

A HISTORY OF THE  
NATIONAL LAWYERS GUILD  
1937-1987

Facot Lawrence  
1980

*"I am sure that the results of this meeting will be well worth while. It is a time for progressive and constructive thinking, and having known most of you intimately for many years I have every confidence that your deliberations will affect the welfare of your own profession and the well-being of the country at large. I send to all of you my hearty felicitations and warm personal regards."*

Franklin Delano Roosevelt, February 18, 1937, in a letter to the NLG founding convention.

# A HISTORY OF THE NATIONAL LAWYERS GUILD 1937-1987

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*To Maurice Sugar,  
whose vision of justice  
has guided the  
National Lawyers Guild  
for half a century.*



# INTRODUCTION

On February 17, 1987, eight lawyers appeared before Immigration Judge Daniel in a Los Angeles hearing room to demand freedom for their eight clients, held for possible deportation under the McCarran Act as security risks. Of the eight lawyers—Dan Stormer, Marc Van Der Hout, Gary Silberger, Len Weinglass, Antonio Rodriguez, Paul Hoffman, Mark Rosenbaum and Jorge Gonzalez—all but one were members of the National Lawyers Guild. Their clients were seven Palestinians and one Kenyan. The small court room was filled to capacity with the lawyers, their clients, the press and a half dozen supporters. The hall outside the court room and the corridors of the building were jammed with 200 friends unable to witness the proceedings. Five of the detainees were released on their own recognizance and three on low bail.

On December 18, 1986, Kristin Booth Glen was inducted as a member of the Supreme Court of the State of New York, before an audience that filled to overflowing the largest court room in the courthouse—an audience that included about 10 other New York City Guild judges. The ceremony was opened by the chair, who introduced himself as “Danny Greenberg, President of the New York City chapter of the National Lawyers Guild.” The second speaker of the evening was Haywood Burns, the National President of the Guild. Justice Glen in her remarks gave full credit to the Guild as a major force in the development of her legal and social philosophy.

In the spring of 1986, Professors Arthur Kinoy and Sylvia Law, both Guild members, spearheaded a conference which brought together members of the Nicaraguan National Assembly and a broad cross section of United States constitutional scholars, to discuss draft sections of the proposed Nicaraguan constitution. Later that year Professors David Rudovsky and Nadine Taub, also Guild members, traveled to Managua to present papers on the same subject to an international conference sponsored by the Nicaraguan Supreme Court.

The Guild, on its Fiftieth Anniversary, has nearly 9,000 members and 207 chapters throughout the United States. Eighty-seven are lawyer chapters, 107 are student chapters and 13 are jail-house chapters.

This is how it happened.



Guild member Al Tanz in Jarama Valley, battlefield of Spanish Civil War, as member of Abraham Lincoln Brigade.

## | The Beginning

Franklin Delano Roosevelt had, in 1936, just won his second term with a record-shattering majority, and the coming four years were widely viewed as the time for implementing many of the New Deal's most progressive ideas. But despite the massive victory, the New Deal faced increasing resistance.

The right, which had been in disarray after Roosevelt's victory in 1932, had begun to rebound. The most visible groups, led by demagogues such as the Rev. Gerald L.K. Smith and Father Charles Coughlin, masked a far more powerful alliance. Many of America's corporate and financial leaders had founded the Liberty League, an organization dedicated to defeating the New Deal. Toward the end of Roosevelt's first term, the resurgent right, represented by such powerful organizations as the National Association of Manufacturers, had engaged in a broadening campaign against the most important New Deal legislation and agencies. As in the past, one of the corporate right's most important weapons was the organized bar.

It was against this background that on December 1, 1936, a group of some 25 lawyers from the principal East Coast cities met at the City Club in New York to discuss the merits of creating a new national bar association. What they had in mind was an organization to effectively oppose many of the positions then being taken by the American Bar Association.

Present at the meeting were several men with close ties to the Roosevelt administration. One of the lawyers, Morris Ernst, had direct access to the President. He had been one of Roosevelt's advisors since the President's years as Governor of New York. Others held important positions in New Deal agencies.

The New Dealers had a particular interest in creating an alternative to the ABA, for throughout Roosevelt's first term it had encouraged every attempt to block or overturn the cornerstone legislative work of the administration. With many of its members engaged in corporate practice, cheering together for the "nine old men" on the Supreme Court, the ABA was more than a minor irritant.

In 1936, it was an exclusive club. There were nearly 180,000 practicing attorneys in the United States, yet less than 30,000 belonged



to the ABA. Most of its members and substantially all of its leaders were members of the corporate bar. No black lawyers were members. No progressive union lawyers were members. And few lawyers in general practice with working-class clients were members.

Roosevelt was about to embark on his controversial and ill-fated "court packing" program—a plan to dilute the strength of the conservative majority by increasing the number of justices—and he sorely needed organized support from other forces within the legal community. The New Dealers at the City Club believed they saw the possibility for developing that support among the thousands of American lawyers who were not members of the ABA.

There were other lawyers at the City Club meeting that December evening, among them Robert Silberstein and Mortimer Reimer representing the Lawyers Security League. They represented hundreds of New York attorneys who had organized to pressure the Roosevelt administration for economic relief. Among other things they were demanding employment as lawyers on such programs as the Works Progress Administration. In essence they supported the New Deal. But though they were for it, they were not of it, and on some major issues—the Spanish Civil War, civil rights, additional labor legislation—they were critical of administration policies.

To the New Dealers and the Lawyers Security League was added a third dynamic group, represented at the meeting by Osmond K. Fraenkel, general counsel of the ACLU, Carol King, whose practice was primarily in the field of immigration rights, and Henry Sacher, who represented some of the radical trade unions in New York. Maurice Sugar was not present at the New York meeting but he had played a significant role in bringing it about. A Detroit lawyer, later to be general counsel to the United Auto Workers, he had begun campaigning several years earlier for a "national organization of progressive, liberal, and radical attorneys." He had become convinced of the need for such a bar association while making a speaking tour around the country in 1933.

He later wrote that almost everywhere he went he met lawyers who were "defending the rights of labor and the constitutional liberties of people generally." Many of those lawyers, he concluded, "were suffering virtual ostracism because of their defense of those who would otherwise be defenseless. And all had one thing in common—all were looking down that lonesome road to isolation."

In 1935 Sugar had visited New York to meet with a group of lawyers interested in the formation of a national lawyers committee. He took with him an outline he'd prepared in which he listed some of the benefits he thought would be gained through the creation of such an organization. Among the issues he discussed with the New York group were:

"\* The bringing of lawyers closer to the labor movement.

"\* Stimulation of lawyers in progressive political activities such as a Farmer-Labor Party movement.

"\* Inspiration to sympathetic lawyers now isolated and discouraged.

"\* Development of a united front in anti-fascist struggles among lawyers of various degrees of political and economic opinion."

In the long run it was this third group, oriented toward First Amendment rights and the trade union movement, that turned out to be the dominant force in developing the Guild program.

It was to draft an appeal to such a diverse group of lawyers that

the City Club meeting convened. The invitation to the meeting suggested that the group discuss an organization of "...all lawyers who regarded adjustments to new conditions as more important than the veneration of precedent, who recognize the importance of safeguarding and extending the rights of workers and farmers upon whom the welfare of the entire nation depends, of maintaining our civil rights and liberties and our democratic institutions."

The idea was unanimously approved, the proposed organization was tentatively named the National Lawyers Guild, and a committee was formed to plan a founding convention. Chosen as temporary president was Frank P. Walsh, a member of the New York State Power Authority.

Because of the prominent early role played by men such as Ernst, it has often been stated that the Guild was created solely to function as the legal arm of the New Deal. Undoubtedly that was Ernst's intent, and the Roosevelt imprimatur gave the infant organization both the prestige and nourishment without which it could not have flourished. But even at its inception the Guild was a complex alliance of forces.

Within two weeks, Guild chapters had been organized in New York, Newark, Detroit, Boston, Philadelphia, Washington, St. Louis and Chicago. More than 2,500 lawyers immediately expressed interest.

On December 16, the *New York Times* ran a detailed story about the formation of the new organization. The article reported a press conference called by Walsh who said that one of the Guild's main objectives would be "to advance the professional work and economic well-being of the members of the bar." Walsh concluded the press conference by reading a "Call to American Lawyers" to convene in Washington, D.C. The call began:

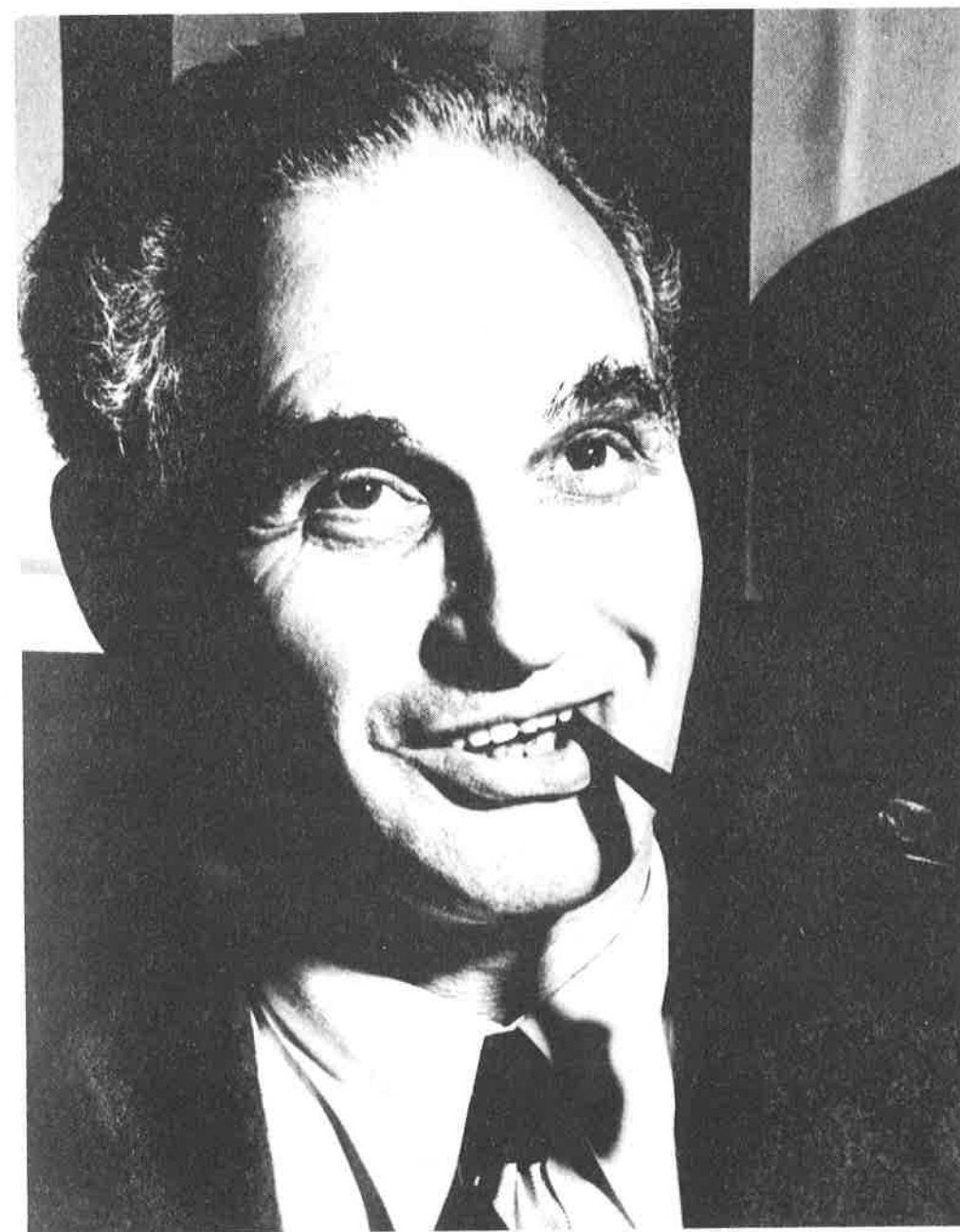
"The history of our nation is, to a great extent, a history of the leadership given by lawyers. In almost every national crisis, when human rights were in issue, lawyers championed the cause of liberty and justice.

"In recent times, however, certain groups within the legal profession have done much to block progress and to befuddle the legislative process. Such activities, although not aided or sanctioned by the greater number of lawyers, have served to bring the profession into public disrepute.

"Through the National Lawyers Guild the overwhelming majority of American lawyers, now inarticulate, will sound their collective voice."

Ernst's obvious intention was to make the Guild an organization of responsible and well known liberals to support the Roosevelt administration, but as frequently happens, the unknowns were far more numerous than the famous—and, as might be expected in the legal profession, many of these unknowns had ideas of their own. In the few weeks following the December meeting strong Guild chapters had been organized in Washington and New York. In both cities, Ernst-supported candidates were defeated after stormy chapter meetings. In Washington, the 29-year-old Thomas I. Emerson, assistant general counsel to the Social Security board, was elected over Henry T. Hunt, a well known but aging civil liberties lawyer. In New York, Paul J. Kern, a 29-year-old associate of New York's mayor, Fiorello LaGuardia, was elected over an Ernst-supported slate.

In this atmosphere, on February 20, 1937, less than three months



Maurice Sugar, Detroit labor lawyer who campaigned in the 1930's for a "national organization of progressive, liberal and radical attorneys."

after the City Club group met, more than 600 lawyers from all sections of the United States met at the Hotel Washington in Washington, D.C., for the founding convention of the National Lawyers Guild. The speed with which the Guild moved from idea to reality reflected the urgent need many felt for such an organization. During 1936, a series of sit-down strikes led by the newly formed CIO had swept the auto, rubber and electrical industries, bringing more than a million new members into the labor movement in a single year. Millions more would join in 1937 as the result of events taking place precisely at the time the Guild was created. Industry responded by developing private armies of detectives, by employing squadrons of lawyers and legislators, and by its orchestrated program of red-baiting aimed at union leaders and union lawyers.

The strengthening of reaction in the United States echoed even more ominous events in Europe. In March of 1936, Nazi Germany remilitarized the Rhineland, shattering both the Versailles Treaty and the Locarno pact without firing a shot. The road toward Austria, Czechoslovakia, Poland and World War II was wide open. In July of 1936, a group of right-wing generals led by Francisco Franco, and aided by German and Italian weapons, began an armed revolt against the government of the Spanish Republic. In response, Great Britain and France, and shortly thereafter the United States, imposed an embargo on selling arms to either side in the Spanish conflict.

The Guild's convention reflected both the hope and anxiety produced by such events. Key speakers included Sen. Alben Barkley and Assistant Attorney General Robert Jackson who denounced the ABA for its resistance to the New Deal. A constitution was adopted with a preamble stating:

"The National Lawyers Guild aims to unite the lawyers of America in a professional organization which shall function as an effective social force in the service of the people to the end that human rights shall be regarded as more sacred than property interests."

The constitution's membership clause opened the Guild to any member of the bar in good standing, regardless of color, sex or political beliefs. That provision alone made history. The Guild became the first integrated national bar association in the United States.\*

The convention passed civil rights resolutions demanding anti-lynching legislation, an end to restricted suffrage, and more public defenders. The Guild supported labor's right to collective bargaining, and to organize "free from employer interference of any kind," and called for a full-scale Social Security program. An innovative proposal called on the federal government to create neighborhood "legal aid bureaus" to provide full services for those unable to afford legal fees.

An International Law Committee was also created. It set as its first task a careful study of the Neutrality Act and its use—or

misuse—in relation to the Spanish Civil War. The committee's report, a powerful and scholarly legal argument against the embargo, appeared in the premier issue of the *National Lawyers Guild Quarterly* published late in 1937. (At least five early Guild members took a more definitive position by joining the International Brigades fighting against Franco. Only two returned.)

The convention closed with the election of officers and a National Executive Board. The first elected President of the Guild was John P. Devaney, Chief Justice of the Minnesota Supreme Court. The executive board included the general counsel of both the AFL and CIO, Governor Phil LaFollette of Wisconsin, Sen. Homer Bone of Washington, Rep. Maury Maverick of Texas, Thomas Emerson, Malcolm Sharp of the University of Chicago Law School, and Osmond Fraenkel of the ACLU.

In a statement drafted a few months later, Devaney summed up the work of the first convention by addressing the question: Why a National Lawyer's Guild? His statement reiterated the Guild's opposition to almost everything advocated by the ABA, called for vigilance in protecting civil liberties, and concluded:

"... The mass of American lawyers are ordinary lawyers with ordinary clients. The National Lawyers Guild has as its prime objective the task of convincing the ordinary citizen that all members of the bar are not working to defeat the legitimate demands and aims of the great masses of people for a better and fuller life. . ."

In its first two years, the Guild attracted 4,316 members in 29 chapters around the country.

During this period the national organization sponsored a major conference on administrative law held in Washington, and a series of regional conferences on the economic condition of the bar. The Labor Committee organized a national conference, sponsored seminars, and wrote critiques of several pro-management amendments to the National Labor Relations Act then being proposed under the guise of "balancing" labor legislation.

Major reports were prepared by the committees on Civil Liberties, Civil Service, Constitution and Judicial Review, Corporate Reorganization and Bankruptcy, and International Law.

Because of the Guild's constant contact with members of Congress and some state legislatures, its committee reports were often cited during hearings and floor debates. Guild representatives frequently appeared before congressional, state and local legislative committees to present the views of the organization. For almost a year, the New York chapter, working in cooperation with a number of delegates to prepare for the 1938 New York State Constitutional Convention, proposed amendments dealing with labor relations, health care, housing and public transit. In Michigan, the Guild led a successful campaign to defeat a proposed amendment to the state constitution calling for an appointive judiciary.

The Chicago and Philadelphia chapters began development of community law offices, and a committee headed by Professor Malcolm Sharp prepared a detailed study of the economic and social feasibility of such programs. The Sharp report drew favorable comment around the country, was endorsed by the Guild, and received the support of Chief Justice Harlan F. Stone who wrote: "Our profession has not succeeded very well in discharging its duty to provide the opportunity for the common man to secure justice at a reasonable cost. The experiment now proposed seems to me to promise success and to be worth trying."

It is appropriate that our 50th Anniversary should be cause for celebration as we remember with pride the events of our history, the deeds and sacrifices of our heroes and the victories won. But after the celebrating is done, the chronicles related and the archives assembled, it would serve us well to engage in a deeper examination of our history to focus upon the moral and political values which gave us the strength to succeed where others failed.

An important factor contributing to the Guild's vitality is the unique role of the legal profession in the United States, deriving from the nature of our Constitution. But given the pressures exerted upon us during much of our existence, this fact alone could not have sustained us. Other attempts to form alternative legal organizations (as a kind of third force) have proved abortive. There is a reason, however, so fundamental that it needs to be emphasized when we reflect upon our past. It is that we recognized the virus of anti-communism to be the most destructive weapon available to our enemies.

