanese Americans.⁸

The chief emphasis was on the rights of the nation’s largest minority, African Americans. The first seven items in the president’s civil rights agenda were primarily for them, although fair employment was of concern to all persons of color as well as white minority groups, particularly Jews. But the last three items, or parts of them, were of particular interest to Japanese Americans. Hawaiian statehood, the rights of resident aliens and the prospect of color-blind naturalization, and some reparation for property losses incidental to their enforced exile from the West Coast are the issues on which this paper will now focus.

By 1948, Hawaii, which was more closely tied to the United States by the legal terms of its annexation than the other territories gained around

THE TRUMAN PRESIDENCY AND THE FBI

Athan G. Theoharis

The years from 1945 to 1953 witnessed both a more hostile climate for civil liberties and the emergence of a more powerful Federal Bureau of Investigation (FBI). The deterioration in U.S.-Soviet relations and the onset of the Cold War fundamentally changed the nation's domestic politics, triggered by heightened public concerns over the Soviet threat to the nation's internal security. Ambitious politicians (notably Congressman J. Parnell Thomas, Congressman/Senator Richard Nixon, Senator Joseph McCarthy, and Senator Patrick McCarran) and congressional committees (House Committee on Un-American Activities [HUAC] and the Senate Internal Security Subcommittee [SISS]) exploited these concerns to promote a repressive political climate inimical to political activism and dissent. This internal security crisis also underpinned an unprecedented expansion of the FBI's role and surveillance authority, one captured by statistics on FBI appropriations and personnel during these years, increasing from just under \$44.2 million and 11,792 staff in 1945 to \$84.4 million and 13,984 staff in 1953.¹

Ironically, despite this explosive growth, FBI investigations were at best peripheral to uncovering the Truman era's most highly publicized internal security cases: the conviction of Alger Hiss in 1950 on two counts of perjury, the conviction of David Greenglass and Julius Rosenberg in 1951 for conspiring to steal atomic bomb secrets, and the conviction of Judith Coplon in 1950 (overturned on appeal) for attempting to deliver classified FBI reports to a Soviet agent. Hiss's espionage activities were not uncovered through FBI investigations. Indeed, his perjury indictment in 1948 was primarily due to good luck: the fact that his principal accuser, Whittaker Chambers, had kept, and then in November and December

1948 produced, copies of classified State Department documents that he claimed to have received from Hiss in 1938. Beginning in 1940, military intelligence agents intercepted the coded telegraphic messages that Soviet consular and embassy officials in New York and Washington were sending to their superiors in Moscow; then a special unit established in 1943 successfully deciphered those messages. Military analysts achieved a major breakthrough in 1946 that in 1949 and 1950² led to uncovering Greenglass's and Rosenberg's espionage activities and Coplon's recruitment as a Soviet spy.

Despite their agency's paltry record in uncovering Soviet spies, particularly at the time of their actual occurrence, whether in 1938 or in 1944 and 1945 (Coplon excepted, as she continued to be employed by the Justice Department in 1949), FBI agents intensively monitored the personal and political activities of radical and liberal activists. The acquired information was not, however, used for criminal prosecution (either because it had been illegally obtained or because no federal crime had been uncovered). Instead, FBI officials surreptitiously leaked derogatory personal and political information about suspected "subversives" to carefully selected reporters, columnists, and members of Congress. They did so on the strict condition that the recipient not disclose the FBI's assistance. These covert actions helped promote the militantly anti-Communist politics that came to be known, inaptly, as McCarthyism. Significantly, FBI officials' questionable monitoring and dissemination activities were the result primarily of their duplicity and secondarily of the incompetence and inept political calculations of senior Justice Department officials. This troublesome reality is captured in the case of prominent Illinois Democrat Adlai Stevenson.

Between 1945 and 1952, FBI agents monitored Stevenson's personal and political activities, first when he was a private attorney heading the Chicago Council on Foreign Relations, then following his election as Illinois governor in 1948, and finally when he was the 1952 Democratic presidential nominee. The acquired derogatory information (and misinformation) was eventually disseminated in a covert attempt to influence the 1952 presidential election.

In what had by then become a normal practice, in 1952 senior FBI officials twice prepared a detailed memorandum for FBI director J. Edgar Hoover, in which they summarized whatever derogatory information FBI agents had acquired about Stevenson. They first did so on April 3 (following President Truman's March 29 announcement that he would not accept the Democratic presidential nomination and reports that Stevenson was a likely candidate) and then again on July 24 (following Stevenson's announcement that he would accept the Democratic presidential nomination). The reported

information included allegations about Stevenson's associations with alleged Communist front groups and that he was "one of the best-known homosexuals in Illinois."³

FBI officials surreptitiously exploited their uncovering of the homosexual allegation most problematically during an August 29, 1952, meeting between FBI Assistant Director Louis Nichols (the FBI's liaison to the media and Congress) and former reporter Milt Hill. That day, Hill contacted Nichols to seek his counsel about information provided to him by former FBI agent Orval Yarger. In his memo on this meeting, Nichols assured FBI Director Hoover that Hill was "intensely anti-Communist, very loyal to the Bureau, and has been a friend of mine over a period of years" and was currently "doing legwork" for Arthur Summerfield, chair of the Republican National Committee, and specifically that Hill was compiling "the official Republican biography of Governor Stevenson." Hill, Nichols continued, had sought his guidance about two matters: allegations of corruption in Illinois state government and a story that Stevenson had been "arrested on a morals charge, put up bond and elected to forfeit." Nichols reported having duly advised Hill that the corruption allegation did not fall within the FBI's "jurisdiction" while dismissing Hill's suggestion that they might "get" a U.S. attorney to pursue this matter by pointing out that "United States Attorneys are Democrats." Nichols apparently confirmed the homosexual allegation; FBI officials had already learned of it and had listed Stevenson in the FBI's special "Sex Deviate" file.⁴

Nichols and Hoover had handled Hill's request in a way that precluded anyone's discovering their interest in Stevenson's private life. Nonetheless, earlier that month FBI officials had confronted a politically delicate and potentially explosive situation stemming from a discovery by Homer Fletcher, the assistant SAC (special agent in charge) of the FBI's Washington field office. Fletcher immediately briefed his FBI superiors that a former Secret Service agent who was currently serving as an advance man for the Stevenson campaign had claimed that Washington SAC Guy Hottel had been "spreading word that STEVENSON was a 'queer,' that the FBI had a file on him." FBI officials thereupon acted quickly to contain this matter in light of Fletcher's further report that Hottel's actions had been brought to the attention of Attorney General James McGranery and White House appointments secretary Matthew Connally. Hottel was interviewed by FBI agents and denied that he had been present at the site where he was allegedly overheard and that he had known whether the FBI had "such a file." (The latter denial was technically truthful, as the memoranda recording the FBI's discovery of

