

**Oral History of Joseph L. Rauh, Jr.**  
**Conducted by Robert S. Peck**  
**January 16, 1992**

Mr. Rauh: The second matter for the foundation was the relationship between liberals and communists. You had in this country a united front; it was perfectly open. Actually, there had been some grumblings about the united front in the '39 to '41 Nazi-Soviet pact. That's when I had my experiences with those who didn't want to prepare for war and didn't want to help save England. But Russia was our ally in the war. The pact was over. The united front was back, but then in 1946 you began to see the differences.

One of the great spiritual leaders of the ADA<sup>1</sup> was Reinhold Niebuhr who I think said it best in a statement I just love to quote. Reinnie said, "I don't believe in my country right or wrong, especially when it's not my country." And that summed up how we felt about the idea of Stalinism. If you think that civil liberties are your or my beacon, how can you be part of a group that says yes to whatever Stalinists wanted? And that was pretty clear.

Jim Loeb wrote a letter to the *New Republic* in May, I think, of '46, making this point. Oh boy, the \_\_\_\_ hit the fan. I mean there were communists in many important media. Boy, they went after Jim with an axe but Jim had the perseverance of a dynamo. I am speaking at a memorial service for Jim a couple of weeks from now. He is hard to describe. He was not easy going. He was so right on everything and so persevering in what he wanted to do that he was quite a wonderful human being. He'd been for the Spanish loyalists; he wanted to prepare for war. He had been a socialist with Norman Thomas but, when Thomas was anti-war, Jim and Reinnie and some others broke with Thomas. The socialist party was quite divided over the war.

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<sup>1</sup> Americans for Democratic Action.

And then Jim led this new group. When it was formed, I think the headline in *The Washington Post* the day after we started the new group – I guess that would have been Sunday, the 5th of January – on the front page was "Liberals Without Reds." That was what was newsworthy. I don't think if Truman had continued with the people that had been around Roosevelt or with the ideas that had been around Roosevelt that probably wouldn't have sparked it – breaking with the Communists wouldn't have sparked it. But the two together kind of created a situation where the ADA had an immediate success and then we went on in 1948. We beat the pols. Well, we beat the machinery of the Democratic party and came out for civil rights. But we had the politicians, the big bosses were with us.

Mr. Peck: Let's talk little bit about the development of the civil rights plank for the Democratic Convention. Was that when you first started an association with Hubert Humphrey?

Mr. Rauh: The ADA was before that. On January 4th of '47, it's formed. In March, there is a conference in the Middle West, trying to build ADA in the middle west. Two people were there that were very significant figures in American political life. One was Hubert, the mayor of Minneapolis. The other was George Edwards who was Chairman of what they called the Common Council. It was the City Council of Detroit. George Edwards later was on the Sixth Circuit, still is but he's quite sick, and Hubert became what he was. Well, this was a very successful conference.

Adlai Stevenson came and didn't join. He was Hamlet always; wonderful, we loved him, but he was Hamlet. He came but he didn't join. Hubert made one of his stemwinders. Oh, God, it was wonderful, and I fell in love. So, Hubert and I were close friends from March

1947 on.

But the way the civil rights thing started was we naturally had civil rights as part of the platform. You could not have a liberal organization without civil rights, and Roy Wilkins has given us lots of credit for what we did as the leading white civil rights organization. We weren't the leading civil rights organization by any manner of means. The NAACP, Urban League, there were a lot of wonderful groups.

Well, I think this was evidence of Jim Loeb's genius in '48 when Truman was at the bottom of the barrel and there were lots of desire to dump him. ADA was in on that. Paul Porter came to me one day and said I have got a message for you. I said, "What is it?" He said, the President told me to tell those liberal creeps in the ADA that anybody sitting behind this desk where I am sitting - "I think the word that Truman used was "any shit sitting behind this desk could get himself renominated and I'm going to." At any rate, he did. But, and this would have been quite - with nothing else at the convention but the renomination - it would have been quite a blow at the ADA. Jim Loeb thought of making the fight on the civil rights plank, and we all rallied 'round. It was that that made it look like we were a big part of the Democratic party. And while I'm supposed to be the author of the plank, it really has no authorship. It grew over weeks, you know.