Whatever the immediate price, we never allowed anti-communism to determine our policies or our conduct under pressure. And at times, the immediate price was great indeed. In 1939 and 1940 quite a few of our founders, including important figures in the government, concluded that their interests dictated a different course. They left the Guild. Inevitably, some became leading Cold-War liberals.

During the fifties things became even more difficult. Guild members were subjected to congressional investigations, prosecutions and disciplinary proceedings for their political beliefs. A few were imprisoned. Quite a few members dropped out of a concern for risks, actual or perceived, to their careers. Some were afraid of social ostracism. Thousands left not as a matter of conviction but out of a desire to live more quiet lives. They receded into the shadows and became part of either the silent majority or the silent minority.

A core remained whose sense of history enabled them to withstand the repression, confident that the time would come when the principles they espoused would inspire a new generation to take up and advance their cause. And that is what happened. In the process, we provided an example to the entire progressive movement.

The latter point deserves further elaboration. Large segments of the progressive movement, abandoning principle, engaged in a frenzy of self-destructive red-baiting. Leaders of important organizations became the architects of division and dissolution and in the process they not only weakened their own organizations but undermined the vitality of the entire movement. The most cynical and disheartening example was provided by the labor movement. The CIO expelled its best and most militant affiliates on the ground that they were

communist dominated.

It is in this larger context that the lessons of our history can best be appreciated, since we survived because of our adherence to principles and are stronger now because those principles remain intact.

What made this possible? In my opinion, two kinds of people, working together, made it possible to sustain and build our organization. One group consisted of those who believed in the need for a fundamental transformation of our social and economic system and the creation of a socialist society. The other group was composed of those who, though they were critical of the inequities and injustices prevalent in our society, nevertheless believed that the needed changes could be achieved within the present system. Both groups were prepared to cooperate with each other in support of the aims set forth in the Guild's constitution. Neither group could have succeeded alone.

These thoughts lead me finally to make a brief comment about the place occupied in our history by Robert W. Kenny, who agreed to become President of the Guild in 1940 at a moment of grave internal crisis. In disregard of the risks involved to his political future, Bob accepted the presidency because there was a crisis and in the belief that his leadership could make a difference in the direction the Guild would take. And it did make a crucial difference, not only during the eight years of his leadership but for all the years thereafter. As Attorney General of California, candidate for Governor and Superior Court Judge, Bob remained a proud and outspoken member of the Guild, never yielding to the enormous pressures to take an easier way out.

Thoroughly engrossed in the law and profoundly attached to the primary status of the First Amendment in our constitutional scheme, Bob was convinced that if communists and socialists were denied equal rights with all others, democracy itself would atrophy. But it went deeper. Bob was not a Marxist. But his wide reading and contemplation had led him to the conclusion that no progressive organization or movement could genuinely claim to be a significant representative of 20th Century enlightenment if it excluded the ideas of communists and socialists. Such exclusion, he felt, led to political and cultural ignorance, xenophobia, mean-spiritedness and in the end, to national and international insecurity.

The Guild has been fortunate in its leaders. Like Bob Kenny, they understood the currents of history and they possessed the moral courage to act upon their beliefs. Equally important, they relied upon the strength and unity of all our members without whose participation nothing would have been possible.

MARTIN POPPER

\* Though certainly correct in spirit, this statement is not absolutely accurate. The National Bar Association, an organization of black lawyers, never barred participation by whites. At least one white lawyer, Martin Popper, who later served for seven years as the Guild's executive secretary, was a member of the National Bar Association. A story, perhaps apocryphal, was widely told in the National Bar Association. While arguing against the white primary in Texas, Thurgood Marshall was asked if in fact he himself didn't belong to an all-black organization. "No," he supposedly responded, "We have Marty Popper."



The *National Lawyers Guild Quarterly* (later the *Lawyers Guild Review*) began publication in December 1937, and soon established itself as an important legal periodical.

But all was not quiet on the national political scene. In 1938 Congress voted a substantial appropriation for the Dies Committee, a "temporary" congressional committee that quickly evolved into the House Committee on Un-American Activities. The work of the Dies Committee was perceived by the Guild as a serious threat to civil liberties, and on February 10, 1939, at the opening session of the Guild's third national convention, the Executive Secretary's report drew attention to the growing problem:

"Some of us who have followed closely the work of the Dies Committee are much concerned. . . The Guild is not immune. As the conflict becomes sharper, as the Guild's influence and prestige becomes an increasingly potent force on the side of democracy and in the interests of the American people, we too will be honored with the attention of these termites. . ."

The termite analogy was ironically apt. Within a matter of days following the report the Guild would come under its first serious attack, though it would not come from the Dies Committee. The blow would be struck from within.

At the convention, held that year in Chicago, the Guild's outgoing president, Justice Ferdinand Pecora of the New York State Supreme Court, included in his farewell remarks an attack on "any Ism be it of native or alien origin. . ." The speech resulted in a heated debate leading to a motion by Ernst at a meeting of the executive board to adopt its main theme as the official policy of the organization and to include it in the preamble to the constitution. Many years later, a secret correspondence between Ernst and J. Edgar Hoover came to light. It showed that Ernst, over a long period, had supplied the FBI with information on the Guild and Guild members.

After a stormy six-hour debate, a compromise was finally reached. Pecora's speech would not find its way into the constitution but would be endorsed by the board and carried in the next issue of the *Guild Quarterly*.

The conflict appeared settled and Ernst withdrew his motion. But throughout the remaining two days of the convention, rumors circulated about threatened resignations. At a final meeting, Pecora attacked anyone "who would attempt to influence Guild policy by threats of resignation." He then presided over the closing ceremonies, was formally thanked by the executive board, made a gracious speech, and turned the presidency over to Judge John Gutknecht of Chicago.

Ten days later, without warning, Pecora resigned his membership in the Guild stating publicly that it was "dominated by communists." In his statement he claimed that a number of other Guild leaders had also resigned. His action received extensive public attention, although only one other member had actually left the Guild with him.

The reasons for Pecora's action have never been fully explained, though one executive board member, a justice of the Utah Supreme Court, wrote at the time: "I have the feeling, as some of the other members of the chapter out here have, that Pecora has had the finger of Communism leveled at him and that he took this dramatic occasion to notify the world that he was not a Communist. But at what a price. . . if as a result he undoes the years of tireless work

on the part of many brave men and women to build up an organization which may become a real force for social good."

The following years saw a sharp increase of tensions within the Guild—between those lawyers influenced by Ernst and Assistant Secretary of State A.A. Berle, whose orientation was always toward Roosevelt's administration, and those, like Fraenkel and Emerson, who saw the issues of the day as freedom of speech and press and the development of a strong anti-fascist front in the United States. Members of Ernst's group opposed the position taken by the National Executive Board and by many chapters on issues such as aid to Loyalist Spain, criticism of J. Edgar Hoover and the FBI and stronger protection for trade unions. Ernst and Berle repeatedly suggested one or another form of anti-communist test oath for membership in Guild—a position vigorously opposed by Fraenkel and his associates. The Soviet-German pact in 1939 and the Russian invasion of Finland in 1940 increased tensions in the Guild as they did elsewhere and resulted in further polarization of the membership.

Typical of controversies within the Guild were events taking place in Detroit. Early in 1940 the Guild allied itself with other groups around the Detroit Spanish Loyalist case. The immediate issue involved indictments in Detroit and Milwaukee of 12 men—including three physicians who had supported National Health legislation, one trade union activist and several veterans of the Lincoln Brigade—for allegedly violating the Neutrality Act. Speaking at a Detroit chapter meeting, Ernest Goodman (associate general counsel for the UAW) severely criticized the FBI for violating the civil liberties of the accused men. A few months later, in an oral report to the 1940 Guild convention, Goodman reiterated his criticism of the Bureau and its chief, J. Edgar Hoover.

Goodman's convention report was among the first serious public attacks on Hoover and it so irked Hoover that he ordered the first of many covert actions against the Guild. Six months later Hoover ordered the first burglary of the Guild National Office.

The result of all of this was the resignation of many supporters of Ernst and a sharp reduction of NLG membership to about 1,000 when the 1940 convention met.

At that meeting, Robert W. Kenny, a California state senator, was elected President. Martin Popper, a member of the New York chapter, was chosen as the new Executive Secretary. When the two men went to Washington they literally had to step over a mailbag full of resignations to enter the Guild office.

During the weeks following this election, Kenny visited with several powerful administration figures who had recently resigned from the Guild. In long discussions he attempted to persuade them to return, and at first thought he had been successful. But he soon discovered their price. During one phone conversation with Assistant Secretary of State A.A. Berle, he was given a short list of names. If the lawyers on the list were asked to leave the National Executive Board of the Guild, Kenny was told, the big-name resignees would return. It was just a simple matter of "cleaning house."

Kenny and Popper discussed the offer at length and then met privately with various members of the executive board. To agree, they realized, would ensure the return of a number of important former members. But such an agreement would constitute a fundamental violation of the principles upon which the Guild itself



Robert Kenny, Guild President, 1940–48, and Attorney General of California. During the late 1930's, the Guild produced a radio lecture series entitled "Lawyers in Modern Society."



had been founded. Kenny told Berle the answer was no.

In a "Message to the Membership" published in the *National Lawyers Guild Quarterly* in July 1940, Kenny expressed his view of the Guild's role in the face of mounting reaction. Implicit in his message was a prophetic understanding of the direction taken by those New Dealers who had abandoned the Guild.

"Lawyers played a great part in the unfolding of the New Deal," Kenny wrote. "Much of the legislation and social attitude com-

prehended in that phrase is here to stay; but it will need defenders; it will need energetic forces for its extension and development. I think we should acknowledge to ourselves that only by insisting upon its growth and development can we effectively prevent its decay."

Years later, speaking of those who had left at the first sign of trouble, Kenny characterically quipped: "They founded us in 1937 and dumbfounded us in 1939."

In 1938 and 1939 the New York City Chapter conducted weekly round-table discussions over two local radio stations.

Our Public Education Committee decided upon timely topics and then sought out the most knowledgeable participants available. I have been able to locate only four reprints of those broadcasts.

On September 19, 1938, the third in a series discussed *Civil Liberties and the Lawyer*. The participants were Judge Jacob Panken of the Domestic Relations Court, Osmond K. Frankel, Chairman of the Civil Liberties Committee of the New York City Chapter, and Dorothy Dunbar Bromley, columnist of the *New York Post*.

The discussion was concerned with many areas where lawyers have been engaged in the protection of the civil rights and liberties of individuals and groups of people. A central point was the hesitancy by lawyers to represent in large part because of the fear of the loss of prestige, and hence earning power. The program covered the rights of peaceful public assembly; a free press and distribution of literature; rights of labor organizations; illegal deportation; non-discrimination because of race, religion or color; the right to agitate for new forms of government and economic structure; and the preparation and support of appropriate legislation.

On December 13, 1938, the next discussion was conducted on *The Profession and Democracy*; the participants were Ferdinand Pecora, Justice of the state Supreme Court and then President of the Guild, Professor Forrest Long of the School of Education, New York University, and Dr. John Bernard Schwebel, of the Medical Survey Committee of the Bronx Medical Society.

In discussing the role of the teacher, Professor Long emphasized the right of the teacher to have open discussion and not be confronted with criticism and sometimes loss of a job because the teaching did not conform to the atmosphere of the locality. Judge Pecora drew the distinction between the rich and poor litigant. The rich can employ the more prominent but not necessarily the more capable lawyer. He discussed the Guild, organized about two years before, and pointed out that it was for the purpose of binding together members of the legal profession committed to the maintenance of the democratic principles of our government, and the protection of the civil rights and liberties of persons who might otherwise have been deprived of them through lack of legal counsel.

On December 20, 1938, the program was: *Should a Law Be Enacted Against Incitement to Race and Religious Prejudice*. The participants were Dr. John Haynes Holmes, minister of the Community Church; George Gordon Battle, attorney; and Ernst L. Meyer, columnist of the *New York Post*. The subject was selected because Mr. Meyer had proposed that a law be enacted to cover such situations. He said that he was moved to make this suggestion because he was in Germany in 1932 and heard the harangues of Hitler, Goebels and Goering.

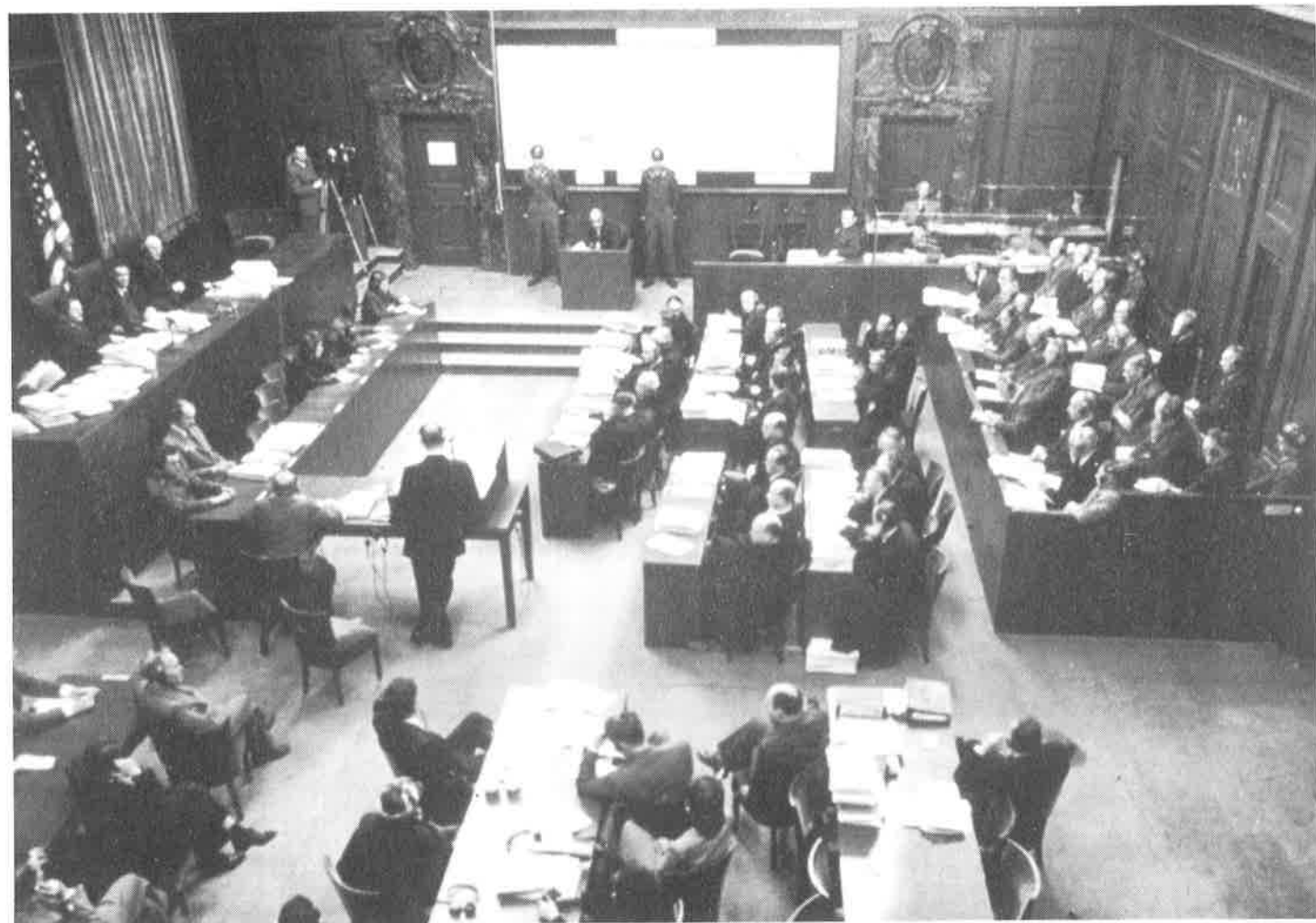
Mr. Battle and Dr. Holmes disagreed for the reason that such a law might be abused by an administrator or government official who was desirous of stifling discussion and debate. Besides, there are laws which make it a crime to incite violence and disorder. Dr. Holmes particularly supported freedom of speech, which is most important, especially to minorities.

The eighth in the series was held January 24, 1939, on *Neutrality Legislation*. The participants were Dr. Pennington Haile, Assistant Director of the League of Nations Association; Dr. J. Max Weis, Director of Research of World Peaceways, Inc., and Irvin C. Rutter, Assistant U.S. Attorney for the Southern District of New York.

This discussion came after the German annexation of Austria and acquisition of a part of Czechoslovakia, the resulting Munich Pact by Hitler, and the conquest of Ethiopia by Mussolini. As might have been expected, the discussion was spirited:

Dr. Haile was of the opinion that the law should be changed so that the President with the approval of Congress may determine which state is the aggressor and apply an embargo to that state alone. Dr. Weis was against establishing who is and who is not the aggressor. There are too many invariables, political, social and economic factors that have to be weighed. Mr. Rutter referred to the fact that the Guild by a large majority voted for the lifting of the embargo against the Government of Spain in its war with Franco. Dr. Weis said that England felt all along that Germany might serve as a defender of western Europe against the rise of Communism and that it would therefore be worthwhile to have a strong Germany to set up a wall against the spread of Communism to western Europe.

These broadcasts, which I chaired, received many comments from listeners, some favorable and others almost violent in political attack. As is evident we survived these 50 years.



A session of the Nuremberg War Crimes Tribunal.

## || The War Years

Although the harmony that marked the first two years of Guild activity had been temporarily disrupted in 1939, the following years were marked by a steady increase in the organization's influence and prestige. As America's direct involvement in the war drew closer, the increasing need for national unity created a new and complex political environment in which the Guild played a significant and creative role.

Throughout this period, always placing the Allied victory over fascism as a first priority, the Guild worked constantly to further civil rights and liberties within the United States. While initiating such broad-based activities as national and regional War Committees of the Bar, the Guild seized every opportunity to fight racism, war profiteering, and the mounting assault on the labor movement. At the same time, the organization issued a stream of proposals, reports and legislative initiatives directed at a fuller realization of the economic democracy originally promised by the New Deal.

During the war years the Guild renewed its relations with such leading New Deal figures as William O. Douglas and Robert Jackson (who spoke at Guild functions and wrote for the *Lawyers Guild Review*), as well as with numerous senators, representatives, state legislators, judges and federal agency executives. The Guild greatly increased its influence in Washington through a series of appearances before House and Senate committees, constant distribution of legislative analyses, and cooperation with key congressional figures in researching and drafting social legislation.

In March 1941, as U.S. involvement in the war drew closer, the Guild sent an observer to the conference of the Inter-American Bar Association in Havana. There, surrounded by lawyers representing United Fruit and other corporate giants interested solely in protecting and enlarging U.S. interests in this hemisphere, the Guild began to carve out a unique position for itself. Speaking for the Guild, Popper addressed a plenary session of the convention. After calling for substantial U.S. loans to stimulate industrial and agricultural development in Latin America, he added, "economic assistance, to be truly democratic, must be completely free from economic domination or interference with the sovereignty of the

nation receiving assistance. Otherwise such assistance is merely a cloak for economic penetration."