REVISITING TRUMAN'S FEDERAL EMPLOYEE LOYALTY PROGRAM

Landon R. Y. Storrs

In March 1947, President Truman created a sweeping program to screen federal employees for disloyalty to the United States. The program satisfied no one: liberals were horrified by the ensuing violations of employee civil liberties, while some conservatives charged that the program was too lax to rid the government of “subversives.” Historians, too, have judged Truman’s loyalty program harshly. Early scholarship identified flaws that invited injustice to employees and made the program ineffective at catching spies. Subsequent historians differed on the relative culpability of congressional conservatives, President Truman, and the FBI, but there was general agreement that the loyalty program had been unfair and unnecessary.¹

The tone changed in the 1990s, when newly declassified Soviet and U.S. intelligence sources indicated that some Roosevelt and Truman officials did pass information to the Soviets—just as anti-Communist conservatives from Congressman Martin Dies (D-TX) to Senator Joseph McCarthy (R-WI) had charged.² This development reignited old debates about the wider Red Scare. Some best-selling authors selectively appropriated the new espionage research to cast McCarthy as a martyr and his critics as traitors. Popular opinion has shifted quickly. As one example, the Texas Board of Education in 2010 revised its curriculum standards to require teaching that recent scholarship “basically vindicates” McCarthy.³

Recent research in newly declassified records about the federal loyalty program, however, certainly does not vindicate McCarthy. This essay distills extensive research in newly opened records to make two basic points. First, the campaign against “Communists in government” that eventually produced the loyalty program began well before the Cold War, and was driven by partisan conservatives whose objectives were broader than the

eradication of the Communist Party. That point has been made before, but it warrants reiteration, given the recent emphasis on espionage.⁴

Second, research in declassified FBI files and Civil Service Commission (CSC) case files reveals that the loyalty program ensnared some very high-ranking people in the Truman administration. These people were neither the spies imagined by the right, nor the low-level clerks featured in most liberal accounts of the loyalty program's victims. They had histories of activism on the non-Communist left or they were married to people with such histories. These officials were hardly "un-American," but in the Red Scare climate their associations became liabilities. To his credit, Truman stood by them.

Screening of federal workers began long before Truman formally created the loyalty program in 1947. In 1939 Congress passed the Hatch Act, largely in response to allegations by the Dies Committee, a forerunner to the House Un-American Activities Committee, that Communists had infiltrated the Roosevelt administration. The Hatch Act prohibited federal employees from belonging to any "political party or organization which advocates the overthrow of the existing constitutional form of government."⁵ Employees had to swear they did not belong to any such group, and employing agencies requested background checks from the FBI. The FBI checked various databases, including the highly unreliable one kept by the Dies Committee.⁶ If any red flags emerged, the FBI conducted its own investigation, which often culminated in a transcribed interview in which the employee was invited to explain any derogatory associations. It was in this early period that investigators gathered much of the information they would use against loyalty defendants years later.⁷ The FBI reported its findings to the employing agency and also to the Civil Service Commission (CSC). During the war years, CSC loyalty examiners distinguished between leftist views and Communist Party membership, and they sometimes even forgave past associations with the Communist Party. The Dies Committee interpreted this tolerance as proof of Communist sympathies on the part of the Civil Service Commission and went so far as to subpoena CSC case files during the war.⁸

Accusations that the Roosevelt administration harbored Communists were fueled less by fear of Communist espionage than by resistance to certain New Deal initiatives. Conservative employers and their congressional and media allies particularly detested the National Labor Relations Board (NLRB), correctly perceived to be supportive of the ascendant Congress of Industrial Organizations (CIO). Another *bête noire* of the right was the Office of Price Administration (OPA), the wartime price control agency that enlisted housewives as volunteers in the fight against

inflation. Between 1939 and 1944, House committees issued a stream of reports alleging that New Deal agencies, and particularly the NLRB and OPA, were run by Communists.⁹ The Dies Committee also investigated an organization called the League of Women Shoppers (LWS), a group of consumer activists that included many wives of government officials. Among other causes associated with the left, the League of Women Shoppers supported CIO strikes and protested race and sex discrimination in employment. Right-wing anti-Communists pointed to the activism in the LWS of Roosevelt administration members and wives of members as proof of the New Deal's "fellow travelerism."¹⁰

In response to these rumblings, in early 1943 the Roosevelt administration laid the foundation for Truman's program by establishing an Interdepartmental Committee on Employee Investigations. Not mollified, congressional conservatives continued to attack the administration for harboring subversives. Although most Americans did not take these charges seriously at the time, the relentless accusations of the years from 1938 to 1944 planted seeds that would bear fruit later, after world events made the public more receptive.

Those events came quickly beginning in 1946. Soviet conduct in Eastern Europe, combined with the exposure of a Soviet espionage ring in Canada, made the possibility of Communist infiltration of the U.S. government more frightening and credible.¹¹ Republicans' dramatic gains in the 1946 congressional elections were widely credited to their hammering of Truman on the Communist issue. Belatedly trying to repair the political damage and worried that Congress might create something worse, in March 1947 Truman formalized and expanded the wartime loyalty program with Executive Order 9835.¹²

In accordance with E.O. 9835, each executive department established a loyalty board, and employees for whom "reasonable grounds for belief in disloyalty" could be established were dismissed. The program's many flaws included the anonymity of the FBI's confidential informants, the vague definition of "derogatory" information, and reliance on arbitrary lists of subversive organizations. There was also the double jeopardy problem: employees were investigated repeatedly for the same charges, because every job change or promotion required a new loyalty check and because loyalty standards changed several times, resulting in the reopening of cases to apply the new standards to the same old allegations.¹³

The loyalty program became even less fair over the ensuing years. As a result of several espionage cases, the Soviets' demonstration of nuclear capability, and the Communist victory in China, some anti-Communists' credibility with the American public surged, as demonstrated in the ascendance

THE SMITH ACT CASE

Michal R. Belknap

“The Smith Act cases,” as William Wiecek has explained, “were the domestic consequences of the Truman administration’s foreign policy initiatives.”¹ Those initiatives led directly to the Supreme Court’s decision in *Dennis v. United States*,² the single biggest setback suffered by freedom of expression during the McCarthy era and a judicial blunder that exemplifies the impact of irrational anti-communism on American law.³ That is the standard history told by this author, among others.⁴ But how accurate is that story? Was the *Dennis* case really a product of the sort of illogical fears of a Red menace to America that fueled McCarthyism?⁵ Or was it instead a rational response to a real threat to national security posed by the Communist Party of the United States of America (CPUSA)?