Jim was the mastermind in the organization. A letter went out to all the delegates from Hubert, Jimmy Roosevelt who was chairman in California, and Bill O'Dwyer who was the mayor of New York about this. We were going to have a real plank. It was beautifully organized and beautifully carried out there. We won - we did win because we had - you got to give credit to a lot of places, not just to Hubert, me and the people at the convention there that day. We

have to give it to Henry Wallace because one of the best arguments we had on the floor was: are you going to turn the black vote over to Henry Wallace who is going through the South doing things that were quite wonderful? And we don't want that.

I argued to the bosses, Jack Harvey, David Lawrence out of New York, Frank Haig and all these bosses – well, don't you want the blacks to support your local tickets? Well, anyway, they were wonderful. These guys, oh, what a gem, Bill Green in Philadelphia, all these guys. Here were a bunch of liberals. We hated their guts, and they hated ours. Here, we're strolling around the convention together – and they won it for us. Look, I think we got every vote from Illinois. You don't get every vote from Illinois if Jake Harvey doesn't want you to get every vote from Illinois.

So there are lots of people who deserve great credit. But I guess no one more than Hubert and his beautiful speech. I think the guy is still living who wrote that speech. Milton Stewart was his name, and Hubert put in a few things I think probably that line that it's time for Democratic party to come out of the darkness of states rights and into the sunshine of human rights. As far as I know, I have never read that Milton died, but he was the ADA staff in New York and he was there with us. We needed a speech. Hubert delivered it as only he could. Hubert could take a lousy speech and deliver it good, but this was a good speech. Anyway, we did win by a substantial margin. That morning, Dave Niles on the floor said to me, "You're ruining the career of the greatest prospect the Democratic party has had for years. I said, "What the hell are you talking about, Dave." He was Truman's civil rights guy in the White House. He said, "Well, you are going to ruin Hubert Humphrey and not going to get 15 votes." I said, "yes?" You know, Truman wrote in his memoirs that he had written the minority plank, but the

absurdity of that is that the Missouri delegation voted against it. The Kentucky delegation of Alben Barkley voted against us. The Chairman of the Democratic party, McGrath of Rhode Island, voted against us. It is pretty clear that the bureaucracy was on the other side but what had happened was a bunch of crazy liberals with a wonderful speaker and the city bosses upset the machinery of the Democratic party.

Mr. Peck: Well, sometime after that you were said to have claimed that the only difference between the ADA and the Democrats was that the ADA believed in the party platform and the Democrats didn't.

Mr. Rauh: I said that, and I think there is a great deal of truth in that. But we really – you know, take historians. Arthur Schlesinger has got a piece somewhere in the last month saying that platforms don't mean anything. Well, platforms can mean something. I wrote Arthur a letter and said that I think that's not a helpful thing to write; platforms should mean something. The fact that politicians don't follow them is only a measure of their care for platforms. Well, we cared for it and that turned the tide. You know, I think historians will one day say that when the ADA tied civil rights to the masthead of the Democratic party in '48 they changed things. Now, from the point of view of the Democratic party that may not be so good, because civil rights today has lost the white vote. We have to count on Hispanic, black, Chinese, poor, homeless, every goldarn thing to make up for the fact that the majority of whites are against us just because of this. But I am only saying that this was a historical event. I think that one day, when we're all gone and they're not going to know who the hell we were, that they will say this was a big event in life there.

Mr. Peck: In 1949, I read you had an early run in with LBJ over the reappointment of Leland Olds to the Federal Power Commission and that some people think that Abe Fortas put LBJ up to that.

Mr. Rauh: Well, now there's a dispute on that. I thought so, but I have a letter from Abe Fortas saying that I was wrong. The Fortas role in that, to my mind, has never been resolved. If I had to guess, if St. Peter asked me, I'd tell him I think he was involved but I don't want to say that I know that – Abe said it wasn't true.

ADA fought for Leland Olds but Johnson just wrecked it, and I have always thought that Abe was in on that but I now would rather say: Well, I thought it then, and I am not sure of the answer. Abe has written me a letter saying it wasn't true, and I guess I want to believe that.