To a less than enthusiastic audience he pointed out the effects of such penetration on Puerto Rico, where, "large scale unemployment, depressed wages and high cost of living are the terrible results of the greedy desire for huge profits." Puerto Rico, though governed by the United States, was, he said, by "tradition, culture and geography, a Latin American country."

Popper's speech marked the beginning of the Guild's commitment to the civil rights and liberties of the Puerto Rican people, a commitment that continues to the present day. A Guild chapter was founded in Puerto Rico during 1943. At the third conference of the Inter-American Bar, held in Mexico City in 1944, the Guild, by then a member organization, sent more than 20 delegates. There, in opposition to every other U.S. bar delegation, the Guild supported the right of self-determination for Puerto Rico.

The speech was an outline of basic policies that would govern Guild actions up to the present. These positions were later summarized by Robert Kenny when he spoke to the "War Convention" of the Guild in 1943, saying: "We may take it for granted. . . that at least two other terms will be written into [the Atlantic Charter]. Those are *racial and national equality* and *economic security*. These are minimums. We have learned the tragic consequences of attempting to carry on without them."

As the nation moved quickly toward a war footing in 1941, the Guild, just as quickly, began the struggle for racial equality in the military. The Selective Service Act of 1940 had specifically prohibited "discrimination against any person on account of race or color," yet it was soon made clear by the administration that segregation in the military would continue. The various service branches, with the concurrence of the President, had interpreted the act so as to distinguish between discrimination and segregation. The *Lawyers Guild Quarterly* published a detailed report on "Jim Crowism in the Army and Navy," prepared by the Guild's Committee on Civil Rights and Liberties, documenting the segregation in all branches of the military. The Guild demanded an immediate change in federal policy to explicitly outlaw all segregation in the armed services.

A year later, an even broader report prepared by William Hastie and Thurgood Marshall was adopted as a statement of Guild policy. Hastie, the Dean of Howard University Law School and a founding member of the Guild, was a member of the National Executive Board, and the first black lawyer ever appointed to the federal bench. Marshall, then a Guild member, was also counsel to the National Association for the Advancement of Colored People.

Their report, written in the aftermath of a successful Senate filibuster against Guild-supported anti-poll tax legislation, documented an alarming increase in lynchings and mob violence directed against black Americans. The report called for a renewed assault on both the poll tax and the white primary, and demanded immediate federal action in cases of violence directed against blacks serving in the armed services or working in defense industries. In an eerily prescient section of the report, Hastie and Marshall chose to illustrate the problem by citing the case of a black nurse who had been assaulted by police in Montgomery, Alabama, because she refused to give up her seat on a public bus.

In the Guild's wide-ranging struggle against racial discrimination

during the war years, there was one sad and glaring omission. The organization did nothing to protest the illegal internment of thousands of Japanese-Americans that occurred immediately after Pearl Harbor. Guild members on the West Coast later fought many battles to prevent the wholesale "legal" theft of real property from Japanese-American internees, but the Guild's initial failure to protest the long and brutal assault on an entire community was undoubtedly the organization's least glorious moment.

The Guild's failure to aid the Nisei was in peculiar contrast to its long struggle on behalf of aliens—and some naturalized citizens—whose civil liberties came under increasing attack immediately preceding the entry of the United States into the war. Leaders of this work included Carol King, Pearl Hart and Ira Golobin.

At the 1940 convention, the Guild passed a resolution condemning, "all proposals, whether federal state or local, to register, fingerprint or require identification cards of aliens. . . ." The resolution went on to denounce a series of anti-alien bills then pending in Congress.

By 1941, anti-alien hysteria was increasing and the Guild foresaw a frightening reprise of the events surrounding America's involvement in World War I. The arrest and detention of aliens was increasingly commonplace. Congress was actively considering proposals to prohibit aliens from owning, publishing or editing any publications; to prohibit aliens from representing employees in dealings with employers; and to prohibit all further immigration. A survey conducted that year by the Federal Employment Office showed that a majority of U.S. employers required citizenship for employment, and that many went further and required that the applicant's *grandparents* be American born.

At the 1941 convention in Detroit, the Guild adopted a major report condemning the widespread violation of the civil liberties of aliens, and drawing the important connection between such discrimination and the renewed assault on the labor movement. The link between the two was clearly represented in the celebrated case of Harry Bridges, president of the West Coast longshoremen's union and leader of the San Francisco general strike of 1934.

Deportation proceedings against Australian-born Bridges had begun as early as 1934, but the case became a cause celebre in the early 1940's. From its beginning, the Guild stood with Bridges. Guild lawyers represented him, the organization filed amicus briefs at every stage of the proceeding, and the *Guild Review* reported the case in virtually every issue for several years.

A less famous but equally outrageous case developed in Detroit, where State Senator Stanley Nowak was indicted for perjury in 1942. Nowak, a supporter of organized labor, was charged with lying on his citizenship application when he said he believed in organized government, because, the indictment stated, he was a member of the Communist Party. He was represented by a Guild lawyer. The Guild met with Attorney General Biddle to review the case and the indictment was eventually dismissed. The Guild's role was publicly acknowledged by Nowak and the press in Michigan.

Much of the Guild's work during the war years was carried on by its national committees. The Labor Committee, chaired first by Louis Boudin and later by Benedict Wolf (who had been the first secretary of the National Labor Board), sponsored national conferences in 1940 and 1941. At the 1941 conference in Detroit, a major paper was delivered by David Rein arguing for the right of



Earl Dickerson, circa 1940. Dickerson served as NLG President, 1951-54.

government employees to organize.

In 1942, the committee turned its attention to the war effort and prepared a series of reports calling for job training for minority workers, an end to all discrimination in war industries, adequate and affordable housing for defense workers, and strengthened collective bargaining legislation.

Perhaps the committee's most significant work during the war related to the creation and functioning of the War Labor Board. Organized labor, except the United Mine Workers, had agreed to waive strikes for the war's duration. In return, labor unions were promised a speedy resolution of grievances through the War Labor Board. But the mechanism proved slow and repetitive. The Guild undertook a detailed critique of the board, and issued a series of proposals that included the creation of regional boards. Many of the Guild's ideas were eventually adopted.

Another important issue raised by the Guild related to wage stabilization. Arguing against corporate profit grabbing, the Guild continually pointed out that wage stabilization was not the same as wage freezing. Of equal importance was the Guild's insistence that a vital aspect of any national unity program was a larger role for organized labor in administering the war effort.

The Guild's struggle to prevent the war effort from degenerating into massive profiteering found one of its most significant outlets in the work of the National Committee on Taxation. Chaired first by Randolph Paul (who later became general counsel to the Treasury Department), the committee was led by a succession of outstanding tax experts including Edmond Cahn, Jerome Hellerstein and Joseph Crown.

Beginning in 1940, the committee developed a number of innovative proposals aimed at curbing inflation and establishing an equitable tax structure to generate needed war revenues. One of the committee's most dramatic proposals called for an excess profits tax. The Revenue Act of 1942 adopted many of the Guild's ideas but the victory for a democratic tax policy was unfortunately short lived. By 1943, the Guild Committee on Taxation was fighting against an increasing array of special tax measures aimed at shifting the war burden to the shoulders of the working class.

The 1943 act was vetoed by Roosevelt, but the veto was overridden by Congress, a good barometer of how much the political climate had shifted since 1937.

One of the most energetic and creative of the Guild founders was Leo Linder, who chaired its Committee on Social Legislation for 25 years (1937-1962). During the war years, Linder and his colleagues produced a number of reports and proposals aimed at furthering the development of economic democracy. The Guild took the position that basic social welfare legislation was an indispensable aspect of the domestic war effort, furthering unity and building democracy, and was not—as many argued—a “non-war matter” to be dismissed as secondary.

In 1940, Linder's committee lobbied strenuously for effective price and rent control bills, and produced a pamphlet explaining the importance of such legislation. The Guild printed tens of thousands of copies of the pamphlet, distributing it to every member of Congress and numerous labor and consumer organizations. That same year the committee developed a proposal for a \$5 billion housing program for low-income families. The next year Linder presented a detailed report to the Guild convention advocating the

inclusion of housing and health care in all national economic planning. In subsequent years the committee lobbied for increased servicemen's allowances, disability benefits for workers and their dependents, extended unemployment insurance, old age and survivors benefits, and a uniform national welfare program.

Linder's masterfully documented reports formed the basis for much of the Guild's domestic legislative program throughout the 1940's, and were frequently used by members of Congress in formulating social legislation. Linder also chaired the Social Legislation Committee of the New York chapter, and in that capacity produced a weekly *Guild Legislative Bulletin* that often ran more than 10 pages. The bulletin carried detailed analytic reports on pending state and city legislation, and was widely distributed throughout New York State.

The visionary quality of the Guild's work on social legislation can best be appreciated by considering that almost every proposal initiated by Linder's committee during the early 1940's was ultimately incorporated in federal and state legislation by the late 1960's.

During the war the Guild maintained its concern with the economic status of the bar. Its National Committee on Civil Service was a leading force in the creation and funding of the Federal Board of Legal Examiners (which gave civil service status to lawyers employed by the government).

In 1944, a special committee of the Guild drafted a report on the “Punishment of War Criminals.” Adopted as Guild policy at a meeting on the National Executive Board in December, the report not only anticipated and refuted the basic defense strategies that would later be employed at Nuremberg and at numerous zonal war crimes trials, but contained detailed legal argument for the arrest and prosecution of leading German industrialists who had engaged in the systematic exploitation of conquered nations. “Country after country has been stripped of resources and manpower,” stated the Guild report, “and there can be no doubt that the Axis economic penetration constitutes pillage under the rules of warfare. . . . We must not be confused by the cloak of legality used by the Axis plunderers to cover their larcenies.”

The Guild's role in the war effort was formally acknowledged when the State Department appointed the organization an official consultant to the American delegation at the founding convention of the United Nations, which was scheduled to begin in late April 1945. Three Guild leaders, Kenny, Popper and Bartley Crum, accepted the appointment, expecting to attend the conference supporting much of Roosevelt's long articulated plan for post-war amity. It was a vision the President planned to reiterate in a speech over national radio on April 13, a speech in honor of Thomas Jefferson's birthday.

“. . . the mere conquest of our enemies is not enough,” Roosevelt wrote. “We must go on to do all in our power to conquer the doubts and the fears, the ignorance and the greed, which has made this horror possible.”

The speech was never delivered. Roosevelt died on April 12, 1945, two weeks before the U.N. conference formally began, and less than a month before Nazi Germany surrendered. In a sense his vision died with him, for with his death the leadership of the United States passed into the hands of a man whose views were quite different.



Guild member Royal France with Eleanor Roosevelt. France later served as Executive Secretary of the Guild.



It is accepted wisdom now that Harry S. Truman was a feisty egalitarian who courageously carried on the Roosevelt tradition, fighting vested interests and "giving 'em hell." His real legacy is the Cold War, which began on April 13, 1945, when Truman began to destroy the very foundation upon which Roosevelt had hoped to construct at least a modicum of post-war international trust.

Arriving in San Francisco for the U.N. conference, the Guild "consultants" were confronted by an entirely new situation. The U.S. delegation, officially led by Secretary of State Edward Stettinius, clearly represented a basic change in the tone and direction of American foreign policy.

On several issues, the Guild opposed the views of major segments of the organized bar and often the administration. It opposed (unsuccessfully) the admission to the U.N. of Peron's government in Argentina, arguing that it was pro-fascist. It supported (successfully) the principle that unanimity in the Security Council was necessary to settle major international problems. It urged (successfully) that the International Court created by the League of Nations, including Spanish and German members, would be replaced by the present International Court of Justice, with important changes in the structure of the court.

In 1946, the Nuremberg war crimes trials began. Chief Counsel was Justice Robert Jackson on leave from the Supreme Court; Deputy Chief Counsel was Guild member Abraham Pomerantz; part of the prosecution team was Mary Kaufman, another active New York member of the Guild. And, invited by Justice Jackson, among the official U.S. observers were both Kenny and Popper.

Following Nuremberg, a conference was held in Paris hosted by the Movement Nationale Judiciaire, an organization of French lawyers. The meeting resulted in the formation, on motion of Pop-

per, of the International Association of Democratic Lawyers. Pomerantz spoke at that meeting, saying: "It is our task as lawyers, to put the spotlight now on the less famous, but more infamous, Nazis: the business backers of the Hitler regime. We have chopped off the branches; the roots still remain."

The 1946 Guild convention, the first in almost four years, marked the organization's 10th anniversary. In his report Popper said:

"Let us always keep indelibly etched in our memories the fact that the National Lawyers Guild became stronger in the service of our country because it discarded the false counsel of those who by appeasing the technique of red-baiting actually served to rend asunder the fibers of the constitution."

After singling out the House Committee on Un-American Activities as the gravest current threat to American democracy, Popper continued: "Our position was and remains that the freedoms guaranteed by the Constitution can never be ladled out like dispensations to some democratic groups and arbitrarily denied to others to suit a prevailing political prejudice, without endangering the existence of the rights themselves and without paralyzing the affirmative use of our civil liberties to eliminate fascism in our midst."

Many liberals who had supported the New Deal and its reforms rapidly repositioned themselves in the Cold War crusade; they turned on the entire left. Long before Joseph McCarthy gave his name to an era, the wheels of repression were already turning, powered in part by the frantic energy of liberal cold warriors rushing to the right. In their haste they trampled the Constitution and eroded much of the social philosophy that had characterized the Roosevelt program of the thirties.

It was less than a year following my return to the Madison Avenue law firm in which I was a partner (after 3½ years of military service) that the question arose as to who would succeed Martin Popper as National Executive Secretary of the Guild. He wanted and needed to return to private practice, after long and distinguished service.

I tried with others to find a suitable person, with no success. I had been the Secretary of the New York City chapter from the time it was organized until October 1942. I finally decided that I was the logical successor. In part I agreed to relieve Marty and, in part, because I was so deeply alarmed when the President (Truman) made McCarthyism a federal "loyalty" program, which was sure to spread through all of American life.

The National Office had a staff of two, myself and an able secretary. This number never increased during my seven years of service. Happily, the D.C. chapter included some very able and active attorneys who were available to help. The job was doable.

The Guild was relatively free of red-baiting when I arrived in Washington. There were a good number of legislative representatives of trade unions and other progressive national organizations with which we collaborated on legislation and lobbying.

The real assault began immediately after I spoke to a local organization about the report we had in preparation on the illegal activities of the FBI, based on our study of the FBI reports made available through the Coplon trial. A note on this appeared in the local press and it was brought to the attention of FBI Director Hoover. (I know this and what follows from FBI reports on the Guild case secured by the Guild counsel in our case). Hoover immediately asked for an FBI report on me, which produced nothing but an anonymous

statement that I was a "rabid Communist with contacts with known Communists" and that I was a Lieutenant in the Army Signal Corps. That was all. Hoover immediately requested authority from the Attorney General for a full surveillance cover, based solely on the anonymous report.

Thereafter the office phone and my home phone were tapped for years. Our office was invaded at night and a copy made of all names and addresses in the office book of phone numbers. Reports were then made on many of those named in the directory. When I went to Joe Forer's home to look at the first draft of the report on illegal FBI activities I was followed there and back. Our trash was searched. If a senator's office called to ask for speeches for use in the filibuster against the McCarran Internal Security Act, that was recorded by the FBI. Conversations of my wife with me or her father about family matters, or between President Clifford J. Durr and me about the contents of a press release and many other subjects, were recorded.

Nothing recorded by the FBI based on such surveillance concerning Guild activities differed significantly from what we were trying to publicize, and nothing done was inappropriate for a bar association committed to peace, social progress, civil rights and liberties.

When the House Committee on Un-American Activities issued its report on the Guild, probably at the instigation of the FBI, calling on the Attorney General to list the Guild as a subversive organization, fear evidently affected a substantial number of our members—especially law-student members employed by the federal government.

It was the widely publicized Attorney General's proposal to list, announced at a convention of the ABA, which cut so deeply into our membership that transferring the National office to New York was necessary.

ROBERT SILBERSTEIN



Guild member Arthur Kinoy being dragged from hearing room of House Committee on Un-American Activities.

## III The Cold War

The Guild had experienced a significant growth in membership and influence during the war—growth which continued into 1947. New chapters were organized in many cities, and older chapters such as New York, Detroit, San Francisco and Chicago added substantial numbers of members. Early in 1947 the Guild listed more than 2,500 lawyers and over 500 affiliated students. Expansion in membership was accompanied by continued activity and influence.

Thus, at the 1946 national convention in Cleveland, Leo Linder's Social Legislation Committee outlined a broad legislative approach in a report titled "Program of Basic Protection for the American People." The program called for full employment, rent control, a massive housing program, and extended social security, and was given wide distribution.

It was at the Cleveland convention that student representatives from five law schools (USC, Wayne, Michigan, Howard and Western Reserve) worked with a special Guild committee to draft a set of revisions to the constitution. The revisions, quickly adopted, made the Guild the first national bar association to invite students to be admitted as non-voting members. Following the convention, six student chapters were chartered. In 1948, the Harvard Law School chapter began publishing *The Guild Law Student*, for national distribution, and that same year a Guild student convention was held at Columbia University.

Among those who addressed the 1946 convention were U.S. Senators Pepper, Murray and Taylor, and Guild President Robert Kenny, all warning of the rising tide of reaction. But the Cold War was rapidly approaching and soon overtook the Guild. A brief calendar of a few of the events of 1946-48 will serve to provide background against which the crisis confronting the Guild can be seen.

On March 5, 1946, Winston Churchill, out of office in Great Britain but a significant voice in Washington, delivered his "Iron Curtain" speech at Truman's home town of Independence, Missouri. The Soviets, proclaimed Churchill, sought "indefinite expansion of their power and doctrines."

The following month, Attorney General Tom Clark addressed a meeting of the Chicago Bar Association, calling his speech "The Boundless Responsibility of Lawyers." He said:

"I don't think there is anyone more subject to censure in our profession than the revolutionary who enters our ranks, takes the solemn oath of our calling and then uses every device in the legal category to further the interests of those who would destroy our government by force, if necessary.

"I do not believe in purges because they bespeak the dark and hideous deeds of communism and fascism, but I do believe that our bar associations, with a strong hand, should take these too brilliant brothers of ours to the legal woodshed for a definite and well deserved admonition."

Truman's Attorney General was sending a not very subtle chilling message to those lawyers who dared defend the constitutional rights of dissenters. And there was never any doubt that the "too brilliant brothers" were the lawyers organized into the Guild.

On October 10, C.E. Wilson, chief executive of General Electric, summarized the position of his colleagues in big industry: "The problems of the United States," he said, "can be captiously summed up in two words: Russia abroad, Labor at home." This analysis soon found legislative expression in the proposed Taft-Hartley Act, written by lawyers working for the National Association of Manufacturers and the U.S. Chamber of Commerce.