New evidence that has come to light since I first wrote on this subject nearly forty years ago suggests the CPUSA was far more menacing than I recognized in 1977, and consequently that *Dennis v. United States* was not the unjustified Truman administration assault on freedom of expression that liberal scholars such as me have long insisted it was. But the old Smith Act story, while badly flawed, is not completely wrong. Although many Communists were dangerous, the Communist Party’s teaching and advocacy were not. It was those things for which the Truman administration hauled the party’s leaders into court. While the CPUSA may have been disloyal and even subversive, the *Dennis* case was nevertheless a political prosecution that dealt a severe and unjustified blow to the First Amendment.⁶

The Supreme Court decision that case generated was the most prominent free speech ruling of the 1950s.⁷ Speaking of the debate over freedom of expression during the Cold War, legal scholar Geoffrey Stone writes, “The key decision, the one that shaped the debate, was *Dennis v. United States*.”⁸ Yet, for all of its prominence during the McCarthy era, *Dennis* proved to be of little lasting significance. Doctrinally, it was displaced

within two decades by *Brandenburg v. Ohio*.⁹ *Dennis* announced that the test for determining the constitutionality of a restriction on allegedly subversive expression was whether “the gravity of the ‘evil,’ discounted by its improbability, justifies such invasion of free speech as is necessary to avoid the danger.”¹⁰ Under this rule, since the overthrow of the government is such a great evil, speech that might be interpreted as encouraging it could be suppressed, even if there was virtually no chance that these words would result in any revolutionary action. *Brandenburg* on the other hand does not permit punishing the advocacy of force or unlawful violence unless such advocacy is directed at inciting or producing *imminent* lawless action and is actually likely to produce it. Today, at least among lawyers, *Dennis*’s “grave and probable danger” test is all but forgotten.¹¹

Although a legal relic, the *Dennis* case retains historical significance due to the fact that it epitomized so well the impact of McCarthyism on the law. That is why the case occupies such a prominent place in the standard constitutional histories of the period.¹² As the late Kermit Hall astutely observed, “The federal government’s invocation of the Smith Act [in *Dennis*] posed one of the central issues of the Cold War: what was the scope of civil liberty?”¹³ Unfortunately, what the case demonstrated is how limited liberty became during the McCarthy era. As Ellen Schrecker emphasizes, “[B]y effectively placing communism outside the Constitution and making the day-to-day activities of the [Communist Party’s] leaders against the law, the successful invocation of the Smith Act [in *Dennis*] made all other forms of repression against Communists, ex-Communists, and alleged Communists that much easier.”¹⁴

The judicial ruling that produced these unhappy results is one for which the Truman administration was clearly responsible. The author of the Supreme Court’s opinion in *Dennis* was a Truman appointee, Chief Justice Fred Vinson. An undistinguished jurist, Vinson became the head of the high tribunal on June 24, 1946, when Truman named him chief justice following the death of Harlan Fiske Stone. A former congressman and judge who had held several top positions in the Roosevelt administration during World War II, Vinson was a judge who hardly ever interpreted the Constitution in a way that seriously restricted governmental authority.¹⁵ His decisions, as Melvin Urofsky has pointed out, nearly always favored the government over the individual.¹⁶ They earned him a well-deserved reputation as an enemy of civil liberties. A judge with Vinson’s views was unlikely to challenge the temper of the times in order to stand up for the First Amendment rights of Communists. Predictably, Fred Vinson did not.

The other three Truman appointees who sat with him on the court that decided *Dennis* also did not. Harold Burton and Sherman Minton both

silently supported Vinson. There were two dissenting opinions in the case, but both came from libertarian survivors of the Stone Court: Hugo Black and William O. Douglas.¹⁷ Two other justices who had served on that court wrote concurrences. Both Felix Frankfurter and Robert Jackson accepted Vinson's conclusion (although Frankfurter obviously only very reluctantly), but neither agreed with the reasoning he had used to reach it.¹⁸ The ninth member of the court, Justice Tom Campbell Clark, declined to participate in the decision.¹⁹ It would have been inappropriate for him to do so, because as Truman's attorney general, he had authorized the *Dennis* prosecution.

As Clark's role in the case highlights, *Dennis* was not only a case decided against the leaders of the Communist Party by a Supreme Court dominated by Truman appointees, but also one brought against them by Truman's Department of Justice. By the time a federal grand jury indicted the members of the CPUSA's National Board on July 20, 1948, many Democrats, certain the president would be defeated in that fall's election, were distancing themselves from Truman. Attorney General Clark was not among them. He stood firm behind the president, making twenty-eight campaign speeches and a half dozen radio broadcasts on his behalf. Clark vigorously defended the administration's efforts to combat Communist subversion.²⁰ He opened one meeting with top leaders of the Justice Department by demanding to know "What are you going to do about Commies?"²¹ Initially, Clark seems to have favored reliance on the deportation laws to deal with Communists.²² But the Republican-controlled House Un-American Activities Committee demanded to know why the Justice Department had not used the Smith Act against the CPUSA. Its goading, along with fears that if the Justice Department did not use that law, Congress might enact new and dangerously unconstitutional legislation to combat communism, inspired the attorney general to initiate the case that would eventually reach the Supreme Court as *Dennis v. United States*.²³ Confusion within the Justice Department and shifts in the political winds briefly delayed the Communist Party's day of reckoning. But well before the president's surprise reelection victory in November, the party's leaders were under indictment and under arrest.²⁴

The legal action that had put them there was clearly one for which the Truman administration was responsible. But were that prosecution and the *Dennis* decision that grew out of it products of the sort of irrational fears of communism that we have come to know as McCarthyism? For years I argued that they were.²⁵ And I was not alone. In his book on the *Dennis* case, Peter L. Steinberg wrote in 1984 that a "thirteenth juror—prejudice—was unavoidably present in the judicial proceedings of the period."²⁶ The pressure that it exerted kept what was supposed to be an independent judiciary from

THE TALE OF THE CLASSIFIED UPSIDE-DOWN CAKE RECIPE Harry Truman, the Press, and Executive Confidentiality in the Cold War Years

David Greenberg

Even presidents devoted to the First Amendment sooner or later find themselves at war with the press. A presidential administration and the press corps that covers it work together every day, but the two parties inevitably have different purposes, interests, agendas, and even values. Both want to exercise control over the flow of news—to determine what information about the government’s business appears and how it is rendered; both tend to resent and challenge efforts by the other party to do so. Wartime sharpens these differences. Although journalists feel a nationalistic duty amid war to accept the restrictions that a president places on them, it’s also much more self-evident to Americans during such times that disclosures of information can materially affect the nation’s safety. Accordingly, presidents in wartime normally tighten the rules about what can be released to the press and published.

The Cold War, like the more recent war on terrorism, fell into a gray zone between war and peace. Hostilities between the United States and the Soviet Union, which frequently spilled over into military conflict, saddled presidents with an unusually heavy burden of protecting the nation, especially given the unprecedented threat of mutual assured destruction. Under the pervasiveness of that threat, the elastic concept of national security became even more malleable, and no president wanted to be seen as lax in protecting it. Yet journalists weren’t ready to suspend the regular ways of doing business as they might during a shooting war. Daily life in the postwar period continued more or less as normal, and it was natural for reporters

and editors to resist encroachments on their freedoms that they might have tolerated during clear-cut emergencies. They expected presidents to provide persuasive reasons to justify any blockading of information.