Mr. Peck: I also found in 1949 another D.C. Circuit case. *Brotherhood of Locomotive Firemen and Enginemen v. Graham*.<sup>2</sup>

Mr. Rauh: You know that case went to Supreme Court. What happened was the railroads and the white union of locomotive firemen entered into an agreement that you wouldn't have black firemen – that's the essence of it. We brought a suit under the *Steele* case<sup>3</sup> to say that was illegal but the union couldn't discriminate against people in the bargaining unit. Now the blacks couldn't get in the union but the union bargained for them because they were part of the unit. And they made this thing called the Southeastern Carriers Agreement which was so outrageous. At any rate, this was not one of the Circuit Court's finest hours. We brought a suit

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<sup>2</sup> 175 F.2d 802 (D.C. Cir. 1948), *rev'd* 338 U.S. 232 (1949).

<sup>3</sup> *Steele v. Louisville & Nashville R. Co.*, 323 U.S. 192 (1944).

to outlaw the Southeast Carriers Agreement and, under *Steele*, we were entitled to that. We got a preliminary injunction from Judge [Alexander] Holtzoff, who was not what you would call any great radical, and we were feeling pretty good about that. They went to the court of appeals and they got the thing upset. What was the Judge, what was his name, the Chief Judge of the D.C. Circuit, [Harold M.] Stephens. I think you missed one, but my name wouldn't have been on the brief and I think we will have to come back to that – ask me to tell you about *Landis*.

Mr. Peck:       Okay.

Mr. Rauh:       Do you know the *Landis* case? Let's try to remember what happened in *Graham*. I went for cert., got cert., and the [Supreme] Court reversed it, which was an important case in my life because we got paid something, not much, but something. We were rather on the edge and were going to make a go of it only taking public interest cases. But the *Graham* case, if you look at it, is absurd, and the Supreme Court made that perfectly clear during the argument. But I was in on a case there that was also wrong, I believe. It was called *Landis V. North American Co.* It's the Holding Company Act case. The Holding Company Act was passed in 1935. Ben Cohen and Tom Corcoran deputized themselves to run it. They got an order from [Attorney General Homer] Cummings that they were to be in charge of that litigation, so I worked on that litigation.

Well, when I say there was a flood of suits, I do not use that word lightly. There were more suits against the – there must have been 50 or 75 suits. So Ben Cohen who was the greatest tactician lawyer I have ever seen. I don't say that he is the greatest lawyer. I don't know that he would know how to cross-examine Tony Boyle and he probably wouldn't have been able

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<sup>4</sup> 85 F.2d 398 (D.C. Cir.) rev'd, 299 U.S. 248 (1936).

to, but this is what he did for tactics. He announced – he had the Attorney General announce that they wouldn't prosecute anybody for not registering under the Holding Company Act and the first thing you had to do was register. Nobody would be prosecuted until the Supreme Court decided the constitutionality. So they brought one suit against Electric Bond & Share Co. which is the suit that upheld the Holding Company Act several years later.<sup>5</sup> But for North American and others that were plowing ahead – some just let it lie, he moved for a stay in the district court before a Judge Bailey, I think was his name, an old Wilson appointee. I learned a lot about the right judge makes a big difference from Ben and Tom. I think we had a Wilson appointee as our judge and he gave us – oh, not only did we have a Wilson appointee but Ben called up the Attorney General and said, "Tom and I think it would be well, if you'd argue the case. It wouldn't take you more than five minutes to argue for the stay." So here is the attorney court of the United States on a lousy stay motion in the district court arguing it. Well, we obviously won. They went to the court of appeals, and the court of appeals again issued a lousy decision. By the time it got to the Supreme Court, I was law clerk to Justice Cardozo so he said why don't we not talk about the case. So we didn't, but that was another case where I had worked on the court of appeals. But the court of appeals in those days wasn't such a good operation. Sometime we are going to find that it moved and maybe you can help me remember things on the move. I had [been before it] either for the government in the FCC work or the government in the Holding Company Act as earlier contacts than the one where my name appeared in private practice.

Mr. Peck: The next thing that I have noted down brings us up to the 1952 convention.

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<sup>5</sup> *Electric Bond & Share Co. v. SEC*, 303 U.S. 419 (1938).

Mr. Rauh: Well, let's hold it because that was one more. I had a case in my head that I wanted to mention, and we are going to stop anyway. When is – *Landis* is 1936 in the district court and court of appeals and then it goes to the Supreme Court. *Graham* is 1949 and there was something I wanted to tell you and then it slipped my mind. But anyway we will remember. It will come back to us.