On March 12, 1947, President Truman announced that "it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressure." The Truman Doctrine, enunciated to justify immediate financial and military aid to the rightist government of Greece, would soon lead to an ever-broadening policy of U.S. intervention abroad.

A few days later, Truman issued Executive Order 9835, instituting a loyalty program within the executive department. The order immediately affected 2.5 million civil servants who became subject to loyalty checks. The Attorney General was empowered to list organizations considered subversive, whose members could then be considered disloyal. The program unleashed a decade of unparalleled domestic repression.

The Guild's immediate response was to devote most of its energies to oppose these measures. Leonard Boudin, Chair of the Guild's Labor Law Committee, testified against the proposed Taft-Hartley Bill and delegations of Guild lawyers lobbied extensively against it. Virtually the entire March-April 1947 issue of the *Lawyers Guild Review* was devoted to detailed legal analysis of the Truman doctrine and his loyalty order. Testifying before a Senate subcommittee, Guild Executive Secretary Popper explained the Guild's opposition to aiding the Greek government. Such action, he said, would circumvent, and therefore undermine, the United Nations.

At the Guild's next national convention, which convened on April 13, 1947, Executive Order 9835 was denounced as a denial of due process of law and as "a menace to citizens in every walk of life." The report of the Committee on Constitutional Liberties concluded: "Americans have the right to explore everywhere in the realm of ideas, to propagate their discoveries, however radical, to advocate social change, however revolutionary. Those who resist freedom of inquiry are enemies of the people for they doom our land to endless cycles of economic crisis and poverty, of war and

annihilation, of bigotry and spiritual degradation."

Robert Silberstein, who took over as Executive Secretary in 1947, later summarized the position taken by the organization. The Guild, he wrote, "saw this outrageous measure as the opening of a pervasive witch-hunt, intended to control the thoughts and limit the freedom of association of all employees in government, including attorneys. It would set a precedent for state and local governments and private employers as well." Unfortunately, the Guild's predictions proved all too accurate.

Second only to the Executive Order, the Guild saw the Taft-Hartley Act as posing the most immediate danger, and the convention strongly urged its rejection. Following its passage in June (over Truman's veto), many of the gains made by the labor movement during the past 15 years were instantly erased. The act outlawed the closed shop, imposed mandatory "cooling-off periods" in labor disputes, limited mass picketing, and required elected union leaders to sign non-communist affidavits.

As a direct result of Taft-Hartley, the labor movement soon "purged" itself of radical leadership. Those unions unwilling to grovel (the UE, ILWU and six others) were expelled by the CIO. And Guild labor lawyers who held major positions in the unions (including general counsel to the CIO, UAW and NMU), lost their jobs. What followed in rapid and frequently overlapping sequence seems, in retrospect, almost surreal. But it wasn't.

Later in 1947, HUAC began its headline-hunting "investigation" of subversion in Hollywood. In September, subpoenas were issued to 19 "unfriendly" witnesses. In October, nationally broadcast hearings were held in Washington, during which 10 of the "unfriendly" witnesses were called and refused to answer the Committee's questions, basing their refusal on the First Amendment. The Hollywood 10 were represented by Guild lawyers Ben Margolis, Charles Katz, Robert Kenny, Martin Popper and Bartley Crum. Cited for contempt, all 10 eventually served time in prison.

In 1947 the Guild's Committee on International Law and Relations sent a letter to President Truman demanding that the United States use its influence to halt British terror tactics aimed at Jewish refugees attempting to reach Palestine. During 1948 the Guild organized a Special Lawyers Committee for Justice in Palestine, headed by Paul O'Dwyer.

Throughout 1948, political witch-hunting accelerated.

In May, the Mundt-Nixon Bill (later passed as the Internal Security Act in 1950) was introduced. Its intent was to formalize the loyalty program and dramatically enlarge it so that its provisions covered not merely the executive department, but every citizen of the United States. On behalf of the Guild, Professor Emerson, then on the faculty of Yale Law School, appeared before the Senate Judiciary Committee to testify against the bill. The Guild position on the unconstitutionality of the bill was distributed to every member of Congress.

In the summer, the national leaders of the Communist Party were indicted for violation of the Smith Act. During the subsequent trial, which lasted well into 1949, they were represented by Guild members, five of whom (George W. Crockett, Harry Sacher, Abraham Isserman, Richard Gladstein and Louis McCabe) were cited for contempt at the conclusion of the trial, and served sentences ranging from four to six months. The Smith Act defendants were all convicted and eventually served lengthy sentences.

**W**hen subpoenas from the House Committee on Un-American Activities were delivered in September 1947, to 19 of us who became known as "unfriendly" witnesses because of our announced attitude toward the investigation, we realized that our primary need was for lawyers, and good ones. The first two the majority of us enlisted were Charles Katz and Ben Margolis. They suggested the addition of Robert W. Kenny, who had just completed a term as Attorney General of California and seven years as President of the Guild. Meanwhile two of our number had separately consulted Bartley Crum, a prominent San Francisco Republican who had recently embraced several liberal causes, and we all decided to join forces. Later we added Martin Popper of Washington and Sam Rosenwein of New York. In the end we had put together a legal team that could scarcely be matched for talent, experience and a delightful willingness to work for practically nothing.

We knew from the start that we were not going to cooperate with the committee; the question was what form that non-cooperation would take. We considered invoking the Fifth Amendment, but there was no solid guarantee that it would be upheld in the courts at a time when no Communist Party member had yet been indicted under the Smith Act. We would be in the position of saying: "I won't answer because it might incriminate me," and the committee would respond: "But it's no crime to be a Communist." We also had a hunch that the movie companies would be more apt to blacklist us for taking the Fifth than for contending that movies were part of the free expression guaranteed by the First. And happily coinciding with that self-interest was the fact that only by standing on the First could we provoke a Supreme Court determination of the Committee's right to function. These considerations outweighed the probability that the Fifth would keep us out of prison.

An added tactic the lawyers recommended was to say we were trying to answer the key questions when we were actually doing nothing of the kind. It was an uncomfortable maneuver—you had to keep saying things like "I'm going to answer but in my own way"—but the reasoning was that if you just declined to answer, there would be no question of fact at issue for a jury to consider; the constitutionality of the committee was a matter for judges only. Our lawyers thought a jury would be more apt to sympathize with our situation

than any of the judges we would be up against at the trial level, and in a sense this feeling was borne out when we went before juries in California with civil suits against the studios. It was not, however, an accurate appraisal of the District of Columbia juries drawn so largely from government employees and their families.

When I was called to the stand on the last day of those first Hollywood hearings, I had Ben Margolis on one side of me and Bob Kenny on the other. A witness at a later hearing aptly described the same situation as having Bob saying in your right ear "Take it easy" and Ben on your left whispering "Give it to 'em."

There were only two full-scale trials for contempt; the other eight of us had agreed to abide by what was established in the cases of John Howard Lawson and Dalton Trumbo. But we did have to make perfunctory appearances before judges to be declared guilty and sentenced. This was not a purely academic procedure; one judge, for his own unexplained reasons, sentenced Herbert Biberman and Edward Dmytryk to six months, while the rest of us got one year. In the cases of Albert Maltz and me, who were sentenced on the same day by the same judge, with Marty Popper representing us, all Marty could do for Albert was recite his good citizenship record as grounds for leniency. He spoke with feeling about his client's wartime contributions, including such morale-building pictures as *Destination Tokyo* and *Pride of the Marines*, and the pro-tolerance short film, *The House I Live In*, starring Frank Sinatra, which had won a special Academy award.

The judge thanked him and stated that, while he might have treated a lesser man more gently, this information about Albert's prominence and good reputation had persuaded him to set an example that would make others appreciate the obligation to respect the powers of Congress. In view of Marty's revelations, he had no choice but to impose the maximum sentence allowable.

Before Marty rose in my defense, we agreed in a whispered conference that he would omit any reference to my professional and civic accomplishments, and I tried to look like someone whose fate no one would notice. The judge, however, felt less obligated to petty consistency than to establishing the of heinousness of our crime. I fared just as badly without Marty's oratory as Albert had with it.

RING LARDNER, JR.



Throughout the Smith Act trial—and the later “second-tier” trials—defense attorneys were subjected to various forms of harassment, ranging from contempt citations to disbarment proceedings.

That same year, John Caughlan, a founder of the Seattle chapter, was indicted for perjury. He was tried and acquitted two years later. The charge stemmed from testimony Caughlan had given on behalf of one of his own clients in an immigration case. After testifying under oath to his client’s good character, Caughlan was asked whether he was then or ever had been a member of the Communist Party. He said he hadn’t been.

Also in 1948, the ABA’s House of Delegates passed a resolution urging the expulsion of any member who refused to answer the question, “Are you now, or have you ever been . . . ?” when posed by a congressional committee. This was soon followed by a resolution suggesting loyalty oaths for lawyers. And Richard Nixon, a junior member of HUAC, began his career-making pursuit of Alger Hiss.

In 1949, Judith Coplon, a government employee, was convicted of spying for the Soviet Union. The Guild later obtained a number of FBI reports used by the prosecution in that case, and after careful analysis concluded that the Bureau had engaged in unlawful wire-tapping, illegal mail covers and warrantless entries. The 1949 convention appointed a special Guild committee to further pursue these findings.

This Guild investigation of the FBI (the first such investigation ever undertaken) so enraged J. Edgar Hoover that he ordered even greater efforts by Bureau agents to spy upon, infiltrate and ultimately disrupt the organization. All subsequent HUAC and Justice Department assaults on the Guild were directly linked to Hoover’s obsessive desire to destroy a bar association that dared attack his authority.

One of the most important civil rights cases of the period involved the murder conviction of six black men in Trenton, New Jersey, based on coerced confessions. The Guild filed an amicus brief in support of their appeal, and three Guild lawyers (O. John Rogge, William Patterson and Emanuel Bloch) volunteered to defend the Trenton 6. When the trial judge barred the three lawyers from the courtroom, the Guild joined in a successful appeal, contending that the defendants had a constitutional right to counsel of their choice.

Throughout the late 1940’s and early 1950’s, the Guild continued to lobby for the abolition of the poll tax. In 1950, Robert Silberstein appeared before a House committee to support a bill barring the poll tax in federal elections.

The most significant civil rights work was done by a group of black lawyers who participated in most of the major cases of the period. Their groundbreaking work included innovative legal attacks upon the white primary, segregation in the armed forces, and restrictive covenants. Charles Houston, William Hastie, Thurgood Marshall and Earl Dickerson, who were counsel in these cases, all had been members of the Guild’s National Executive Board. When Dickerson was elected President of the Guild in 1951, he became the first black lawyer to head an integrated national bar association.

In January 1950 the Guild urged U.S. recognition of the People’s Republic of China. In September it condemned the invasion of South Korea by North Korea and adopted a resolution in support of U.N. intervention. At the same time, the Guild condemned unilateral U.S. “police” action.

In 1951, after extensive debate, the Guild voted to disaffiliate

from the International Association of Democratic Lawyers because of the IADL’s exclusion of the Yugoslavian delegation. The IADL had barred the Yugoslav delegates following Yugoslavia’s break with the Soviet Union.

One of the Guild’s most significant contributions to the bar was its long campaign to extend Social Security coverage to self-employed professionals—including lawyers. The ABA vigorously opposed such coverage. In 1950, when Robert Silberstein testified before the Senate Finance Committee in support of coverage for lawyers, he cited Guild surveys which showed that the annual median net income of self-employed attorneys had been less than \$6,000 in 1948. Between 1950 and 1952, the Guild campaign for coverage intensified, as did the ABA’s opposition.

In a reminiscence written 25 years later, Silberstein explained how the Guild triumphed: “. . . in 1952 we printed a report on Social Security coverage for attorneys and distributed it nationally. Then we retained a polling agency to poll one out of 10 self-employed attorneys nationally. The responses were plentiful, and 72 percent of those voting favored extension. These results were widely publicized. The ABA finally withdrew its opposition. Coverage was obtained.”

The 1950 Guild convention in New York met in an even more threatening atmosphere. Held in May, the convention convened less than four months after Alger Hiss was convicted of perjury, and less than three months after Joseph McCarthy had appeared before the Republican Women’s Club in Wheeling, West Virginia, waving a piece of paper he claimed was a list of “known Communists” in the State Department. The pressing need for civil-liberties defense work was almost overwhelming. In a written report to the convention, Clifford J. Durr, the outgoing president, expressed the feelings of many Guild members:

“. . . now, less than five years after the victorious culmination of the struggle against fascism, we are experiencing the painful frustration and seeming defeat of the aims for which we fought . . . we meet at a time of heavy trial.”

In his speech to the delegates, Durr struck a more combative tone: The Guild, he said, “having refused to surrender its faith to fear, will continue to fight for its high principles.”

The trial was about to become heavier, the fear greater, the fight harder. This was a time to try the souls of those dedicated to the principles of the Guild, and the winter soldiers who continued the good fight were heroic indeed. In September, HUAC issued a report titled “The National Lawyers Guild: Legal Bulwark of the Communist Party.” The report was engineered almost entirely by J. Edgar Hoover to counter the Guild’s investigation of the FBI in 1949. That investigation had resulted in a special report on Bureau practices, which the Guild was preparing to release at a press conference.

Years later, in 1984, based on a careful analysis of FBI documents, the Guild concluded that “. . . the chain of events leading to the [1950] HUAC Report had been set in motion by Director Hoover’s use of . . . burglarized material to engineer Representative Nixon’s call for a HUAC investigation of the Guild on the eve of the Guild’s press briefing on its Special Report on the FBI. It is also clear from the FBI’s own files that the vehicle responsible for so severely injuring the Guild . . . was, in the substantial part, conceived and written by the FBI. . . . Director Hoover decided to use HUAC to do



The Hollywood 10 with two of their lawyers. Front row, left to right: Herbert Biberman, Guild members Martin Popper and Robert Kenny, Albert Maltz, Lester Cole. Second row: Dalton Trumbo, John Howard Lawson, Alva Bessie, Samuel Ornitz. Back row: Ring Lardner Jr., Edward Dimityrk, Adrian Scott. Not pictured: Guild member Ben Margolis, who also served as counsel.



what he had not succeeded in persuading Attorneys General to do—to 'brand' the Guild."

The report did not go unchallenged. Professor Thomas Emerson, who succeeded Durr as President of the Guild, issued an immediate response:

"Having contributed greatly to creating a hysteria in our country, under cover of which more and more dissident individuals and groups face prosecution directly or indirectly for their views, the Committee now seeks through this 'report' to intimidate or eliminate the only lawyers who have had the courage to defend those at the whipping post. In short the Committee is striking at the constitutional right of one accused, to counsel of his own choice, and at the duty of every lawyer, under the Code of Ethics, not to reject a client's cause out of fear."

A point-by-point rebuttal of the committee's report was later prepared by the National Executive Board. This response, titled "The National Lawyers Guild: Bulwark of Democracy," was widely distributed.

One of the few public figures to openly defend the Guild was Senator William Langer of North Dakota. In a courageous speech on the Senate floor, Langer asserted that Guild lawyers acted with total propriety in defending those accused of subversive activities.

HUAC's attack on the Guild came at a time when the anti-communist hysteria in this country was reaching a new pitch. Senator McCarthy's Wheeling speech had been followed four months later by the jailing of the Hollywood 10. One month later, in July, Julius and Ethel Rosenberg had been arrested and charged with atomic espionage.

It was in that atmosphere that the Guild's leaders met to determine their course. Again, as in 1940, they could choose to join the forces of repression by "cleaning house." The option was addressed in the National Board's response to HUAC.

"Our policy from the beginning has been to admit to membership in the Guild any member of the Bar who is interested in furthering our stated objectives. Our constitution expressly provides that admission to membership shall be 'without regard to sex, race, color, or religious or political belief or affiliation.' Upon admission to the bar every lawyer takes the oath to support the Constitution of the United States and of his state. We have never imposed any additional loyalty oath or test and do not propose to do so now. Test oaths have always been associated with authoritarianism and have never been used as instruments of democracy. As Justice Black recently said, 'Whether religious, political, or both, test oaths are implacable foes of free thought.'"

The cost was high. Within days after the HUAC report appeared, many Guild members resigned. Others made clear their intent to leave should the Attorney General actually list the organization.

With the American left all but shattered, the government made a move that Hoover believed would finally destroy the Guild. On August 27, 1953, Attorney General Herbert Brownell appeared before the national convention of the ABA in Boston. In his speech he announced his intent to place the National Lawyers Guild on the Attorney General's List of Subversive Organizations.

"It has been clear," said Brownell, "that at least since 1946 the leadership of the Guild has been in the hands of card carrying Communists and prominent fellow travelers."

Brownell was certain of an enthusiastic response. Earlier in the

year the ABA's House of Delegates had passed a resolution calling for the disbarment "of all lawyers who are members of the Communist party of the United States or who advocate Marxism-Leninism." Brownell's decision followed a Justice Department review of the same tainted and distorted FBI material that Hoover had tried to foist on every Attorney General since 1941. The Guild's review of FBI files released during litigation in the 1970's revealed that again and again Hoover had sought Justice Department approval for his anti-Guild work. And again and again he was rebuffed by Attorneys General who found his assertions unsubstantiated by his own files. Curiously, in 1950, an internal FBI memo indicated that a random bureau check of stolen Guild membership lists (3,398 names) had shown that only 6.6 percent of the Guild's membership was or had been affiliated with the Communist Party. This memo was sent to Hoover to prepare him to testify before a closed session of the Senate Judiciary Committee where he would attempt to prove that the Guild was dominated by the Communist Party.

There is little doubt that both Brownell and Hoover believed that merely announcing their intent to list the Guild would do grievous damage. And it did. Within a matter of days, more than 700 Guild members resigned. By 1955, Guild membership had dropped to 500.

The Guild responded by organizing a conference on "Threats to the Independence of the Bar." It then published a 19-page pamphlet, "An Appeal to Reason," in which Brownell's charges were rebutted. The pamphlet outlined a legal challenge to the entire listing process.

During the next five years, the Guild waged a constant legal battle to prevent the Attorney General from listing the organization. During the period virtually the entire energy of the organization was focused on its own defense. The Guild's legal effort was led by Earl Dickerson, Osmond Fraenkel and Joseph Forer.

In 1958, following extensive litigation, the Justice Department dropped its action. The official explanation was that the Guild's legal maneuvers had delayed the proceedings for so long that critical government witnesses were no longer available.

In truth, though, the government never had a case—as Justice Department documents now clearly reveal. In April 1958, Assistant Attorney General Yeagley wrote to newly appointed Attorney General William Rogers. "To me," stated Yeagley, "the decisive point is that we cannot now win the case on the merits and might not even be able to make a good record."

An earlier memo written by Oran Waterman, head of the department's Internal Security Division, had concluded: "Of the witnesses interviewed, approximately 90% are of only slight value. . . ."

