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THE  
CONSERVATIVE  
AFFIRMATION

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by WILLMOORE KENDALL

GATEWAY EDITIONS • CHICAGO

To Nellie  
who invented it  
and Yvona  
who barreled it through

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*Manufactured in the United States of America.*

**Library of Congress Cataloging in Publication Data**

Kendall, Willmoore, 1909-1967.

The conservative affirmation.

Originally published: Chicago : Regnery, 1963.

Includes bibliographical references and index.

1. Conservatism. 2. Liberalism. 3. United  
States—Politics and government—20th century.  
4. Political science—Book reviews. I. Title.

JC571.K39 1985 320.5'2 85-5517

ISBN 0-89526-811-6 (pbk.)

ISBN 0-89526-591-5 (hardcover)

## Chapter 3

# McCarthyism: The Pons Asinorum of Contemporary Conservatism

My purpose in this chapter is neither to bury Joseph R. McCarthy, nor to praise him. As for burying him, that was done many years ago by more competent, and far more eager, hands than mine. As for praising him, that, like damning him, seems to me to have entered upon a phase in which everybody merely spins his wheels. The basic claims put forward on both sides—we should bless McCarthy's memory, we should rue the day he was born—no longer change; the claimants do not listen to, or even hear, one another, would not understand one another even if they did listen. They are likely, from now on, to persuade only themselves, and those who already agree with them. My purpose, I say, is neither to bury McCarthy nor to praise him but rather, starting out with one simple, non-controversial statement about the McCarthy episode (perhaps the only non-controversial statement that can be made about it), to raise and try to answer one simple question, which statement and which question I propose to put as follows: There were "McCarthyites," and there were "anti-McCarthyites," and they got mad at each other, very mad, and stayed mad at one another—if anything, got madder and madder at one another—through a period of several years.<sup>1</sup> And

<sup>1</sup> Note the implication, which I believe to be correct, that at some point the two camps stopped being mad at each other, or at least *that* mad—a point to which I return *in extenso* below. I am not unaware, of course, that McCarthyism remains, especially in "intellectual" circles, a "touchy" subject, so that the hostess in those circles who likes everything to go nicely all evening keeps an ear cocked for McCarthy's name, remains constantly poised to intervene (even at the far end of the

## *The Pons Asinorum of Contemporary Conservatism*

the question arises: What exactly was everybody so mad about? What was the issue?

Or, to expand the statement a little, there was a fight, if not a war at least a long, sustained battle; heavy artillery was brought into play on both sides; men fought in that battle with the kind of bitterness and acrimony that human beings appear to reserve for those occasions on which brother fights brother,<sup>2</sup> cousin fights cousin, Damon—yes, it was often so, as I can testify from personal experience—fights Pythias. For a long while smoke hung thick over the field of battle, so that visibility was poor and there was great confusion on the part of the observing public, not merely as to how, at any given moment, the battle was going, but even as to what precisely the fighting was about—as to what exactly was getting decided, as to what actually the victor, once he emerged triumphant, would have won. Moreover, so thick was the smoke that the combatants themselves often became hazy in their minds, even differed among themselves, as to who was whose enemy and as to the sense in which this or that "enemy," if he was an enemy, was an enemy. At the time, therefore (and even for a long while afterwards), the question I raise here—What was everybody so mad about?—probably could not have been answered in a satisfactory manner. There had to be time first for the smoke to clear, and then for McCarthy to be buried, and, finally, for McCarthy to be praised and damned to such a point that no single laudatory or vituperative word that could be said about him remained still to be said.

By now, however—so at least I like to think—it should be otherwise; not only has the smoke lifted, but we have a whole generation amongst us who know of the battle only by hearsay; if we cannot answer the question now, we never shall be able to answer

table) with if not the weather then something more adroit like, "Steve, did you read Arthur Krock's column yesterday?", and heaves a silent sigh of relief if the ploy works. But things have cooled down very considerably.

<sup>2</sup> See William F. Buckley, Jr., and L. Brent Bozell, *McCarthy and His Enemies* (Chicago: Henry Regnery, 1954 and 1962), *passim*. This remains the only serious book we have about the battle—as, to this day, it continues to await an intellectually responsible reply from those who disagree with its conclusions. Richard Rovere's *McCarthy* (New York: Harcourt, Brace & Co., 1959), is, by comparison, contemptible, especially as no one can plead in its defense that its author, one of the two most gifted Left-wing publicists of our day, is capable of nothing better.

it. And it would, I submit, be sickening to have to conclude, as conclude we must if we cannot answer my question, that the fight was over nothing you can put your finger on; that the energies and heartaches that went into it were wasted energies and wasted heartaches; that, most horrible of all to contemplate, nobody won, nothing got decided, and it was all sound and fury, signifying nothing. My question, though simple, is also a grave question: either the McCarthyites and anti-McCarthyites got that mad at each other for some good and intelligible reason, or we all (for all of us of a certain age were, I suppose, one or the other, McCarthyites or anti-McCarthyites) made colossal fools of ourselves; and if we did we had best now face up to it, lest tomorrow we go make fools of ourselves again.<sup>3</sup>