A particularly sensitive issue was that of classifying government documents as secret. War and diplomacy have always required a measure of secrecy and selective disclosure. In American history, the practice of labeling certain messages confidential was observed as early as the War of Independence. Formal classification is generally said to have begun in 1911 with the Defense Secrets Act, under which the War Department established procedures for restricting access to certain information. During World War I and World War II, Presidents Wilson and Roosevelt saw fit to expand and overhaul the existing classification systems, and journalists became accustomed to the government's desire to keep certain facts out of public view. Only after World War II, however, did these classification rules expand exponentially—first because of the need to protect atomic secrets, and then after the initiation of extensive covert operations. The expanded classification regime has pitted the press against the president ever since. Questions about releasing sensitive government information underpinned conflicts from Dwight Eisenhower and the U-2 incident and John F. Kennedy and the Bay of Pigs through George W. Bush's warrantless wiretapping program and Barack Obama's response to WikiLeaks' data dumps.

Although Harry S. Truman was often embattled during his presidency, he mostly got along well with the press. Sometimes the interactions became tense or a bit bitter, but overall they were amicable, concluded Herbert Lee Williams, the ghostwriter of Truman's memoirs and a Truman speechwriter, who was also probably the most thorough historian of Truman's press affairs. "Truman's relations with the working press were generally excellent," Williams wrote. "The data reveal the existence of an easy, intimate, and predominantly friendly relationship with the men and women of the press with whom he came into regular contact."¹ Williams noted that Truman and the press corps found themselves warring openly only on occasion. James E. Pollard, the first major historian of presidential press relations, came to a similar conclusion.²

Of these skirmishes between Truman and the press, the most important arose in response to an executive order that the president issued in September 1951 expanding the government's power to classify and restrict information on national security grounds.³ That a debate over classification opened a rift with working journalists should not come as a surprise. The incipient Cold War took Truman and the press—as well as Congress, the courts, and the American public—into uncharted territory, where

new rules had to be written to defend American interests without violating basic civil liberties. The classification of material across the executive branch was one area where Truman and his administration began to write these new rules. The dust-up in the fall of 1951 was partly responsible for what columnist Drew Pearson called “Truman’s press relations droop” and the judgment of *Washington Post* correspondent Eddie Folliard in early 1952 that the president’s exchanges with the press corps “have deteriorated in the last two years.”⁴ It also set the stage for struggles over classification for decades to come.

The political and international contexts for this controversy are well known. From the moment that Truman inherited the presidency in 1945, relations with the Soviet Union steadily soured, fears about espionage and Communist subversion spiked, and prospects for a harmonious postwar order darkened. Heightening the fear in this emerging superpower rivalry was, of course, the development of the bomb. The specter of atomic warfare led Truman and other leaders to entertain—amid what was nominally peace—security measures once deemed proper only during war.

Truman worried intensely about the information that Josef Stalin and the Soviet Union were acquiring. Although he respected news reporters, he believed that many of them were insufficiently attentive to the ways that their journalism could compromise the safety of the American people, their homeland, or their military positions abroad. He shared this sentiment with them in his second term. Although he had held frequent press conferences in the first three years of his presidency, he never discussed the issue of suppressing information that might endanger national security. But attention to the issue increased in 1948, and starting in 1949, two incidents in particular inflamed the president. First, in January, *Fortune* magazine published a map, provided by the Atomic Energy Commission without military clearance, showing the location of American atomic energy plants. The publication provoked widespread outrage, as did other reports discussing possible US Air Force strategies in a hypothetical attack on the Soviet Union.⁵ The House Armed Services Committee launched an inquiry, although Defense Secretary Louis Johnson testified that these stories did no palpable damage to American security.⁶ Soon thereafter, the Scripps-Howard newspapers ran aerial photographs of several American cities, including New York, Washington, DC, Boston, and Detroit. To later generations familiar with computer programs like Google Earth that provide far more detailed imagery and information of every American city street, the publication of such photographs might well seem innocuous. At the time, however, such photographs were rarely seen outside official circles, and Truman was apoplectic about the disclosure. “Every single one

CONFLICTED LOYALTIES

The Betrayals of Alger Hiss and Harry S. Truman

R. Bruce Craig

It has been said that espionage is the world's second oldest profession and just as honorable as the first. Certainly throughout American history few government officials accused of espionage acquitted themselves more honorably while in government service than did Alger Hiss. His contributions to the New Deal in three executive agencies—the Departments of Agriculture, Justice, and the State—as well as his work on behalf of the founding of the United Nations were nothing short of remarkable.¹

Without a doubt, Hiss is a controversial figure in American history. For archconservatives, he is the traitor responsible for subverting American policy to pro-Russian positions at Yalta. He is a two-faced liar—a sort of Dr. Jekyll and Mr. Hyde personality, pleasant and congenial on the surface, but, as Richard Nixon once quipped, if the American people knew his real character, this is a man they would want to see “boiled in oil.” Others, those of a more left or liberal bent, paint Hiss in shades of not just red, but white and blue as well. They see the face of a loyal American, an American Dreyfus, a defamed martyr, a victim of the excesses of the McCarthy era, a man devoted to his family, to New Deal-era social reform, to the United Nations, and to the dream of American-Soviet peace and cooperation in the post-World War II era. They see him wronged by, as Hiss characterized it, a conspiracy of an “unholy trinity” consisting of Richard Nixon, J. Edgar Hoover, and Whittaker Chambers—men who conspired to forge evidence against him, even going so far as to construct a typewriter that was used to fake documents and frame him.²

Hiss's guilt or innocence, however, is not the topic to be addressed in this essay, though a thumbnail biographical sketch is relevant background to the

topic being explored here. The topic of this essay is the curious relationship between Alger Hiss and President Harry S. Truman. The central issue to be explored is how Hiss came to view President Truman as the betrayer of the legacy of President Roosevelt by shifting American foreign and domestic policy to a Cold War stance and, conversely, how Truman came to feel betrayed by Hiss after he boldly defended him in the midst of the House Committee on Un-American Activities (HUAC) investigation. In exploring these questions, there were two events where the forces of history mandated these two men interact with one another. The first was during the San Francisco Conference where the United Nations was created, and the second was in the early months of the Hiss-Chambers controversy, which coincided with the presidential election contest of 1948.