"We now have no credible evidence tending to prove that the National Lawyers Guild was formed by the Communist Party. . . it has deviated [from the Party line] in . . . significant respects. . . and as yet the Bureau has not furnished the explanation therefor, if any."

Though the Guild had finally prevented its listing, attacks on the organization and its members continued. Guild members Richard Gladstein, George Crockett, Maurice Braverman, Harry Sacher, Leo Sheiner, Harriet Bouslog Sawyer and Abraham Isserman all fought lengthy battles against disbarment. Rudolph Schwarc and Raphael Konigsberg fought for admission to the bar. The final attack of the 1950's came when Martin Popper was convicted of contempt of Congress after citing the First Amendment in an ap-



San Francisco Guild member Doris Walker, right, with, from left, Joseph Karesch, Sylvia Powell and John W. Powell. The Powells were indicted for sedition in 1956 and defended by Walker and Charles Garry.

pearance before HUAC. He was represented by Paul O'Dwyer and Leonard Boudin. His conviction was reversed on appeal.

In 1959 HUAC published another report, again based on the same FBI material. The report was titled "Communist Legal Subversion, the Role of the Communist Lawyer." In the report, HUAC referred to a banquet held by the Guild in 1957. Evidently, the committee was disturbed by the banquet. It had reason to be. The dinner, held on October 25, honored 125 Guild members who had been active in civil liberties defense throughout the worst years of

the Cold War. The banquet program explained that the dinner was "an occasion for the Guild and its members and well-wishers to review with quiet pride the efforts they have steadfastly made through the somber years that have passed to the present lightening of the clouds."

A more eloquent statement was made in stark simplicity by the list, included in the program, of approximately 200 important civil liberties cases dating back to the late 1940's. More than 150 were handled by members of the National Lawyers Guild.

**W**orking in the library in my second year at law school, somehow I picked up the *International Juridical Association Bulletin*, editor Carol King, and started reading it, despite its off-putting name. Here I found the subjects that had led me to the University of Michigan quadrangle—the rights of workers, Negroes, women, tenants, aliens, and the unemployed—in an inspired mix of reportage and analysis of the contradictions inherent in a capitalist economic system housed in a political democracy. For the next two weeks, I barely cracked my casebooks as I absorbed the *IJA Bulletin* (1932–1942). This led me to its successor, the *Lawyers Guild Review* (1940–1960), published by something called the National Lawyers Guild, which I obviously had to join in 1946.

So began my love/hate affair with the Guild and its publications. I have been inspired and informed by the publications, and infuriated at the Guild's lack of commitment to them when money seems to run short. Coming from a small, Midwest Republican town where my parents were the town reds and our intellectual stimulation had to come in the mail, I have always worked hard for funding the printed word. When Harvard fired Ray Ginger in 1954 as a result of my political activity, and we fled to New York, I went to work in the Guild's National Office (1954–1959). We were fighting with every ounce of our energy to maintain constitutional liberties at home and to limit and then stop the hot war in Korea and the cold war elsewhere. As lawyers dropped their Guild memberships, we discovered that many would still subscribe to Guild publications and use the innovative ideas found in them. I started the *Civil Liberties Docket* (1955–1968) so that we could all use every victory in civil liberties, due process and civil rights, and to keep the Guild in touch with lawyers for the NAACP, NAACP Legal Defense Fund, South-

ern Christian Leadership Conference, ACLU, Communist Party, Central Committee for Conscientious Objectors, etc.

Our major contacts with the early Southern civil rights movement were built and maintained through the *Docket*. The Guild's first book, "Civil Rights & Liberties Handbook: Pleadings & Practice" (1963, with supplements to 1969) was full of practical forms for use in civil rights arrests and desegregation cases in the north, south, east and west. "Minimizing Racism in Jury Trials: The Voir Dire," by Charles R. Garry in *California v. Huey P. Newton* (1969), and "The New Draft Law: A Manual for Lawyers and Counselors" (1966) were sold to thousands of lawyers, clients, students, organizations and libraries, launching the Guild in the book business that has continued and expanded.

In 1965, Bay Area black and white lawyers started the *National Lawyers Guild Practitioner*, with E. A. Dawley as editor, after the death of the *Review* and the demise of its successor, *Law in Transition*, edited by Larry Sperber. The unfunded *GP*, now in volume 44, often publishes the first work of a student, professor, lawyer or legal worker, providing cross-fertilization between legal specialties and an occasional economist or historian.

The *GP* assumes an idea becomes a material force when it is grasped by masses of people; activists like to use the law found in the First Amendment and Nuremberg Principles; and legal people need the broadest and latest ideas to provide the best representation to their individual clients and the movement. It provides a forum for struggles between so-called activists and intellectuals, trial and appellate lawyers, to figure out new strategies and tactics.

I can attest that working on Guild publications keeps one inspired, exasperated, broke, and young.

ANN FAGAN GINGER



Rev. Martin Luther King Jr., Coretta Scott King leading Meredith March into Jackson, Mississippi, 1966.  
Photo courtesy Bob Fitch/Black Star.

## IV The Struggle in the South

In 1960, despite the Guild victory in its battle with the Attorney General, the toll taken by the events of the previous decade was evident. For about 10 years the energies of the organization had been expended almost entirely in an effort to defend itself against HUAC, the Justice Department, Senator McCarthy and other forces of Cold War. Its treasury was depleted. Its membership was optimistically estimated at about 600. Only four active chapters remained in New York, Detroit, San Francisco and Los Angeles. Although Guild President John Coe led a delegation to Cuba at the end of 1960, programmatic activity by the National Office had almost come to a standstill.

The *Lawyers Guild Review*, once a highly regarded professional journal, was forced to cease publication due to lack of funds and interest, and was replaced by *The Guild Lawyer*, a national newsletter. The only important Guild periodical published during this time was the *Civil Liberties Docket*, created in 1955 by Ann Fagan Ginger. Under Ginger's editorship, the *Docket* was one of the few links the Guild was able to maintain with non-Guild lawyers.

A number of members were dispirited enough to talk seriously about disbanding the Guild. They proposed forming a new bar association, one that would be free of the stains and scars left by the 1950's. At the 1960 convention in San Francisco, Benjamin Dreyfus, a long-time leader of the San Francisco chapter, was elected President. During the convention, the idea of dissolving the organization was effectively fought off, but no realistic new national program emerged.

On the local level, however, several chapters managed to maintain some activity. In New York, the chapter became involved in the battle to desegregate the New Rochelle school system. In San Francisco, Guild members successfully fought the Landrum-Griffin Act's anti-communist clause in a landmark case involving ILWU leader Archie Brown. Bay Area Guild members were also active in the huge anti-HUAC demonstrations in 1960.



But the most energetic chapter was in Detroit. There Guild members had maintained ties with the labor movement, and with black and liberal lawyers in the area, and continued to work actively.

Looking back on that period, Detroit Guild leader Ernest Goodman later wrote: "The Detroit chapter was not [as] completely knocked out during the McCarthy period as the other chapters; the members did not feel that rebuilding the Guild was as hopeless a task as was felt elsewhere. Detroit members were more optimistic about the future in general, and they wanted to participate in active political work as lawyers within a bar association. They did not want to just sit back and wait."

While the Guild was struggling to stay alive a strong and militant civil rights movement developed in the South. In 1955 the Montgomery bus boycott flared and triumphed, and the Southern Christian Leadership Conference was created. In 1960, in Greensboro, North Carolina, four black college students staged a sit-in at the lunch counter of the local Woolworth's. Within two months nearly 80 similar sit-ins had been staged in cities across the South. In April, the Student Nonviolent Coordinating Committee was created. In 1961 the Congress of Racial Equality began the dramatic Freedom Rides, soon joined by SNCC. That same year, the Albany Movement in Georgia initiated a campaign that attacked the entire structure of segregation in a single town.

A major problem confronting the civil rights movement emerged almost immediately. There were few lawyers in the southern states willing to represent blacks in conflict with local police authorities, and such conflict was bitter and often violent from the beginning. In the State of Mississippi for example, there were 2,100 lawyers of whom four—three blacks and one white—were willing to face the wrath of the white establishment. The other southern states were no better.

The need for help on the legal front was self evident.

The Guild had no chapters in the South, but two members-at-large, Benjamin Smith and Bruce Waltzer of New Orleans, became active in the growing civil rights movement and continually urged the Guild to become involved.

Fortuitously, the 1962 Guild convention was hosted by the Detroit chapter. It was there that Len Holt and E.A. Dawley, two black lawyers from Virginia, spoke about the developing civil rights movement and its need for legal assistance. Goodman later wrote of the impression they made:

"Nobody who attended that convention will ever forget the drama of the banquet when Len Holt was called on to make some remarks about the South. He got up and reiterated his impassioned appeal for help. Then, at the end of his talk, he asked everybody to stand up and join with him to sing 'We Shall Overcome.'"

Spurred by Holt's appeal, the Guild convention passed a resolution creating the Committee to Assist Southern Lawyers. George Crockett Jr. and Ernest Goodman, both of Detroit, were named co-chairs. Len Holt and Ben Smith were asked to serve as co-secretaries.

A month later, on March 28, Goodman went to Virginia to confer with Holt. While there, he addressed an SCLC meeting held at the First Baptist Church in Petersburg. He joined Dr. Martin Luther King at the podium and expressed the Guild's new commitment to the movement:

"Every Guild member from New York to Hawaii—from Florida to Texas—is being asked to commit himself to give voluntary unpaid assistance to any lawyer in the South who requests such assistance in any case involving the system of segregation."

In late September, Attorney General Robert Kennedy chided the ABA and the lawyers of Mississippi for failing to "defend the fundamental principles of respect for the law and compliance with federal court orders." ABA President Sylvester C. Smith responded to Kennedy's criticism, saying "It is not proper to make pronouncements on matters pending before courts of jurisdiction." Benjamin Dreyfus, as President of the Guild, had quite a different response. In telegrams to the President and Attorney General, he offered the services of "many distinguished and experienced constitutional lawyers within the Guild." He designated Guild Vice President Herman Wright of Houston and executive board member Ben Smith of New Orleans to file an amicus brief in the case then pending to secure the admission of James Meredith to law school at the University of Mississippi. Dreyfus invited the ABA to join the Guild in an amicus brief; the ABA did not do so.

In Atlanta on November 30 and December 1, the Guild hosted the first inter-racial legal conference ever held in the deep South. More than 60 lawyers from every state in the South as well as from the principal Guild chapters attended.

The first day was devoted to a series of workshops on building a negligence practice. The seminars were intended "to make it possible for more attorneys to accept civil rights cases by making their practice in other areas of the law more lucrative." On the second day, the conference discussed civil rights litigation. Among the Guild members leading workshops were Victor Rabinowitz from New York, who spoke on defenses to an injunction, Ann Fagan Ginger from Berkeley, who discussed omnibus lawsuits, and George Crockett, who spoke on enforcing the Federal Civil Rights Acts. Dr. Martin Luther King addressed the conference luncheon along with Dreyfus, Goodman and Crockett.

The success of the conference resulted in immediate planning for another, scheduled for the following October in New Orleans.

In June 1963, as the crisis in the South deepened and the need for lawyers became more desperate, President Kennedy convened a White House conference of lawyers to discuss the situation. The conference was attended by lawyers from around the country, including Guild members John Conyers and Crockett from Michigan. Following the meeting, Crockett and Conyers issued a press release stating their dissatisfaction.

"We are unhappily forced to the conclusion that the President is more deeply concerned with the reduction of tensions than with the elimination of their causes," they stated. "Both he and the Attorney General appeared only incompletely aware that the civil rights revolution can no longer be curbed by manipulation."

The invitation to the Guild's 1963 New Orleans workshop promised that expert speakers would "examine the legal tools available to the lawyer to cope with the enormous power of the State." Experienced attorneys, it said, would deal with such practical matters as "Federal-State jurisdictional issues; injunctions and contempt."

The conference delivered more than it promised. The participants not only discussed the power of the State; they witnessed it in action.

On October 4, in the midst of its deliberation, the conference



From left, Ernie Goodman and George Crockett, Co-chairs of Committee to Assist Southern Lawyers, with Guild President Benjamin Dreyfus, at interracial legal conference, New Orleans, 1963.



was invaded by police officers who arrested Ben Smith and Bruce Waltzer. Simultaneously, more than 100 officers conducted a series of raids aimed at the Southern Conference Educational Fund.

At the SCEF office, Dr. James Dombrowski, the organization's director, was arrested. The entire area was cordoned off, and all of SCEF's records—filling more than 70 cartons—were seized and hauled away in a moving van.

Dombrowski was the first arrested, and was delighted to see the arrival of his attorney, fellow arrestee Ben Smith. "Well, Ben, when are you going to get me out of here?" he said.

The three men were charged with violating Louisiana's Subversive Activities and Communist Control law by "willfully participating in the management of a subversive organization," namely SCEF. When the authorities learned that Waltzer had no connection with SCEF, his subversive affiliation was changed; he was then charged with belonging to the National Lawyers Guild.

On the day following the arrests, Benjamin Dreyfus, who was at the conference, sent a telegram to Attorney General Kennedy, urging that he "intervene to persuade Louisiana authorities to drop prosecution of these courageous southern civil rights lawyers at once." Ten days later, Dreyfus received a laconic response from Assistant Attorney General Burke Marshall: "Neither the information contained in your communication nor that which I have received from other sources discloses any basis for action by this Department."

Dreyfus was outraged. "I experience considerable difficulty acknowledging your letter," he wrote. "The National Lawyers Guild may in the future protest the action taken by Louisiana . . . I intend to recommend such action . . . I do not doubt that the basis for federal action will [then] be disclosed."

The three men, anticipating indictment, retained Guild members Arthur Kinoy and William Kunstler, who sought an injunction in Federal Court to restrain the threatened prosecution. As soon as the court accepted the case, the Guild filed an amicus brief.

The court handed down its decision on April 26, 1965, ordering the immediate return of all seized papers and documents, and prohibiting any further enforcement of Louisiana's subversive control laws. *Dombrowski v. Pfister* has become a landmark case in litigation involving questions of free speech and press.

Almost immediately following the New Orleans conference, a serious difference of opinion surfaced in the Guild. It focused at first on the 1963 convention, then scheduled to take place in New York during November.

As the convention date neared, a number of members of the Detroit chapter expressed strong feelings about the planned meeting. Stimulated by the events in the South, they objected to the "business as usual" plans for the session. The moment, they said, demanded something new. Again there was some talk about leaving the Guild, or at least ignoring the national organization.

There was another factor at play. Detroit chapter member Ernest Goodman later wrote: "We also probably reacted with a certain degree of [the] resentment that Guild Mid-Westerners had held for many years with respect to the New York chapter's dominance. We felt that many very able New York chapter members looked down on us."

But Goodman was opposed to leaving the Guild, and he and George Crockett convinced their chapter to submit a series of proposals to the executive board meeting in late October.

The proposals didn't sit well with some New York members, eight of whom had already issued a position paper critical of the Guild's current direction. They feared that the organization was narrowing its focus to a single issue—civil rights work in the South—and they questioned the effectiveness of that activity.

The board meeting was one of the most acrimonious in Guild history, marked by angry confrontations between New York and Detroit members. At least some of the bitterness was traceable to the lingering effects of a national board meeting held in 1962, during which a New York member made an abusive speech attacking the plans for southern work. Later study of FBI documents revealed that the speaker was, in fact, an FBI informant.

Finally a compromise was reached by the board. The November convention was cancelled, and a special convention was scheduled for late February in Detroit. The special convention's stated theme was "Legal Revolution: Challenge to the Legal Profession," but its underlying theme was the future of the Guild. The immediate issue was the Southern project.

The convention voted to move the National Office to Detroit and place the organization's primary emphasis on civil rights work in the South. Goodman was elected President, and Jim Lafferty, also from Detroit, was appointed Executive Secretary.

One of the speakers at the 1964 convention was R. Hunter Morey, the legal coordinator for the Council of Federated Organizations, a coalition of CORE, SNCC, SCLC and local chapters of the NAACP in Mississippi. Morey told the Guild delegates about COFO's plan to bring almost 1,000 volunteers into Mississippi during the next summer to work on voter registration projects and teach in Freedom Schools. Morey requested Guild aid, pointing to the urgent need for volunteer attorneys to provide legal services.

Two months later, the Guild unveiled its plan to send at least 60 lawyers to Mississippi under the auspices of its southern project, now renamed Committee for Legal Assistance to the South. Crockett and Smith, the committee co-chairs, made plans to open a full-time office in Jackson to coordinate the work of the volunteer lawyers.

The CLAS project enlisted 66 volunteers, most of whom traveled to Detroit in early June for a two-day training session. In addition to the CLAS volunteers, four Guild board members (Arthur Kinoy, Victor Rabinowitz, Morton Stavis and Bruce Waltzer) provided extensive legal assistance to the summer project.

Goodman wrote to the head of the Mississippi State Bar, advising him that "The Guild is not a civil rights organization . . . Our concern in the Mississippi Project is to attempt to redress the lack of available lawyers in Mississippi ready, willing, and able to handle civil rights cases." A former president of the state bar answered, saying that there had never been a time when the lawyers of Mississippi had not been "ready, willing, and able" to represent anyone who needed legal assistance.

Most of the CLAS volunteers stayed in Mississippi for a week, and were assigned to work out of CLAS field offices set up in Greenwood, Hattiesburg and Meridian, as well as the principal office in Jackson.

On June 21, three COFO workers—James Chaney, Andrew Goodman and Michael Schwerner—disappeared after investigating the burning of a black church near the town of Philadelphia in Neshoba County, Mississippi. Two days later, a CLAS investigating



Frank Wilkinson and Carl Braden behind bars at Fulton County Jail, Atlanta, May 1, 1961.

team consisting of Crockett and Anna Diggs of Detroit, and David Fishel of Los Angeles, was named. They were met at the courthouse by a mob numbering at least 100. Despite the physical intimidation, Crockett pushed his way into the sheriff's office and stated their business.

At almost the same moment, Guild national board member Popper was figuratively pushing his way into the Oval Office for an unscheduled meeting with Lyndon Johnson. During the meeting he urged an immediate federal investigation of the trio's disappearance. Popper was accompanied by his clients, the parents of Andrew Goodman.

Popper's talk with Johnson was reported to J. Edgar Hoover, who immediately sent memos to the White House, the Attorney General and several Assistant Attorneys General, including Burke Marshall, containing a summary of the Bureau's file on the Guild. Apparently Hoover also sent a memo to Senator James O. Eastland of Mississippi. Several days later Eastland attacked Popper and other Guild leaders in a speech on the floor of the Senate.

The extent to which the Guild's southern work was unnerving a great many people in Washington, was later described by SNCC Executive Secretary James Forman in his book, "The Making of Black Revolutionaries."

Forman recounted a series of meetings in early 1964 during which SNCC was continually urged not to use Guild lawyers. Even within the movement, Forman wrote, only Dr. King and SCLC backed SNCC's stand against red-baiting.

One of the most revealing episodes described by Forman occurred during a July 1964 meeting in Burke Marshall's office at the Justice Department. Ostensibly, the meeting was called to discuss events in Mississippi's Third Congressional District. But also in the room was historian Arthur Schlesinger Jr., whose presence was unconnected to the stated purpose of the meeting.

"Arthur Schlesinger Jr. had said almost nothing up to then," Forman wrote. "Suddenly he spoke—and when he did, we knew he spoke with the consent of the government officials present . . .

"There are many of us who have spent years fighting the communists," he said. "We worked hard during the thirties and forties fighting forces such as the National Lawyers Guild. We find it unpardonable that you would work with them."

Largely as a result of the CLAS project—and the renewed antagonism toward the Guild—both Goodman and Crockett, then law partners in Detroit, became the targets of extensive FBI COINTELPRO actions. Two of Crockett's election campaigns were harassed and disrupted, and he was subjected to constant anonymous smears. Although the Bureau succeeded in destroying his bid for the Detroit City Council, Crockett later triumphed in his campaign for a judgeship and went on to win a seat as a U.S. Representative from Michigan.

Despite the attempt to drive a wedge between COFO and the Guild, the Guild's Mississippi project was successful. A CLAS report written late in 1964 concluded: "The cases tried and won, including those remanded to Federal Courts, provided a turning point in legal treatment of and attitude toward cases involving Negro clients." During the summer project, CLAS lawyers handled 45 case files and represented 315 defendants.

In September 1964, COFO's project director, Bob Moses, wrote to Crockett. "COFO wishes to warmly thank both you and the

Guild for braving Mississippi with us this summer. . . . You also aided us by expanding the work individual Guild members have always performed with us."

Moses went on to request additional Guild support. The Guild responded by reopening its Jackson office in October. The new director of the Guild's Southern region was Claudia Shropshire, from the Detroit chapter.

In January and February 1965, under the direction of Shropshire and Morton Stavis from New York, Guild members worked to support the Mississippi Freedom Democratic Party's challenge to seating members of Congress chosen in elections from which black people are excluded. Following the challenge, various Guild members, including Victor Rabinowitz, Arthur Kinoy, Ben Smith and Morton Stavis, continued working with the MFDP.

The Guild's Southern project was extended for several years, but by mid-1965, following the Guild's lead, several other lawyers' organizations had begun actively to provide legal assistance to civil rights workers.

The Guild's accomplishments in the South were many, but none was more important than its initial commitment to provide legal aid to an historic movement before it became a national cause. The Southern project proved to be a shot in the arm for the Guild. Although there was no immediate increase in membership, scores of law students and thousands of movement activists had seen the Guild at work. It was not the moribund organization they'd been told it was, and their interest was stirred.

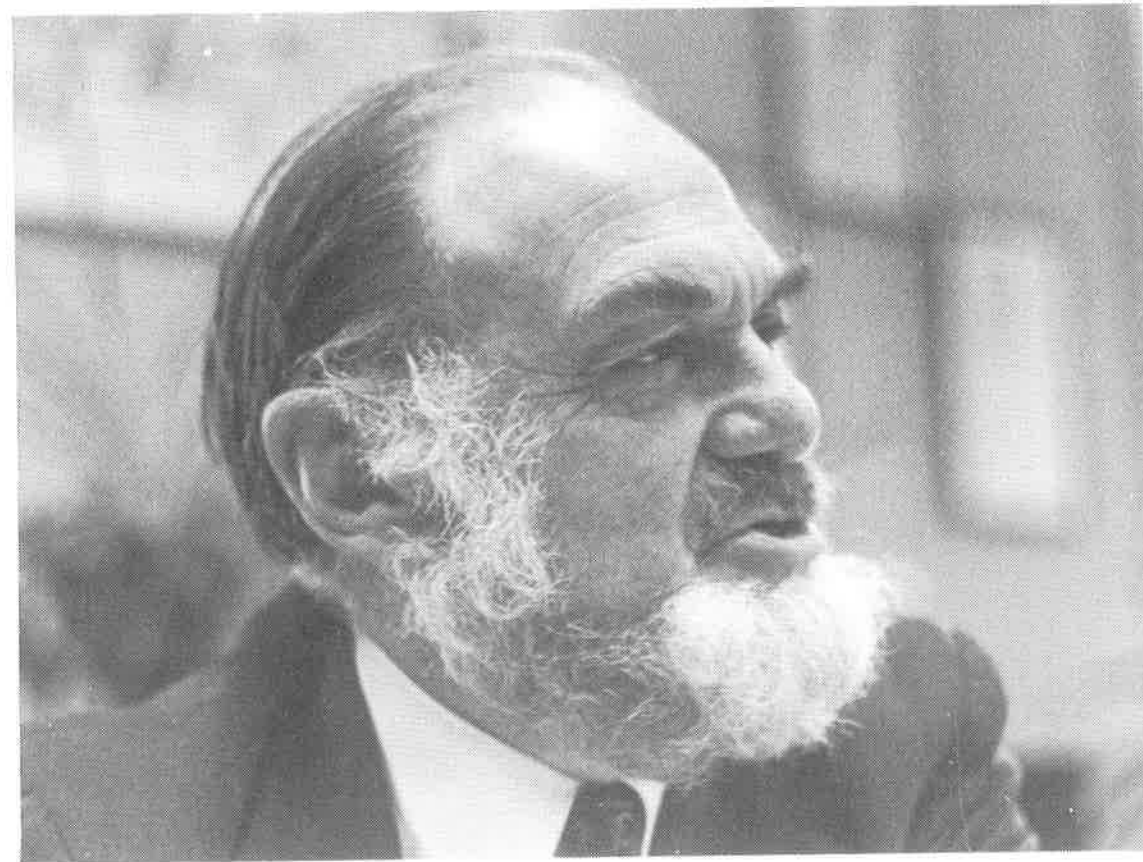
The Guild's 1965 convention was held in San Francisco, and a number of Free Speech Movement veterans spoke on the problems of mass trials. Los Angeles members, who had organized defense teams following the Watts rebellion in August, also dealt with that problem. The banquet speaker was Father Robert Drinan, then dean of Boston College Law School, who warmly praised the Guild's work in the South.

Ben Smith received the Guild's Franklin Delano Roosevelt Award, and in his acceptance speech he pointed toward a new direction for Guild work. Linking the fight for civil rights with the Free Speech Movement in the Bay Area and against the rapidly escalating war in Vietnam, Smith said: "We cannot relive Mississippi 1964. We must enter Oakland in 1965."

The convention adopted a resolution denouncing the U.S. deployment of armed force in Vietnam and the Dominican Republic, and offered legal aid to those with "religious, moral or political objections to participating in a war which they deem aggressive."

Beginning in 1966, Guild growth began again. A student chapter was organized at Boalt Hall—the first Guild student chapter formed since 1953. By 1967, the Guild's National Office was concentrating much of its effort on selective service and military law. Doron Weinberg and Marty Fassler later described the upsurge in activity: "The Guild set out to achieve excellence in the field of draft law, and to develop relationships with the anti-draft, anti-war movement.

"The Guild began to get public exposure as it had not done in almost two decades. During the first year of the program, the national office staff planned and sponsored perhaps a dozen conferences on draft and military law, taught classes in four law schools, trained 450 draft counselors and counseled 2500 registrants, spoke at over 400 meetings to perhaps 25,000 people and distributed over 20,000 copies of Guild pamphlets on draft and military law."



Guild President Victor Rabinowitz, 1967-70, in a recent photo.

The 1967 convention in New York was the scene of the organization's first national debate over the exact nature of the Guild's relationship to the movement. The sudden increase in the number of young members dramatically sharpened the division between those who wanted the Guild to declare itself the legal arm of the movement and those who wanted it to remain an alternative bar association.

Ken Cloke, a veteran of the Free Speech Movement, became Executive Secretary, and Bernadine Dohrn was chosen as student organizer. Victor Rabinowitz was elected president, and the convention voted to move the National Office back to New York.

The Guild continued to grow throughout 1968, adding new student chapters across the country. For the first time since 1947, new membership was counted in the hundreds.

I became president of the Guild in February 1967 and presided at the closing plenary session. A motion was made to admit law students to full membership, proposed and supported by some of the younger members and by a few law students who were present as observers. The proposal was rejected. The delegates from Michigan and California were concerned lest such action might threaten the Guild's position as part of the integrated bar in those states; delegates from other parts of the country also voted against the proposal, expressing the view that we were a professional organization and students were not yet professionals.

That dispute, only a cloud on the horizon, developed into a full-fledged tempest in the next four years, threatening a fatal split in the organization. The Washington convention in February 1970 voted to admit law students; the Boulder convention in August 1971 went further and agreed to admit "legal workers," (which included paralegals, non-lawyer staff members and legal secretaries) and jailhouse lawyers.

These issues, together with sharp differences in style, divided the leadership from a new generation of Guild members. The leadership of the Guild in 1967-71 were of an older generation. I was 57 when I was elected and most of the leadership was older. To many of us, these 30-year-olds seemed undignified, contentious, noisy, undisciplined, and certainly unprofessional. The National Executive Board meetings were particularly difficult. They were even more divisive than conventions. The Berkeley NEB in 1970 created so much tension between the older and younger members and, within those groups, between men and women as to make it almost impossible to carry on anything like orderly discussion—and those who did speak did so mostly in terms of epithets. In fact the younger members were no different from the young men and women who were leading the free speech movement and the anti-war movement of the time, but they were lawyers and somehow the older members, brought up in a totally different tradition, were deeply offended, often personally so.

The Boulder convention saw the height of the storm. Katy Roraback, an older member with a viewpoint acceptable to

the young, was elected President and was succeeded a year later by Doron Weinberg. A new and young National Executive Board was elected. Many of the older members, who felt alienated from the organization they had created, retreated into their comfortable law offices and many resigned. They had fought down the House Committee on Un-American Activities and Senators McCarthy and Eastland. They were unable to take on the iconoclastic youth of the seventies.

The generational differences were startling and deep and were a direct result of the preceding decades of the Cold War. The period between 1948 and 1962 saw a steady erosion of our ranks. Many left the Guild and almost no one joined. In the period between 1968 and 1971 the leadership of the organization was between 55 and 70 years of age; the bulk of the membership was between 25 and 40. The radical and progressive lawyers in their forties and fifties, who should have moved into leadership were not there and we suffered in consequence.

The next few years were difficult ones for the new leadership and old timers for the most part remained aloof. As the years passed, however, the older members slowly renewed their activity and a gesture was made by the New York Chapter in 1977, when the guests of honor at the annual dinner were "founding members of the Guild." Even the most hostile of the older members slowly resumed activity in the late seventies and by the time of the early eighties signs of the split had substantially disappeared. In 1987, the difference in age remains; the difference in outlook and program has vanished.

That the gap was closed and the organization survived and grew stronger is something of which we can be proud. I know of no other organization with a similar political outlook in which transfer of power from radicals of the 1930's and forties to radicals of the 1970's and eighties was successfully accomplished without change of principle.

My head was bloodied in those years and I suppose my self-esteem was hurt a bit. The blood has washed off and my self-esteem has been replaced by the pride I take in having participated in those battles between 1967 and 1971—battles that were won by both sides.

VICTOR RABINOWITZ





Guild attorney Terence Hallinan, beaten by police at San Francisco State, May 1968.

## V Days of Rage

“When the National Lawyers Guild gathered for its convention in the summer of 1968 at the Hotel Miramar in Santa Monica, everyone was off balance.” With that observation, Dan Lund, a young West Coast lawyer at the time of the convention, began his comprehensive 1974 essay on the state of the Guild during the late 1960’s and early seventies. Lund, who later became an NLG Executive Vice President, based his description of the atmosphere at the Miramar on a whole series of conflicts and issues that would transform the Guild in the years to come.

The National Office staff had spent the months prior to the 1968 convention recruiting law students from around the country; more than 50 students came to Santa Monica. Nobody knew how the founding generation of Guild members would respond to the law students—and the increasing number of younger, New Left activists—whose political program and style had been forged in the heat of the movement against the escalating war in Vietnam. Meanwhile, lawyers and legal workers within the anti-war movement were debating the class bias of anti-draft counseling, a major area of Guild activity. In fact, those who attended the Santa Monica convention debated everything from whether lawyers can be radical activists to the importance of mass arrest defense work to the establishment of Guild regional offices with full-time staff in major cities. The movement against sexism and elitism (“professionalism,” in the parlance of young Guild members at the time) was evident at the Miramar as well, but it would be another 18 months before that movement took center stage.

The Executive Secretary’s report on the 1968 convention reflected the perils and opportunities of the moment: “We had to de-emphasize tradition, not scrap it. We had to jostle the Guild and try not to break it. We had to convince people of the necessity of change and prepare them for the slowness of it.”

With the advantage of greater hindsight, Dan Lund put it differently. “Everybody knew the Guild was about to round a corner,” he wrote, “but no one was sure if it would be a stately turn or we would go screeching and bouncing on two wheels.” As matters developed, it would be a bit of both, but the screeching and bounc-

ing were to last for the better part of a decade.

The immediate steps taken at the 1968 convention set off the process of transformation. The changes that began in Santa Monica left many older members feeling like a tornado had hit. Joan Andersson, who became a national organizer for the Guild after the 1968 convention, later wrote that these members "distrusted the commitment of the raggedy young people who seemed more interested in being part of the movement than building the necessary legal skills to defend it." At the same time, Andersson noted, the older members "looked and sounded too lawyer-like to be trusted by the more youthful radicals."

The law students at the convention, who were not yet voting members of the Guild, formed a caucus and successfully demanded representation on all convention committees. The students were allied with the New Left activists, and this combination proved strong enough to permanently alter the direction of the Guild. Among the major concerns of these emerging forces were two goals: They sought to establish regional offices and to stress the prime importance of mass defense—such as the work done by Guild attorneys after thousands of arrests were made during the 1968 Democratic National Convention in Chicago. Both goals were supported by the slate of national officers elected at the Miramar. That slate included Victor Rabinowitz, a member of the founding generation who nonetheless remained in office as President from 1967 to 1970, presiding over one of the most difficult periods in Guild history.

The Santa Monica convention also resolved, at least temporarily, the debate on the role of the Guild that began the previous year. Before the 1968 convention ended, the Guild adopted a resolution reflecting its newly proclaimed role as "the legal arm of the movement."

In the fall of 1968, a Guild regional office opened in San Francisco, staffed by Karen Jo Koonan and Peter Haberfeld. Almost immediately, the office became involved in defending student strikers at San Francisco State College. The office's work, and that of others engaged in mass defense across the country, militated against the notion of the Guild as an "alternative bar association."

As the anti-war movement heated up in the late 1960's and early seventies, the Guild mass defense offices advised and represented thousands of arrested demonstrators. They provided legal advisors during demonstrations and marches, assisted in securing parade permits, and dispatched lawyers to police precincts and courts at the first rumor of an arrest, in order to ensure the safety of demonstrators. Often, the offices maintained an around-the-clock telephone presence to respond to unusually heavy needs for legal advice or representation.

By virtue of this hectic pace, mass defense made the Guild more of an active participant in the political fray. Michael Ratner, now an attorney with the Center for Constitutional Rights, recalled: "My understanding of the Guild, and the role that radical lawyers can play, began during the Vietnam War period and the student strikes at Columbia University in 1968. At Columbia, where hundreds were arrested and many beaten, it was the Guild [New York City chapter's] mass defense office that defended us. At the disciplinary trials, Guild lawyers were willing to put the university and the war on trial." The difference between the Guild and other legal groups, Ratner added, was that "it not only defended people opposed to the war, it condemned the war and stood in solidarity with

the Vietnamese people."

Indeed, this was a period of major political trials, including those of the Chicago Seven and Black Panther Party leader Huey Newton, which attracted many law students to the Guild. The Guild lawyers representing these political defendants—William Kunstler and Leonard Weinglass in the Chicago Seven trial, Charles Garry in Newton's three trials, and many others—"became important and controversial models of determined advocacy in the courtroom," according to Dan Lund. "They were controversial in that there began to rise within the movement criticism of the traditional male courtroom role, and even criticism of the big movement trial."

The operative phrase here is "traditional male lawyer." As internal and external political struggles continued during 1969, a serious and concerted challenge to male domination within the Guild—as well as elitism in the legal profession at large—waited just beyond the horizon.

The February 1970 convention in Washington, D.C., was almost certain, from the outset, to elect the first woman president in the history of the Guild. The impetus of feminism in U.S. society and within the organization, combined with the Guild's then 33-year record of virtually total male leadership, made this outcome highly likely. In the early years, a Women's Auxiliary made up of members' spouses—many of whom were professionals, activists and organizers—had contributed significantly to the Guild's survival. But the number of women in the Guild and in the legal profession remained minimal until the late 1960's.

Before the start of the Washington convention, many members had already agreed that Doris Brin Walker, one of the few women active in the Guild during the 1940's and fifties, would be an ideal choice for President. Walker, who identified herself with the Old Left, was in fact elected in the course of the 1970 convention, but not before the pressing issue of equal representation for women became entangled with another legitimate question of representation. The latter question concerned law students, who by 1970 were crucial to the Guild's work as "the legal arm of the movement."

The issue of male domination was first on the agenda. All 350 convention participants attended a panel presentation on women, led by former National Office staff person Bernadine Dohrn. It was in this forum that Guild women challenged pervasive sexism in the organization and in the legal profession more vigorously than ever before. When the panel concluded, Walker's election seemed even more likely; it represented a natural first step toward resolving the problem of sexism.

Before the election of officers, however, the motion to admit law students as full voting members came to the convention floor. Despite advice to the contrary from some of her supporters, Walker argued against the motion. She asserted that the Guild should remain identified as a bar association (with an affiliated law student section) in order to be of maximum service to political movements. Walker's position attracted considerable heat during debate on the convention floor. She remained firm and voted against the motion.

But the opponents of law student admission were outnumbered. The law students of the 1968 convention were now lawyers, and therefore full members; they supported admission. So did a substantial number of older Guild members at the convention. The motion passed by a large margin. For the first time in the Guild's lifetime of over three decades, students were recognized as full-

**D**uring the Guild's early years, a woman lawyer was a rarity, especially one engaged in litigation, as were most Guild members. Nevertheless, several women were among the Guild's founders and early leaders. What was then referred to as "the woman question" was an important political issue in progressive and left circles, and had a positive influence on progressive men in their Guild work.

Although there were few, if any, struggles on women's issues in the early Guild, women struggled in law school and in the courts, where they were patronized, condescended to and discounted as serious professionals. They struggled with their clients—"Lady, are you really a lawyer?" And too often those same male lawyers who welcomed them as Guild colleagues and workers refused to accept them in their firms as professional colleagues. I was fired from my first private firm job because new partners would not accept a woman associate. Some years later one of my partners withdrew from our firm because, as he put it, he had found that he could not psychologically accept a woman as a partner. The Guild then was not a place where such actions could be made a matter of organizational concern. Nevertheless, it was then, as it is now, a place where young lawyers, female and male, could obtain professional advice and assistance, and where political-legal matters were debated and clarified.