THE SAN FRANCISCO CONFERENCE

Before achieving notoriety, Alger Hiss was a highly respected State Department official, a well-known figure in the bureaucratic circles of several government departments, but a relative unknown to the general public. He quietly entered the State Department in September 1936 as a special assistant in the office of Assistant Secretary of State Francis B. Sayre, then quickly rose through the professional ranks. By March 1945, Hiss was serving as director of the Office of Special Political Affairs, an office responsible not so much for the development of State Department policy as for advancing one of President Roosevelt's top postwar priorities: establishment of the United Nations. To that end, in August to October 1944, Hiss had served as executive secretary of the Dumbarton Oaks Conference in Washington, DC, where American, British, and Soviet delegates hammered out the rough framework of the United Nations Charter. There Hiss proved himself a person of unquestioned administrative ability. Largely because he was so highly regarded and because he was personally known by the foreign ministers from the key nations, he was subsequently named acting secretary-general of the United Nations Conference on International Organization (UNCIO), which was scheduled to take place in San Francisco, California. There delegates from some fifty nations were to assemble and consider adoption of the United Nations Charter.³

After he returned from the Yalta Conference, where he had assisted Secretary of State Edward Stettinius, Hiss was charged to preside over all aspects of the administrative side of the upcoming San Francisco conference. Virtually overnight he was given general supervisory authority over nearly one thousand people. With only a little over a month to coordinate logistics for the meeting, he worked with army and navy officers and techni-

cal experts and employees of some fourteen federal agencies, including the Office of Strategic Studies (OSS) and the FBI, which were jointly responsible for providing security during the meeting. All were responsible to him!⁴

Logistically, the planning required for the San Francisco conference proved far more complex than for Dumbarton Oaks. For the Washington, DC, meeting, there had been only three delegations to contend with; in San Francisco, there would be over fifty. At Dumbarton Oaks there was a need only for Russian translators; for San Francisco, five official languages had been designated and Hiss had to arrange translators for all. Furthermore, one of the reasons Dumbarton Oaks had been selected for the earlier meeting was that delegates could be housed in their nearby embassy chanceries; for the San Francisco conference, Hiss had to arrange hotel accommodations for nearly one thousand delegates and their support staff. Though the undertaking was not quite on the same scale as the landing of the American expeditionary force at Normandy, nevertheless, providing transportation for the delegates proved a massive undertaking that necessitated the rental of 215 sedans, twenty-five jeeps, fifty navy buses, and forty-eight private limousines, with some eight hundred taxicabs being held in reserve.⁵

As the scheduled date for the opening of the San Francisco conference drew near, President Roosevelt retreated to Warm Springs, Georgia, where he started drafting the speech he planned to deliver at the opening session of the conference. But on April 12 the president died and with his passing what Hiss termed the “Spirit of Yalta” also departed. For virtually every American who lived through World War II, the day of Roosevelt’s passing remained one of the most vivid and memorable days of their life—perhaps second only to the calamity of December 7, 1941. Hiss later wrote that he “was overwhelmed with the loss of a hero.” His “leader for social justice and for world policy was dead.” More importantly, Hiss viewed Roosevelt’s death as “a threat to . . . the prospect of a stable peace,” and concluded that “the cooperative spirit among the great powers at Yalta was largely missing at San Francisco.” “The world,” Hiss recalled, “would be a very different place without Franklin Roosevelt as president of the United States.” An era and an epoch had ended; Harry S. Truman was now president.⁶

ALGER HISS AND HARRY S. TRUMAN

Truman had a reputation of being straightforward and honest—a simple, God-fearing midwesterner. He spoke his mind and his Missouri constituents respected him for that. But Hiss recognized, as did others, including his colleague Dean Acheson, the limits of the new president’s judgment and wisdom. Hiss came to believe that Truman did not possess Roosevelt’s

HARRY AND JOE

President Truman Confronts Senator Joe McCarthy

Richard M. Fried

Hindsight suggests that when Senator Joseph R. McCarthy took up the Red menace, it would turn out poorly for the Truman administration. The actors engaged in the real-life events had hindsight of their own—call it historical perspective—but it proved less valid than they suspected. Administration strategists in the White House, State Department, and Senate seem to have expected a conflict like 1898, but instead found themselves bogged down in something more like 1914. As for McCarthy, it is hard to say what he anticipated in Wheeling, West Virginia, on February 9, 1950, when he charged that Truman’s State Department was heavily seasoned with Communists.¹ Passing through Milwaukee on his return from his Lincoln Day junket, at lunch with reporters from the *Milwaukee Journal*, McCarthy said, “I have a pail full of shit and I’m going to use it where it does me the most good.” Yet to two newsmen he encountered soon after in Washington, he dismissed it as “just a political speech to Republicans.” The State Department’s direct rebuttal and the ensuing press coverage seemed to take him by surprise. Reporter Edward T. Folliard of the *Washington Post* recalled that no one was more taken aback than McCarthy at his sudden celebrity. Senator Hubert H. Humphrey recalled similarly of McCarthy and his initial attack: “He just sort of let it go . . . and it was picked up by the press.”²

The spotty evidence signals the heavy impact of contingency—and hints at a fleeting might-have-been—at the outset of the McCarthy era: what if the Democrats had simply ignored his charges, first uttered in what journalist William Shannon called “a Triple-I League town”?³ A further contingency suggests itself: what if the Associated Press’s correspondent

in Wheeling had not filed a report of the speech, including the reference to “a list of 205” Communists in the State Department, or if that report (followed by a United Press dispatch based on it) had never seen print? McCarthy, as many authors have pointed out, battered on the nature and amount of newspaper coverage he received.⁴ Nowhere was that truer than at the dawn of the McCarthy era.

Starting out with a low opinion of McCarthy, Democrats in both the Senate and the Executive Branch did not expect it would take long to dispatch this latest tormentor. Yet some of them did have premonitions of the Communist issue’s potential for damage. This combination of reactions may have impelled them to make an initial counterattack, and by thus overdignifying McCarthy’s first charges with any response at all, the Democrats needlessly rattled a machine into motion. On February 10, State Department spokesman Lincoln White responded, “We know of no Communist members in the State Department,” and added that any found would be sacked. A day later Deputy Undersecretary of State John Peurifoy (who supervised the State Department’s Loyalty Security Program and would bear the brunt of responding to McCarthy in his first season of ascendancy) wired a challenge, asking him for the 205 names he had reportedly claimed to have in Wheeling.⁵ Then on February 20, Senate Majority Leader Scott W. Lucas (D-IL) confronted McCarthy on the Senate floor concerning his Wheeling charges. This first, rancorous exchange convinced every member of the Senate Democratic Conference that it was essential to launch an investigation by a subcommittee of the Foreign Relations Committee. The clangor accompanying McCarthy’s charges apparently even prompted the House Foreign Affairs Committee to weigh looking into them.⁶ George Reedy, longtime aide to Senator (later President) Lyndon Baines Johnson, suspected that if Lucas had not challenged him, McCarthy might have abandoned the issue.⁷

President Truman’s initial response to McCarthy came at a February 16 press conference. Since he was specifically queried about the senator’s charges, he could hardly have avoided a reply, sharp or otherwise. He aligned himself with the State Department’s avowal, responding that “there was not a word of truth in what the Senator said.”⁸