The women's liberation movement that opened the legal profession to large numbers of women brought many into the Guild. With them came a new and combative/competitive approach to the sexism of our male-dominated society, and new forms of struggle against it. With them came also competition among women as well as with men, for recognition and jobs. And with some there came resentment and hostility toward women who had established themselves as practicing lawyers. I was one of those "established" lawyers.

At the same time, the Guild's young members, women and men, brought with them the new politics of the New Left,

including Maoist influence, rancor toward the Soviet Union and anger toward the Old Left, which had failed to construct anything approaching a peaceful world or an ideal society.

For several years, beginning in 1967, the Guild's internal struggles were intense, often bitter, sometimes brutal. Political differences were frequently fought out under the rubric of fighting "sexism." Some women and men who disagreed with my adherence to my Old Left politics, and my organizational insistence on open and orderly debate, labeled me a sexist and even denied my womanhood. At the 1970 Washington convention, where, after passionate controversy, I was elected the Guild's first woman President, a young man speaking on the convention floor described me as "a man in women's skirts." Many women accused me of being "part of the male establishment" because I was a partner in an otherwise male law firm. Some called me their "enemy" and a "traitor to my sex."

The 18 months of my Guild presidency were the most turbulent and difficult period of my political, organizational life. They were, I believe, a constructive period for the Guild. Many of us, younger and older, who were on various sides of those internal fights, are still active members; we have become close colleagues and good friends.

And there came a day at the Guild convention in, I think, 1979, when, having been invited to be the main speaker at a meeting of several hundred women delegates, to my total astonishment I was introduced as a "role model!" From "traitor" to "role model!" in nine years!

The struggle over sexism increased the sensitivity of all who were involved, most definitely including myself. From all of those struggles, New Left, Old Left, sexism, racism and more, there emerged in time a degree of synthesis of politics and of organizational practices—and the kind of mutual tolerance for principled differences that has kept the Guild strong and effective for 50 years, and will for many years to come.

DORIS BRIN WALKER

fledged members.

At this point, Walker's future viability as Guild President was seriously questioned. Jennie Rhine, a young lawyer who had been active in the 1968 law student contingent, emerged as a possible opposition candidate. A standoff seemed imminent, but finally, in an unprecedented, hours-long meeting of the Guild women's caucus, the choice was made: Walker would be nominated, and would agree to seek input from women who were newly active in the Guild. Back on the convention floor, Walker's nomination and election were affirmed.

Naturally, the issues of sexism and elitism did not disappear when Doris Brin Walker assumed leadership in the Guild. Even before the end of the 1970 convention, about 50 law students and others who could not afford the price of a ticket to the closing banquet demonstrated against the banquet arrangements. They insisted that the price of the dinner and the system of admission reflected divisions of status and class within the organization. They demanded that future conventions be designed to accommodate all members.

Notwithstanding such controversies, the Guild faced no shortage of outside issues to address in 1970 and 71. Government repression of black activists, anti-war demonstrators and other progressives continued apace. Guild members in New York City sued to halt the activities of the NYPD "Red Squad." The Guild opened Military Law Offices in the Philippines, Japan and Okinawa, offering free legal counsel to hundreds of G.I.'s opposed to the Vietnam War. (The Philippines office was closed down and its staff deported in 1972, when Ferdinand Marcos imposed martial law.) A Guild defense team went to Buffalo, New York, to represent inmates targeted for prosecution after the Attica rebellion. Guild attorney Stephen Bingham was forced to go underground after Soledad Brother George Jackson—who Bingham had just visited—was killed along with five others in the prison yard at San Quentin. (Bingham, who had been accused of smuggling a gun to Jackson, emerged 13 years later and was finally acquitted of murder and conspiracy charges in 1986.) On the world scene, the Guild renewed its affiliation with the International Association of Democratic Lawyers after 19 years of estrangement.

During this period, the concept that "the personal is political" was bringing important issues of sexuality and family law into sharper focus. In much the same way, many of the Guild's internal struggles continued to reflect larger social and political questions. One of those Guild struggles—over the admission of legal workers and jail-house lawyers as full members—came to dominate the 1971 NLG convention in Boulder, Colorado.

Among legal workers, there was general agreement that elitism was connected to sexism. Most lawyers were men; most legal workers were women. Most male lawyers treated both women legal workers and women lawyers as less skilled, less talented and less important. Women lawyers were among the strongest allies of legal workers.

The momentum for admission of legal workers had been building for some time prior to the Boulder convention. Legal workers and women lawyers were essential to the development and operation of law collectives around the United States, including the New York Law Commune, established in 1969, and the San Francisco Community Law Collective and the Bar Sinister in Los Angeles, both established in 1970. Each collective had a different approach to

the question of division of labor, but overall they were committed to equalizing the power relationships within a law office. Some legal workers, most of them women, staffed Guild regional offices. Some, such as Sharon Gold of the Bay Area, helped produce Guild "how-to" manuals and model texts on mass defense and other legal issues. Many legal workers were becoming more and more involved in the work of Guild law offices.

This growing role prompted legal workers and their supporters to question the sharp divisions of class and status between lawyers and non-lawyers in the progressive movement. Legal workers asked such questions as: "Why should only lawyers make the decisions when everybody else does the work? Why should lawyers make more money than legal workers, even when they sometimes need less?" When these questions were raised with regard to the Guild, legal workers encountered strong and sometimes bitter resistance.

Guild members opposed to legal worker admission argued—as they had when considering the 1970 proposal to admit law students—that the change would endanger the organization's status as a recognized or "integrated" bar association. They said this danger was especially great in states with state-controlled, mandatory-membership bars, like California and Michigan. Another concern was that an influx of non-lawyer activists would be a divisive influence in the organization.

Legal workers responded that even if the fears about recognition as a bar association were justified, the democratic functioning of the Guild should not be sacrificed. As to the question of divisiveness, advocates of legal worker admission said the problems of elitism and sexism already divided the organization nearly to the point of endangering its existence.

When the legal worker question was raised at the 1971 Boulder convention, these arguments had been going on for many months. The debate was so contentious that the danger of a real split in the organization hung over delegates as they hauled out their arguments for one final airing on the convention floor. According to Dan Lund, "The mood of conflict and confrontation which had been growing in the Guild over the past couple of years blossomed in Boulder."

Like the law student debate in 1970, the controversy at Boulder took on some generational overtones. There was still a considerable turnout of the older guard, some of whom considered organizing a separate lawyers' organization in order to retain progressive representation in the mainstream bar. A proposal was made to prevent such a split: In any state with an integrated bar, Guild chapters could form lawyers' groups to participate in bar activities, but these groups would remain affiliated with the chapters.

Once this compromise was shaped, the question of legal worker admission was all but settled. A vote on the convention floor officially affirmed the agreement. Legal workers were now members of the Guild.

Jail-house lawyer members were also admitted to the Guild at the 1971 convention. This step had been proposed first by Fay Stender, a San Francisco lawyer and head of the Guild Prison Project. The vote to admit jail-house lawyers was largely the result of increasing prison work in various parts of the country. Jail-house lawyers had gained the respect of many Guild lawyers and legal workers, and the events at Attica and elsewhere added urgency to prison issues. Prisoners were viewed by many as being in the forefront of



Angela Davis and Guild attorney Haywood Burns.



revolutionary struggle in the United States.

The decision to admit legal workers and jail-house lawyers went far in consolidating the position of New Left forces within the Guild—and in making its membership and leadership more representative of the legal community. But there was a cost. The mood at the Boulder convention was not one of unity. The forces in favor of legal worker admission celebrated their success with what Dan Lund called “fierce applause.” Lund added: “Older members were stung by the clapping. Many were uncertain whether they would continue to work with the Guild.”

As recently as 1968, at the Santa Monica convention, members of the founding generation of the Guild had represented a majority. The number of active older members was chipped away to a minority, albeit a sizable one, by the time of the Boulder convention in early 1971. But in the fall that year, when 900 people attended the National Executive Board meeting in Philadelphia, no more than half a dozen were long-time Guild members.

The coming of age of the New Left forces in the Guild, and the concurrent loss of active membership among the older generation, proved to have contradictory effects. On the one hand, the organization became open to a far wider range of legal and political activities—and those activities led to the formation of separately funded, highly specialized Guild projects, many of which remain active today. On the other hand, the influx of activists set the stage for countless sectarian debates.

Furthermore, the Guild had lost, and would not regain for several years, the accumulated skills and experience of all but a handful of founding members. The dearth of mature leadership was exacerbated by the lack of a “middle generation” of NLG members; the generation of lawyers that had finished law school during the height of McCarthyism in the 1950’s was (and still is) largely unrepresented in the Guild. Former Guild President Mary Alice Theiler has described the results:

“The fact that the Guild had lost a generation of leadership meant that, through no fault of our own, we were required to lead the organization, in essence, a generation early. With the exception of a few Guild members like Hank diSvero and Bill Goodman, the leadership of the Guild in the seventies were primarily law students or legal workers/lawyers who had been practicing for just a few years.”

Still, the new leaders started making their mark in the early 1970’s. At the 1973 convention in Austin, Texas, the younger generation had coalesced. It was a time of high energy. Catherine Roraback, President from 1971 to 73, was succeeded at the Austin convention by Jim Larson, the only President in Guild history who was under the age of 30 when elected. His tenure was marked by a more collective approach to Guild leadership, and a formalized division of the country into regions, each represented by a Regional Vice President.

During this period, Guild commitments were wide (if not, as some critics charged at the time, very deep). Chapters in Chicago and Portland were revitalized, and a new one was started in Houston. Staffed Guild offices opened their doors in Denver and Washington, D.C. Concern about grand jury abuses—a major government tactic for attacking anti-war leaders, black activists and other progressives—led to development of the Grand Jury Defense Office in San Francisco and the national Grand Jury Project; the latter

group organized a traveling “road show” to present workshops on representation of grand jury witnesses. A men’s caucus, formed at the Boulder convention, continued discussions among male Guild members about issues of sexism and division of labor. The Summer Projects Committee was established to place law students in internships with Guild projects and law offices. The National Immigration Project was authorized at a 1972 NEB meeting in Detroit. At the same meeting, the National Labor Committee was reestablished.

The work of the Labor Committee came to reflect some of the changes taking place in the Guild, as well as in the labor movement. The labor lawyers of the 1970’s often supported rank-and-file movements and concentrated on emerging labor issues, such as the position of women and minorities in the work force. In 1974, Guild women formed the Women’s Labor Project to address the needs of both union and non-union women workers. For the next seven years, the project provided research assistance and active support to various working women’s groups, dealing with issues such as discrimination, pregnancy, child care, pay inequity and sexual harassment.

The prison work of the 1970’s also mirrored the Guild’s evolving sense of direction. *Midnight Special*, a Guild-supported prison newspaper, sparked internal controversy with its emphasis on the politics of the Weather Underground and other revolutionary movements within the United States. The Women’s Prison Legal Education Project was formed by a group of women lawyers and legal workers from the Bay Area chapter. The project conducted monthly workshops on legal issues relevant to women prisoners at the California Institution for Women, the largest women’s prison in the country.

“We hoped to demystify the legal process and raise the social and political consciousness of the prisoners,” recounted Kay Kohler, one of the women active in the project. “We found our own consciousness raised in the process. We began to see the similarities between ourselves and the women inside, rather than the differences. Their crimes were those of economic and social survival.”

Another area of increasing Guild activism was the struggle for Native American rights. The Wounded Knee siege of 1973, for example, drew Guild lawyers and legal workers into immediate action. The 71-day symbolic occupation of the village of Wounded Knee, carried out by several hundred Oglala Sioux and their supporters from other tribes, led to the formation of the Wounded Knee Legal Defense-Offense Committee. The committee, which included many Guild members, acted as house counsel for the occupation and defense counsel during criminal proceedings brought against 185 of the occupiers. The defense effort lasted several years, but eventually succeeded in winning acquittals or dismissals for 92 percent of the defendants.

With the assistance of the Guild and its Committee on Native American Struggles, the most powerful nation in the world had been challenged by a tiny Indian nation, which was struggling to restore sovereignty according to the terms of its treaty. The intertribal spirit at Wounded Knee inspired a revival of Indian sovereignty claims all over the continent.

At about the same time, the most powerful nation in the world was finally withdrawing from its doomed military entanglement with a small nation in Southeast Asia. But the winding down and

**A**ffirmative action divided the country. Either you were for quotas or you were against them. Either you thought seniority had to be qualified to eliminate the last hired, first fired cycle of discrimination, or you didn’t. You were either going to fight to eliminate the badges and vestiges of slavery, or you were going to defend the privileges of so-called innocent white victims. And, as with all major principled struggles of our times, the Guild proved to be a valuable forum for debate and analysis. More than that, the Guild helped to move the affirmative action struggle beyond the level of legal and political debate, to that of mass mobilization and popular struggle.

As the *Bakke* case wound its way through the courts, an incredible union developed between the Guild, the National Conference of Black Lawyers and the Center for Constitutional Rights. This union created a joint project, the Affirmative Action Coordinating Committee. Through AACC a legal and political braintrust was forged, including Denise Carty-Bennia, Arthur Kinoy, Ralph Smith, Jack Hartog, Jeanne Mirer, Victor Goode, Barbara Wolvovitz, Marilyn Clement. They helped rally the troops when the civil rights community was groping for a uniform response to the reverse discrimination advocates. Using amici briefs, roundtables, pamphletting, march organizing and hotlines, AACC kept the fire burning under the heels of reactionary forces, lest those merchants of evil believe they could turn back the tide of popular history.

The *Weber* case proved to be a major victory for affirmative action, affirming the notion of affirmative action and quotas as viable tools for eliminating the vestiges of slavery. But it also stirred a hornet’s nest: it riled organized labor by challenging the sacred status of seniority. After *Weber*, the affirmative action struggle pitted unions (especially predominant-

ly white unions) against blacks, civil rights groups and others. The Guild’s Labor Law sector and the Affirmative Action, Anti-Discrimination sector engaged in principled debate over this issue. And, though we didn’t reach a uniform position, we were enriched by having the Guild as a forum in which to air our differences.

The 1980’s did not prove to be a period of in-the-street struggle for affirmative action. As the popular movement waned the intellectual backwardness of the Reagan-Meese-Reynolds Justice Department began its assault on the U.S. Constitution, civil rights and civil liberties. The Reagan reign has produced a new era of raw racism—racial violence, open bigotry on college campuses, the popular resurgence of the Ku Klux Klan, and an increase in the number of blacks on death row.

In response, the Rainbow Coalition gained strength through Jesse Jackson’s 1984 run for the presidency. Many Guild members invested their energies in that cause. Affirmative action was one of the issues about which Jackson was unequivocal. Also, AACC continued to draft counterpositions to any Reagan-Reynolds brief in the courts. Indeed, in the affirmative action struggle, the Guild proved itself to be an invaluable opposition apparatus for progressive lawyers and legal workers.

As we look to the next 50 years, we should consider briefly the internal dynamics of the Guild during the affirmative action era. Much of the coalition work would have been a nightmare if white Guild members had not struggled against their own racist tendencies. Whether we credit the anti-racism packets and sessions or the personal/political integrity of the participants, we should recognize that their involvement in fighting racism made them better human beings. That is the wealth we take into the next line of march.

HUEY COTTON

eventual end of the war in Vietnam did not diminish concern with issues of international law and international relations. To the contrary, Guild work in this area reached an unprecedented level in the mid-1970's.

In 1974, the Guild sent a 14-member delegation to Cuba, the first such delegation since before the 1961 U.S. blockade. Guild members also traveled to Chile that year, to investigate human rights abuses and observe trials of officials and supporters of the Allende government, which had been overthrown by a U.S.-backed military junta. In 1977, 20 Guild members participated in the first delegation to the People's Republic of China. Other delegations of the late seventies represented the Guild in Iran, Guatemala and Southern Africa.

The Guild position on the Middle East had been a topic of hot debate at the 40th anniversary convention in 1977. While recognizing Israel's right to exist as a state, the Guild took the position that the Palestine Liberation Organization was the official representative of the Palestinian people, and that the Palestinians were entitled to a homeland. An important 1977 delegation traveled to the Middle East to examine the status of Palestinians in the Israeli-occupied West Bank and Gaza Strip. A delegation report on conditions there was published and widely circulated.

Closer to home, the Guild established its Puerto Rico Legal Project to defend *independentistas*, and to provide legal assistance and training to other progressive movements on the island. Later in the decade, Guild lawyers would represent the Vieques 21. The defendants were indicted for organizing grassroots protests against the U.S. Navy's use of their home for military purposes. (In 1982, the Puerto Rico Legal Project would become an independent, Puerto Rican-operated project, the Instituto Puertorriqueno de Derechos Civiles.)

At the 1975 national convention in Columbus, Ohio, Guild President Doron Weinberg—speaking to representatives of the Democratic Republic of Vietnam—pronounced the organization's solidarity with the victory of the Vietnamese people. "Throughout the late sixties and early seventies," Weinberg noted in retrospect, "there had been a political consensus around the Vietnam War. There were different strategies about supporting the NLF or not, and different demands, but we were getting half a million people out at mobilizations and there was a kind of almost false unity in the left. The strains around issues of class and race, around issues of sex and sexual preference were beginning to emerge, but they were subsumed because everybody shared the principal commitment."

Many of the debates of the time were, of course, legitimate attempts to shape a progressive ideology beyond the anti-war movement. There was the Middle East debate mentioned earlier. In 1975, disagreement raged over continued Guild support for the United Farmworkers Union, which had called for the deportation

of undocumented workers. Another major issue was the Guild's association with supposedly progressive organizations that opposed the participation of gay men and lesbians in their activities and demonstrations; the first NLG panel on Gay Liberation had been held at the 1971 convention, and the movement was of increasing concern to Guild members. The National Committee on Women's Oppression (which later evolved into the Anti-Sexism Committee) came together in 1975, to develop a serious women's program within the Guild.

There also was discussion and debate about the predominantly white nature of the Guild's membership. The National Conference of Black Lawyers and La Raza Legal Alliance had been formed in 1968 and 69 respectively, years of rising consciousness in Third World communities. Black and Hispanic lawyers, law students and legal workers pursued the struggles of their own communities through these organizations. The Guild often worked closely with NCBL and La Raza, notably on the People's College of Law, a 1973 joint project of all three groups. But the fact remained that the Guild—which had after all been founded as a racially integrated legal group, in sharp contrast to the all-white American Bar Association of the 1930's—did not reflect the multi-cultural character of the U.S. legal community. Guild members questioned how the situation could be resolved. Some advocated a greater emphasis on anti-racist activity in the NLG program. Others sought more aggressive recruiting in Third World communities, and a greater effort by Guild members at examining their own racism. (The debate continues to the present; in recent years there has been a greater emphasis on encouraging dual membership in the Guild and minority bar associations.)

At the same time, more abstract ideological arguments were consuming much energy on the left and in the Guild. In the mid-1970's, during the presidencies of Doron Weinberg and Bill Goodman, Guild events were characterized by increasing efforts to sharpen the political line of the organization. Carlin Meyer, a member of the National Office Collective at the time, later recalled: "The movement was beginning to swing, and the Guild with it—still full of life, but equally full of one-lined, esoteric political struggle."

During the tenure of President Hank diSuviero (1977-79), the Guild opened its National Labor Law Center in Washington, D.C., and a Southern Regional office. The Conference on Legal Studies was established in 1977, to encourage scholarly legal studies from a left perspective. But even as Guild work expanded, ideological divisions continued.

Many progressive organizations were deeply affected, some fatally, by the political splits of the immediate post-Vietnam era. It proved to be another difficult stage for the Guild, again testing the resilience of an organization that, by any reasonable standard, should already have perished several times over. Once again, the Guild was destined to survive.



Atlanta Guild member Brian Spears, right, marching with United League in anti-Klan demonstration, Tupelo, Mississippi, 1978.



Navajo Elder Roberta Blackgoat leads protests of government relocation plan in Big Mountain, Arizona, where Guild members have helped organize Big Mountain Legal Defense/Offense Committee.

## VI Rising to the Challenge

When Paul Harris was elected President at the 1979 Guild national convention in San Francisco, the smoke of sectarian debate had begun to clear. Most Guild members were getting tired of arguing fine ideological points; they no longer seemed interested in continuing the more esoteric debates of the seventies. Harris and the other national officers formed a collective leadership, basing their actions on a view of the Guild as a multi-issue organization, rather than a political party with a strictly defined "line." As a result, the debates of 1979 and 80 lacked the bitterness of the preceding years. "One thing we tried to do was take hold of the process, develop a plenary committee that actually had power to decide things, make a resolutions committee that actually worked," Harris said later.

There were still controversies, of course. Members considered resolutions on numerous issues, including the relationship between pornography and violence against women; racism and violence against Third World people; and Guild participation in coalitions that included anti-gay organizations. The debates were heated but orderly, allowing for disagreement without the threat of disunity or political schism.

Overall, it appeared that the younger generation of Guild leadership had recognized the need to tame the freewheeling organizational monster it had created. By 1980, members of that generation had been a dominant force in the Guild for 10 years; they also had spent a decade building law practices, representing political defendants in major trials, and working in Legal Services offices, for unions, and as public defenders.

As these new leaders matured, becoming more competent and comfortable in their legal abilities and more established in their practices, the Guild changed as well. There was an increasing emphasis on skills development in the seminars and roundtables at national and regional meetings. Greater administrative and organizational skills became evident. Legal work also improved as Guild members became more experienced, skilled practitioners.



It was in this context that many founding Guild lawyers were prompted to renew their active membership. Several symbolic gestures were important in this regard. The New York City chapter's 1977 fundraising dinner was dedicated to the organization's founding members. The 1980 national convention in Boston honored former NLG presidents in a special effort to recognize the achievements of the founding generation. As the convention journal put it:

"Our preparation to meet the organization's future includes the contemplation of its past. By honoring fifteen of the Guild's former presidents, we have chosen to contemplate our past by celebrating it, and to experience the importance of historical continuity not only as a fact, but as a feeling."

These developments helped forge unity in the Guild, at the same time as (and perhaps partly because of) the start of a backlash against the previous two decades' hard-fought gains in civil rights and civil liberties. One harbinger of the far right's resurgence in the United States was the *Bakke* decision on "reverse discrimination" in law school admissions. In 1979, as a response to that ruling and other threats to affirmative action, the Guild, NCBL and the Center for Constitutional Rights initiated the Washington, D.C.-based Affirmative Action Coordinating Committee.

Another signal of the imminent swing to the right was the reinstatement of draft registration, which in turn revived work on anti-draft cases by the Military Law Task Force. The 1979 victory of the Sandinista revolution in Nicaragua drew a right-wing response that continues to the present day; in 1980, Guild members formed the Central America Task Force and helped establish the Lawyers Committee Against U.S. Intervention in Central America.

Clearly, though, the single most noteworthy event in the growing challenge to the Guild and progressive movements in the United States was Ronald Reagan's election in November 1980. With the dawn of the Reagan era, the right consolidated its power more successfully than at any time since the 1950's.

But government repression was not new to the Guild. During the 1980's, discovery proceedings in the Guild's monumental lawsuit against federal intelligence agencies revealed details of a systematic, 40-year campaign of government surveillance and harassment against the organization. The suit, *National Lawyers Guild v. Attorney General*, was filed in Federal District Court in 1977 to determine the extent of such activities over the years—and to seek damages and an injunction against future disruption. The case represents a major Guild effort to establish judicial procedures limiting the FBI's authority to investigate and disrupt dissenting organizations, on the justification of "national security."

The FBI has been forced by the litigation to produce more than 300,000 pages of its files on the Guild. A painstaking review by Guild lawyer Michael Krinsky, lead counsel in the suit, Ann Mari Buitrago, a political scientist, and Jonathan Moore, another Guild attorney, confirmed that, since 1940, the FBI has taken an uninterrupted series of actions directed at destroying the Guild.

The files show that the Bureau used over 1,000 informants, inside the Guild and in contact with the organization, to report on Guild activities and to disrupt meetings, press conferences and seminars. Informants sat on policy-making bodies of chapters and the national organization, and were even privy to the Guild's legal decisions in its life-and-death litigation against the subversive listings proceedings of the 1950's. FBI agents repeatedly broke into

the National Office and the private law offices of Guild members. The FBI tapped the Guild's telephones and the telephones of Guild members. The Bureau directed efforts to defeat the political and judicial candidacies of Guild lawyers, and secretly released information about the Guild to judges, character committees, law schools and the media—all as part of an ongoing effort to stigmatize the organization.

In 1983, the Justice Department, with Reagan appointee Edwin Meese at the helm, tried to dismiss the suit. The motion to dismiss asserted for the first time, in this or any other forum, that government actions against organizations such as the Guild—whether unconstitutional or not—are immune from judicial review because they were undertaken to protect the "national security." Litigation of that issue, as well as the case in general, continues under the auspices of the National Emergency Civil Liberties Committee.

Michael Krinsky has written that the issue represents "the continuation of what, for the organization, is an old and important fight. Protracted and important as it has been, no doubt this action will not be the Guild's last battle against the FBI, whatever the outcome."

Partly as a result of the tactics revealed in the course of *NLG v. Attorney General*, the Guild was pushed to the brink of extinction in the Cold War years. On the surface at least, the age of Reagan could have been expected to produce the same result. Particularly in its early years, the Reagan administration had a vigorous agenda for attacking the work of the progressive legal community and the movements defended by Guild lawyers.

A top administration priority was defunding the Legal Services Corporation. When that effort met stiff organized resistance, the White House stacked the corporation's board of directors with right-wing opponents of legal services for the poor. At the same time, Guild lawyers and others representing political dissidents began receiving criminal contempt citations for refusing to testify against their clients. Again, as in the 1950's, the political heat was decidedly on.

But the Reagan administration was to discover that red-baiting is a largely outmoded tactic. In contrast to the Guild's precipitous decline of the HUAC days, the 1980's have been years of unprecedented growth. Between 1980 and 87, the Guild added approximately 2,500 new members and 120 chapters. Of all NLG members (as of mid-1987), 58 percent are lawyers, 28 percent are law students, and the rest are legal workers and jail-house lawyers.

These numbers are particularly striking in light of the past record. Between 1938 and the mid-1970's, the Guild never had more than a dozen active chapters, all in major cities. The past few years have seen the expansion of chapters to every region of the country, and, to some extent, a decrease in the "big city chauvinism" for which the organization has been criticized in the past.

With the admission of law students in 1970, student chapters appeared throughout the country; in 1987, the number of such chapters passed 100. Law Students in Action, the organized student caucus within the Guild, was formed to help coordinate the activities of law school chapters.

In fact, much of the Guild's growth in the 1980's can be attributed to the development of law school chapters—this during a period when students are alleged to be more interested in investment banking than progressive politics. Despite the broader political context



Former Guild Regional Vice President Kathleen Herron speaking out against South Africa's apartheid pass laws, Portland, Oregon, 1986. Photo courtesy Richard Brown.

of the Reagan era, law school classes in the 1980's have produced ample numbers of students who eagerly challenge their schools to address pressing social and political issues, and who seek out progressive faculty with whom to work.

Meanwhile, many of the original law student members of the early 1970's have become law professors, and in 1986 over 120 of them established the NLG Faculty Network.

The National Office's greater role as an administrative support center has aided the proliferation of both student and city chapters, some of which might not otherwise have the resources to survive and grow. The end product is a progressive and truly national legal network, which has been called upon often to support people's movements in the 1980's.

Much of that support has come in the form of mass arrest defense. When the Central America solidarity movement called for a "Pledge of Resistance" against U.S. intervention in Nicaragua, for example, sit-ins and other acts of civil disobedience were staged across the country; the Guild provided legal representation for many of the arrested demonstrators. Anti-apartheid demonstrators also engaged in civil disobedience on campuses and in the streets throughout the United States, with Guild members frequently providing legal defense. The Guild mass defense network was activated, as well, when anti-nuclear demonstrators were arrested at weapons facilities, military bases and nuclear testing sites.

The "necessity defense" has evolved in these past years as an effective strategy for defending civil disobedience activists. The Guild has conducted numerous skills seminars on this type of defense—in which arrested demonstrators justify their actions on the grounds that they were needed to prevent a greater harm. Guild lawyers have been increasingly successful in winning judges over to the validity of the necessity defense under domestic and international statutes.

Other forms of legal support have emerged with the Guild's expansion in the eighties. When people with AIDS began to face discrimination in employment, housing, health care and insurance coverage, the Guild AIDS Network was formed. The Network provides legal support for these people and other targets of AIDS hysteria and the resulting anti-gay backlash. Network members have produced a practice manual and offered training sessions on AIDS and the law.

When Central American refugees sought sanctuary from U.S.-backed violence in their home countries, Guild members represented them before the Immigration and Naturalization Service. Guild lawyers also counseled congregations wrestling with the legal implications of providing sanctuary, and defended sanctuary activists tried by the government for transporting refugees. The NLG Central American Refugee Defense Fund has provided extensive skills training on asylum law, and has published regular updates on legal developments in this field.

Beyond such efforts in the legal arena, the organization has undertaken the larger task of influencing public opinion, providing a progressive view of legal issues, and asserting the legal obligations of the United States and its leaders. In 1984, a dozen Guild chapters

around the country convened War Crimes Tribunals on Central America and the Caribbean. The tribunals were made up of judges, international law experts and community leaders, who heard evidence on U.S. government violations of domestic and international law.

In 1985, the Guild moved quickly to counter the Reagan administration's attack on affirmative action consent decrees in over 50 cities. Guild members testified on the issue before Congress, and the organization joined with the National Conference of Black Lawyers and others to form a National Committee to Defend and Extend Affirmative Action.

At the 1986 national convention in Denver, Guild members set up the Rural Justice Committee. In response to the economic crisis threatening the demise of family farming in the United States, the committee has provided legal support to the North American Farm Alliance and individual farmers. Wells, Slough, Connealy and Irwin, a Guild law firm in Kansas City, Missouri, took on one such case. Farm activist Marvin Porter, his wife and father had been indicted for selling mortgaged crops in the process of losing their farm. The Guild lawyers working on the case fashioned a defense that attacked the cruelty of U.S. farm policies. They also raised a mental defense based upon the unique long-term stress of losing a family farm.

Guild publications—notably a series of books released in cooperation with the Clark-Boardman Company, one of the nation's leading legal publishers—have continued and expanded in the 1980's. They represent an important tool for spreading information on the legal skills needed to support progressive movements.

The range of contemporary Guild work is only suggested by the preceding examples—along with such committees and projects as the Labor Committee, Economic Rights Task Force, Civil Liberties Committee, National Prison Network, Military Law Task Force, and many others. Any attempt to describe all current Guild projects, however, would extend far beyond the confines of this history. Indeed, in 1987, there is hardly an area of legitimate legal activity that is not being worked on by Guild lawyers, law students, legal workers and jail-house lawyers.

The dramatic ups and downs of the past 50 years seem to have stabilized, for the time being at least. The organization's current growth is built upon the foundation laid in February 1937 at the founding convention in Washington, D.C.—and embellished by the later influx of the 1960's, seventies and eighties.

"There was something very positive that the organization (and the movement) gained from our relative youth and inexperience," Mary Alice Theiler wrote of her early years in the Guild. "We didn't know when to be intimidated. We were willing to take on any struggle and took on most of them. I hope we can keep that quality."

Added President Haywood Burns in a 1986 report to Guild members: "All in all, we best honor our past—organizational and national—through carrying forward our historic work with even greater dedication and commitment. Justice still is a constant struggle."

**T**hrough the last five years, while I have served on a series of National Executive Committees, first as Vice President, then President, then Executive Director, we have moved toward an even clearer idea of our organizational role—to serve as the legal arm of the progressive movement, and to represent a progressive view within the national political discourse. These goals are really very little different from the goals of the Guild in 1937 or 1977. But in each era they imply something new, some new effort or emphasis.

The leadership of the Guild today is for the most part made up of lawyers between the ages of 35 and 45, who joined the Guild in the late sixties and early seventies as law students, legal workers and novice lawyers. Ours was a generation which meant to smash the state, elitism, sexism, racism and imperialism. We did not come to the Guild from the trade union movement and the New Deal agencies, as did our founding fathers (and a very few mothers). We came from the civil rights and anti-war movements, from street demonstrations and campus sit-ins, from the women's movement and collectives and cooperatives. We chose to join the Guild, because it represented our view of the law, but we wanted to make it over in our own image. We came in smashing and crashing into whatever stood in our way. We demanded full membership for law students, legal workers, jail-house lawyers. We pooh-poohed the Guild's role as a bar association—bar associations were boring and elitist and irrelevant. Our role was "mass defense." The people were in the streets, at least the young people were, and that's where we were needed.

None of that was wrong. It might have been a bit overstated and at times rude and historically myopic, but the Guild should have been providing legal representation for people putting their lives and freedom on the line in Missis-

sippi, Chicago, Oakland, Vietnam. And, almost despite ourselves, we were part of the national discourse in the late sixties, because so much of the national discourse was controlled by the people in the streets. As their lawyers, and as part of them, we entered the dialogue.

Twenty years later, the right wing once again has set the agenda and controls the discourse. There are many differences from the fifties, and luckily we still have many older members in the Guild who can help us analyze those differences. But one similarity is the isolation of the left; the discourse today runs from center-Democrat to right-wing fanatic. We must struggle to be heard, but doing so raises a palpable inner conflict for a whole generation of Guild lawyers. Innumerable discussions about "selling out" and rejecting "respectability" reflect that confusion.

And yet, ironically, my generation of Guild members has become quite "respectable." We are highly regarded members of the legal profession, in private practice, legal services and government agencies, on law school faculties and on the bench. Still, for many of us the Guild remains a place to "be our real selves," to be with friends and comrades, to discuss politics in a way that has meaning, without dilution.

As comfortable as this might be, we must again bring the Guild and our political views into the national discourse. We must break open the dialogue. We also must allow the next generation of Guild members to assume leadership, just as the founders of the Guild let us reshape the organization. It is easily the Guild's greatest attraction, for me and for many others, that our membership and leadership spans a number of generations, includes the "Old Left" and the "New Left." But now there is yet another generation, with a different view of politics and activism. Because the Guild must continue its work for the years to come, it has to grow, numerically and politically. We must look ahead.

BARBARA DUDLEY



Demonstration on steps of courthouse in New York City.





# Presidents and Executive Secretaries

On the following list, the dates indicate the years when each term of office began; cities represent the location of the Guild national convention at which officers were elected that year.

	Presidents	Executive Secretaries		Presidents	Executive Secretaries
1936			1960		
Preconvention	Frank P. Walsh		San Francisco	Benjamin Dreyfus	
1937			1961		
Washington, D.C.	John P. Devaney	Mortimer Reimer			Herman Geringer Aryav Lenske
1938			1962		
Washington, D.C.	Ferdinand Pecora		Detroit	Benjamin Dreyfus	
1939			1963		
Chicago	John Gutknecht				David Eynin
1940			1964		
New York City	Robert W. Kenny	Martin Popper	Detroit	Ernest Goodman	James T. Lafferty
1943			1965		
Chicago	Robert W. Kenny		San Francisco	Ernest Goodman	
1944			1967		
Cleveland	Robert W. Kenny		New York City	Victor Rabinowitz	Kenneth Cloke
1946			1968		
Cleveland	Robert W. Kenny		Santa Monica	Victor Rabinowitz	Dennis James
1947			1970		
		Robert J. Silberstein	Washington, D.C.	Doris Brin Walker	Eric Seitz
1948			1971		
Chicago	Clifford Durr		Boulder	Catherine Roraback	
1949			1973		
Detroit	Thomas I. Emerson		Austin	James Larson	N.O. Collective
1950			1974		
New York City	Thomas I. Emerson		Twin Cities	Doron Weinberg	
1951			1976		
Chicago	Earl B. Dickerson		Houston	William Goodman	
1953			1977		
New York City	Earl B. Dickerson		Seattle	Henry DiSuvero	
1954			1979		
Chicago	Malcolm Sharp	Jessica Davidson Ann Fagan Ginger	San Francisco	Paul Harris	
1956			1980		
Detroit	Malcolm Sharp	Royal W. France Ann Fagan Ginger	Boston	Mary Alice Theiler	
1957			1982		
New York City	John M. Coe		Santa Fe	Michael Ratner	
1958			1983		
Chicago	John M. Coe		Chicago	Barbara Dudley	
1959			1985		
		David Scribner	Atlanta	Marc Van Der Hout	Barbara Dudley
			1986		
			Denver	Haywood Burns	

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On the cover: *BUILDERS*, 1980, JACOB LAWRENCE



*THE NATIONAL LAWYERS GUILD is an association dedicated to the need for basic change in the structure of our political and economic system. We seek to unite the lawyers, law students, legal workers, and jailhouse lawyers of America in an organization which shall function as an effective political and social force in the service of the people, to the ends that human rights shall be regarded as more sacred than property interests. Our aim is to bring together all those who regard adjustments to new conditions as more important than the veneration of precedent; who recognize the importance of safeguarding and extending the rights of workers, women, farmers, and minority groups upon whom the welfare of the entire nation depends; who seek actively to eliminate racism; who work to maintain and protect our civil rights and liberties in the face of persistent attacks upon them; and who look upon the law as an instrument for the protection of the people, rather than for their repression.*

Preamble to the NLG Constitution, adopted February 1937, amended 1971