These early responses to McCarthy’s charges reflected the view of the White House, Senate Democrats, and, somewhat less sanguinely, the State Department that the Wisconsin senator offered an easy target. Yet all thought countermeasures to be necessary. At the urging of the White House, the State Department established a group to handle the task of responding promptly to each of McCarthy’s charges. The group nicknamed itself the Floating Crap Game, in deference to an ensemble of

raffish characters and their song in the hit musical *Guys and Dolls*. This loose, informal, ad hoc assemblage was under the command of Adrian S. Fisher, the State Department's legal counselor. In its early weeks, the group received guidance and White House liaison from Max Lowenthal. This friend and informal adviser to the president believed McCarthy did not even merit a hearing by the Senate.⁹

In the Senate, Millard Tydings (D-MD) headed the subcommittee tasked with sifting through McCarthy's claims. A four-term senator who had survived FDR's attempt to "purge" him in 1938, Tydings had also parried McCarthy's recent attack on Secretary of the Navy Francis P. Matthews in his futile protest of the firing of Admiral Louis Denfeld as chief of naval operations. Tydings had dismissed that controversy as a "sham battle" over "a pretty small peanut." Little impressed with McCarthy, Tydings expected scant trouble from his next flurry of allegations. Similarly, the State Department reportedly hoped that McCarthy would "get his head so thoroughly washed that neither he nor any of his like-minded colleagues" would resort to such charges again.¹⁰

At the onset of this confrontation, neither side held a high opinion of its adversary. As for Truman and McCarthy, *each* seemed to underestimate the other.¹¹ In the course of McCarthy's rise in Wisconsin, rivals had often discounted him, so that his climb from failed Democratic candidate for district attorney, to his election as judge (in a nonpartisan contest), to the Republican nomination for U.S. Senate, and then election to that office in 1946 came as a surprise to those who did not know him well. Similarly, Truman's past foes had commonly underestimated him, often to be rudely surprised on election days or other renderings of accounts, but McCarthy would suffer no such comeuppance. A keen student of history, Truman sometimes became captive to his reading of it: he took lessons from past triumphs that caused him to downplay McCarthy's staying power, as well as that of the Communist issue.

Once he had fixed on the Communist issue, McCarthy came to refer to Truman in the most contemptuous of terms. He dismissed him as a pawn and, like other Republicans, as a "little" man. Thus, after MacArthur's ouster in April 1951, McCarthy called Truman "president of this country in name only. The real man who discharged MacArthur was a rather sinister monster of many heads and many tentacles, a monster conceived in the Kremlin, and then given birth by Acheson," with the British Labour government leadership acting as "midwives." Truman was a "captive" of the Acheson-Marshall conspiracy, only "dimly aware of what is going on." He was, McCarthy said, "just an unimportant and unintelligent little fellow" who was "pulled on the string" by "the old Acheson-Hiss crowd." The

TRUMAN'S LOYALTY REVIEW BOARD AND THE HONORABLE SURVIVOR

Lynne Joiner

On March 21, 1947, President Truman signed Executive Order 9835 establishing a federal loyalty program—even though he personally thought that the new Red Scare whipped up by the Republicans was “a lot of baloney.” The executive order was essentially a political expedient. Truman’s close aide Clark Clifford even admitted that the loyalty program was created to blunt the charge that Democrats were “soft on communism”—the slogan that had helped the GOP win both houses of Congress in the 1946 midterm elections. And, writing his memoirs forty years later, Clifford wrote that his “greatest regret” after a lifetime of distinguished public service was his “failure to make more effort to kill the loyalty program at its inception.”¹

It was not killed. Instead, an elaborate system was quickly established to carry out the mandate. Loyalty boards were set up in all federal departments and agencies, under the administration of the Civil Service Commission, to screen suspect employees. The FBI was empowered to do background checks and conduct investigations as necessary. Employees could appeal board rulings against them to an overall Loyalty Review Board, and this board could make its own recommendations to the departments. But the Review Board soon came under intense political pressure to overturn a *favorable* decision by a department board, as we shall see.

In the summer of 1947, diplomat John S. Service became the acting chief of the U.S. mission in New Zealand. One of his first duties was to circulate a memo to his staff announcing President Truman’s Executive Order 9835, which had authorized the program. Four years later, in a highly publicized action, the Loyalty Review Board overturned the State Department Loyalty Board’s favorable finding in Service’s own case. Truman’s Loyalty

Review Board announced that it found “reasonable doubt” of the diplomat’s loyalty based upon “the intentional and unauthorized disclosure of [government] documents and information of a confidential and non-public character.”²

On December 13, 1951, the review board’s chairman instructed Secretary of State Dean Acheson to fire John Service. The very next day he was dismissed—and his loyalty case was, once again, front-page headlines.

“While you are most deeply and tragically affected, this is a blow to all of us who have at heart the interests of a good Foreign Service and a successful Foreign Policy,” George Kennan, the respected diplomat and chief architect of America’s Cold War anti-Soviet containment policy, wrote to Service. He described Truman’s loyalty program as the “first fumbling efforts of rather thoughtless people in Government to adjust to a problem of great complexity and delicacy.” He told his stunned colleague, “You happened to get under the wheels of the somewhat ponderous and unsound machinery they have set up and have been injured as . . . if you walked into the path of a truck.”³

Let me now explain how John Service wound up under the wheels of Truman’s “tragically flawed” loyalty program, but emerged as an “honorable survivor.” Service’s battle to restore his reputation and to regain his position in the diplomatic corps had an impact not only on the civil liberties legacy of President Harry Truman, but also on America’s professional foreign service, with implications for the future conduct of American foreign policy.

John Service was America’s designated point man covering the Chinese Communists during World War II in China. The U.S. Army was hoping to find effective allies against Japan, the common enemy. As a political adviser to General Joseph “Vinegar Joe” Stilwell, Service was assigned to learn as much as possible about Mao’s guerrillas—and especially to learn whether they had actually mobilized villagers behind enemy lines into an active underground resistance force to the Japanese occupation.

Service’s observations, interviews, and other findings convinced him that Mao had indeed created a potent revolutionary movement. He felt that it was in America’s best interest to deal pragmatically with the reality of two Chinas: the Nationalists under Chiang Kai-shek, and the Communists of Mao Zedong. A new outbreak of civil war between the bitter rivals, he feared, would jeopardize the American plans for a counteroffensive against the Japanese and have an impact on the strategic role America could play in postwar Asia.

On his return to Washington in April 1945, Service was encouraged by government higher-ups to actively advocate this view by giving background

briefings to government officials, politicians, and journalists. That is how he got involved in the FBI's infamous *Amerasia* case—a case involving purloined government documents and an alleged conspiracy to commit espionage on behalf of the Soviet Union. His conversations with the editor of *Amerasia* (an Asian affairs journal) would trap him in a complex web of suspicion that lasted the rest of his life. By 1950, when Truman's Loyalty Review Board got involved in his case, Service had become a prime scapegoat for the “loss” of China to the Communists, an FBI and Justice Department feud over an alleged political fix and cover-up in the *Amerasia* case, and the outbreak of the Korean War. In 1951, Truman's firing of General Douglas MacArthur was added to this list.

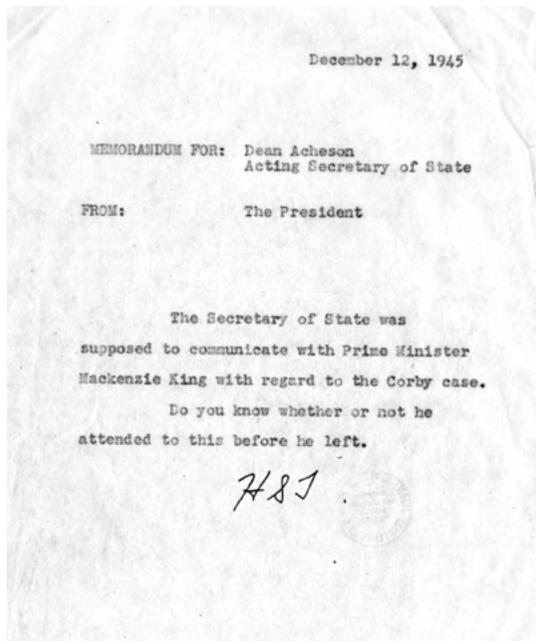
John Service and his family were on a freighter crossing the Pacific in March 1950 when Senator Joseph McCarthy made him a target of his newly launched anti-Communist crusade. The Senate quickly set up a special subcommittee of the Senate Foreign Relations Committee, chaired by Millard Tydings (D-MD) to investigate McCarthy's sensational charges against the State Department. In testimony before the Tydings Committee, McCarthy attacked John Service as a “known associate and collaborator with communists . . . a man high in the State Department [who] consorted with admitted espionage agents.”⁴ Alleging a conspiracy of Soviet spies within the U.S. government, he then resurrected the charge of a “whitewash” in the 1945 *Amerasia* case—repeating nearly verbatim the misstatements and hearsay evidence contained in the “confidential” files of the FBI (revealed to him by FBI director J. Edgar Hoover). McCarthy then dramatically announced that President Truman's Loyalty Review Board was undertaking a new investigation of Service's record.

The State Department's own loyalty board had found no reasonable grounds to doubt Service's loyalty during its investigation of his record a year earlier. Its findings had been sent as a matter of routine to the Loyalty Review Board for approval; but now, the board issued a formal request for Service to appear in person before the State Department board, and the department dispatched a cable to Service aboard the freighter ordering him to leave the ship when it docked in Yokohama and return to Washington for urgent consultations and an appearance before the State Department's board. Evidently this request had been first leaked to McCarthy, resulting in headlines in newspapers around the country like this one from the *New York Times* of March 15, 1950: “State Dept Recalls India Aide For Loyalty Check—J. S. Service, Accused Of Red Ties By McCarthy, To Return For Review Of His Record.”

At the same time, the State Department issued a strong press release calling Service “one of our outstanding experts on Far Eastern affairs”

CIVIL LIBERTIES AND
NATIONAL SECURITY
A Graphic Essay Based on the Holdings
of the Harry S. Truman Library

Raymond H. Geselbracht



*Memorandum, President Truman to Dean Acheson, December 12, 1945.
Subject File: Foreign Affairs File, PSF, Truman Papers, HSTL.*

A background of real Soviet spies formed part of the story of civil liberties during the Truman administration. The small number of spies who were real spawned many others who were imaginary and gave rise to a culture of investigation in both the executive and legislative branches. Some alleged spies became famous national figures (especially Alger Hiss, but also probably including Julius and Ethel Rosenberg, who were executed in 1953) whose guilt was, at the time, uncertain in fact, but probably not, for the most part, in public opinion. It was impossible for Truman and others in his administration to ignore the threat of espionage, from the perspective both of national security and of political risk.

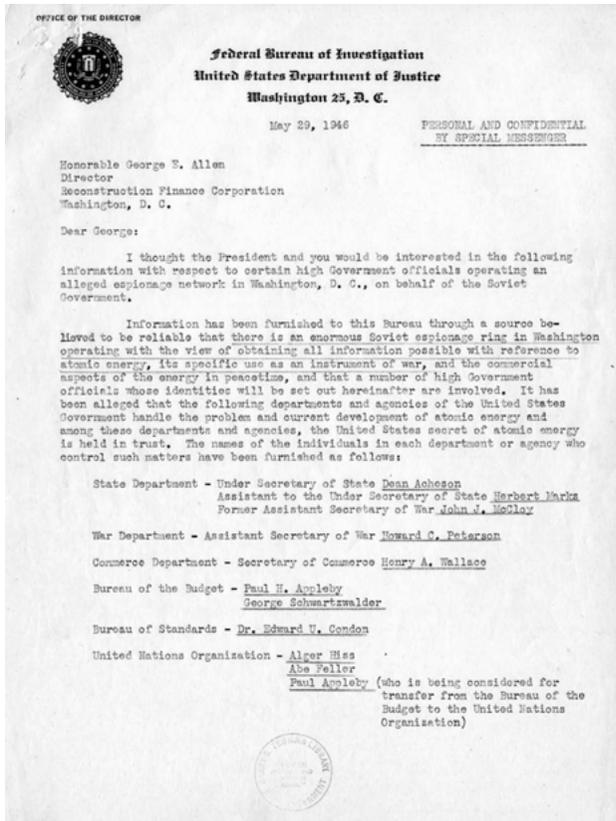
In the memorandum pictured above, Truman asks whether the secretary of state has talked with the prime minister of Canada yet about the "Corby case," a code name referring to the defection in Canada in early September 1945 of Igor Gouzenko, a cipher clerk in the Soviet embassy in Ottawa. Gouzenko's revelations about the Soviet spy network operating in Canada and the United States, together with the information contained in documents he took from embassy files, seriously disrupted and weakened the network, but also helped make some high profile alleged spies momentarily famous.

Two months after Gouzenko's defection, another Soviet spy, Elizabeth Bentley, defected in the United States. Her revelations were at least as damaging to Soviet espionage as Gouzenko's, and they were presented to the public in a more spectacular fashion. Bentley testified at length before a grand jury, then, in mid-1948, gave a full account of her story to a New York City newspaper, which ran it in several front-page articles. Afterwards, she testified before congressional committees and at three trials. In 1951, she published a memoir. Gouzenko and Bentley helped assure that the American people, their representatives in Congress, and their president were kept continually aware of the threat of Communist subversion.¹

Shortly after Truman left office, he wrote privately about what he thought was the value of the revelations made by Elizabeth Bentley and others like her. "Statements by these people," according to the former president, "are about as reliable as to facts as are those of any Communist and a Communist isn't supposed to tell the truth, not even under torture."²

1. Williams, *Klaus Fuchs*, 88–91; Weinstein and Vassiliev, *Haunted Wood*, 94–109.

2. Truman personal writing, ca. November 1953. Post Presidential Papers: Harry Dexter White Case, Truman Papers, HSTL.



Letter, J. Edgar Hoover to George E. Allen, May 29, 1946, first and last page (of four pages). Subject File: Atomic Bomb, PSF, Truman Papers, HSTL.

The Federal Bureau of Investigation and its controversial director J. Edgar Hoover were a constant and important presence as the Truman administration struggled to formulate civil liberties policies that were right for the nation in a dangerous and confusing time. The FBI had grown about five-fold during World War II, as measured by budget and number of agents, and it would continue to grow during the Truman presidency. Truman was suspicious of the FBI, but he needed it and used it, and Hoover made his agency very useful to the new president. Under Hoover's crafty leadership, the FBI became in time largely independent of oversight from the White House, the Justice Department, or Congress.³

The FBI proved especially valuable in searching out disloyalty inside and outside government as fear of communism grew following the war. In

3. Theoharis, "Federal Bureau of Investigation," 128-29.

COLD WARRIOR AND CIVIL LIBERTARIAN Truman's Attempt to Manage the "Second Red Scare"

Ken Hechler and Robert P. Watson

Quite simply, President Harry Truman was both a cold warrior and a civil libertarian. As such, Truman sought to balance the conflicting demands of maintaining American national security at home while also protecting the civil liberties of its citizens. Yet, in seeking a middle ground, Truman's policies opened him up to criticism from both the Far Left and Far Right of the political spectrum. To some, Truman was trampling sacred civil liberties while, to others, he was "soft on communism."¹

This paper argues that Truman pursued perhaps the only politically tenable course of action during these turbulent times, even if it was unpopular with the public and criticized by politicians. This third rail of American politics presented the president with numerous challenges and went to the heart of some of the most vital and enduring questions of American politics: Who will be allowed to become American citizens? How do we define subversive or disloyal behavior? What, if anything, should be done about citizens who engage in such activities? How do we secure the homeland while assuring the integrity of the Bill of Rights? Accordingly, Truman's actions regarding these critical and sensitive matters offer valuable insights into his core beliefs about both the imminent threat of communism and the sanctity of the Bill of Rights, two issues that helped to define Truman's presidency and continue to shape his legacy.

At the same time, Truman's handling of the paranoia surrounding the anti-Communist furor that swept the country in the late 1940s and early 1950s reveals his characteristic political courage. Even though

Truman pursued a political middle ground and established a controversial loyalty program for federal employees, he boldly vetoed two very popular but reckless symbols of anti-Communism—the Internal Security Act of 1950 and the Immigration and Nationality Act of 1952 (also known as the McCarran-Walter Act). So too was Truman one of the few prominent public officials to take on the likes of Senator Joseph McCarthy (R-WI), Senator Patrick McCarran (D-NV), and other anti-Communist reactionaries.

Likewise, Truman's handling of civil liberties, especially pertaining to issues of national security and immigration policy, must be understood within the context of the so-called Second Red Scare. American fear of communism both at home and abroad occurred as a reaction to the revolution in Russia in 1917 and was heightened by world war. Known as the Red Scare, these tensions lasted from 1917 to 1920. But anti-Communist paranoia manifested itself again—and with a vengeance—after the Second World War. However, Truman's response to the Second World War contrasted sharply with then-president Woodrow Wilson's response to the First World War. Although Truman greatly admired his fellow Democrat, he reversed Wilson's aggressive treatment of the Germans, instead favoring the magnanimity and charity of the Marshall Plan and food programs for Europe's starving populations. So too were Truman's postwar relationships with allies, as well as his personal style, more relaxed than Wilson's, whose lack of camaraderie and cooperation is reflected in French Prime Minister Georges Clemenceau's quip in response to Wilson's Fourteen Points proposal at the Versailles peace conference: "Le Bon Dieu n'avait que dix!"—"God had only ten!"²

Fresh from the horrific experience of total war and with tensions rising with the Soviets, America was susceptible to the kind of fear that ran amok during Truman's presidency. A number of events occurred in the postwar years that sparked the wave of anti-Communist paranoia. Foremost among them were the Berlin blockade of 1948 and 1949, the testing of an atomic bomb by the Soviets in 1949 (years before experts believed the Soviets had the technology and capability to do so), the revolution in China that resulted in a second major coup for the Communists, and the Korean War in 1950.

Two spectacular cases of espionage also captivated the country during this period and suggested the need to respond to Communist insurrection and infiltration. Likewise, the Republican Party was frustrated by the fact that they had lost five presidential elections in a row (1932–48), and was especially shocked to have lost in 1948, so they seized on the Communist issue and found that it resonated with the public. During the campaign

season, Whittaker Chambers, a former Communist and editor of *Time Magazine*, accused Alger Hiss of being a spy. A former aide to President Franklin D. Roosevelt and an official in the State Department, Hiss was investigated by the House Un-American Activities Committee (HUAC). The investigation featured dramatic testimony and led to Hiss's conviction for perjury in January 1950. Truman was caught up in the spectacular case when his secretary of state, Dean Acheson, stated, "I will not turn my back on Alger Hiss," which spurred further Republican attacks on the White House. On the other side of the Atlantic, the British government arrested and charged Klaus Fuchs, a German émigré and scientist who had worked on the American atomic bomb project, with passing secrets on the atomic weapons program to the Soviets. Fuchs was aided by David Greenglass and Julius and Ethel Rosenberg; Fuchs served nine years of a fourteen-year sentence and the Rosenbergs were executed by the U.S. government in 1953.³

The paranoia of the time was exacerbated by several opportunistic and unprincipled politicians who gained prominence during the Truman years by leading the fight against Communist insurrection and infiltration and, by proxy, against Truman. It was Senator McCarthy who commanded the headlines when, in 1950, he made the first of many sensational charges about the threats of Communists in the United States. In this case, he alleged that 205 members of the U.S. State Department were known Communists. Over the next few years, McCarthy and others, including HUAC, which was originally formed in the late 1930s to investigate Nazi propaganda, would exploit the nation's fears for their own gain and power. Their witch hunts and blame-mongering used unsubstantiated charges and false allegations to attack political opponents, as well as Hollywood screenwriters, diplomats, professors, and others. Many hundreds of individuals were imprisoned, lost their jobs, had their reputations ruined, or were blacklisted as Communists. Truman had always opposed the work of McCarthy and HUAC, saying of HUAC, "I always thought that un-American activities really meant opposition to the Declaration of Independence and Bill of Rights and the principles at the base of the Statue of Liberty."⁴

Thus was the impossible environment in which Truman tried to govern. It appears to have aided Truman that he knew the anti-Communist paranoia he faced reflected America's long and inglorious struggle with xenophobia, jingoism, and misguided nationalism. While discussing the threat of McCarthyism and the Second Red Scare to the nation's democratic principles, civil liberties, and civil rights, he both recalled and took into account America's earlier experiences with the Salem witch trials, the Alien and Sedition Acts (1798), the anti-Masons, the Know-Nothing

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