Now let us, for the moment, postpone my question and, fixing attention on the statement itself, pause to say several things about it that need to be said in order to place it in its proper context:

First, that this sort of "getting-mad" is not usual in American politics. Our politics, as Professor Clinton Rossiter has observed at length in a recent book,<sup>4</sup> tend to be "low-key" politics, politics that precisely do not divide men on issues that are mad-making. And I have myself argued, in a book I wrote several years ago with a collaborator,<sup>5</sup> that the *genius* of our political system lies in the sloughing-off of genuinely controversial issues—sloughing them off in order for them either to be handled outside the system itself (or better still, to be handled not at all, that is, suppressed or<sup>6</sup> as sometimes happens, repressed—into the deep re-

<sup>3</sup> Note, in anticipation of my subsequent argument, that the question "Were they mad at each other for some good and intelligible reason?" and the question, "Did anything get decided, did anybody win?" are different questions—so that the answer to the first could be "Yes" and that to the second "No," or if not "No" then "What got decided was to postpone a decision on the big issue."

<sup>4</sup> See Clinton Rossiter, *Parties and Politics in America* (Ithaca: Cornell University Press, 1960), *passim*.

<sup>5</sup> See Austin Ranney and Willmoore Kendall, *Democracy and the American Party System* (New York: Harcourt, Brace & Co., 1955).

<sup>6</sup> The classic case, perhaps, arose from an article by J. B. Matthews on the penetration of the Protestant churches by Communism. When, many months after its publication, the article became the topic of angry controversy, Dwight Eisenhower restored peace by proclaiming that the Protestant churches are among our basic institutions, and therefore could not be penetrated by Communism. The issue—I do not exaggerate—promptly disappeared.

cesses of our collective unconscious, where, providentially, we can forget all about them). The McCarthy phase, or episode, or set-to—call it what you like—was then something presumptively special in our political history, something that we must not expect to explain to ourselves with everyday concepts and everyday tools of analysis. It was no mere quarrel, for example, over allocation of the contents of the porkbarrel or whether a businessman from Kansas City is to be confirmed as Ambassador to Ghana.

Secondly (that is, the second thing that needs to be said about how mad everybody got), we must not take for granted that the real issue ever, at the time, actually got put into words, ever actually thrust itself into the consciousness of the actors in the drama. To assume that the real issue was what got talked about—so we are assured by, variously, marriage counselors and trade-dispute arbitrators, all of whom are in debt here to the greatest of female political scientists in America, Mary Follett—to assume such a thing, they say, is to show ignorance of the way quarrels among human beings generate and develop. John and Mary may *think* they are quarreling about whether to send Jo-Ann to Mount Holyoke or Chicago, and end up getting very mad at each other about it, and staying mad weeks on end. But not so, says the marriage counselor; the issue must be one that goes to the very depths of the marriage relation between John and Mary. What is really being fought about is Mary's feeling that John somehow does not treat her as an equal, or if not that then some far-reaching sexual maladjustment that neither John nor Mary would dream of articulating and may not even be aware of, or John and Mary's shared but inarticulate feeling that John has turned out to be a second-rater in his profession. The quarrel, according to Miss Follett and her followers, must go on and on about this basically irrelevant issue or that one, go on and on and get worse and worse, either until it is repressed or until the real issue is somehow brought out into the open and, with or without the help of an outsider, dealt with on its merits.

Thirdly—a similar but not quite the same point—the chances are that the real issue, once out in the open, will prove to be far

more "important" and difficult than the issue over which the quarrelers think they have been quarreling; that, concretely, it will prove to involve the meaning and quality and above all the destiny of the relatedness of the quarrelers. He who delves into the depths of a quarrel, an honest-to-goodness, bitter, and sustained quarrel, must not expect to come up with peanuts, or any known equivalent of peanuts.

Two other small points of that kind and we shall have done with preliminaries:

A. The McCarthyites were mad at the anti-McCarthyites, and the anti-McCarthyites were mad at the McCarthyites, which, I am saying, is unusual in our low-key politics. But to that I must now add (not, as I am tempted to do, that the anti-McCarthyites were madder than the McCarthyites—angrier, more bitter, more ready to paste someone in the nose—because that would perhaps slosh over into the controversial) that what is most unusual, and a different matter altogether, is that the anti-McCarthyites got mad at all. For the anti-McCarthyites were the Liberals; and the Liberals, as I understand them, have some built-in reasons for not getting mad that the McCarthyites, the anti-Liberals, do not have—built-in reasons connected, as I understand the matter, with the whole metaphysical and epistemological stance of contemporary American Liberalism. That is to say, the Liberals are usually the Tentative Ones of contemporary politics: they believe that everyone is entitled to his point of view, that in general one man's opinion is as good as another's, that, as I like to put it, all questions are open questions. Officially, therefore, they don't get mad—have, in point of fact, got really "fightin'" mad only twice within the memory of living man—once, of course, at Adolf Hitler, then a few years later and on their own principles equally unaccountably, at Joe McCarthy. Let us be quite clear about this. When A gets mad at B and sets out to defeat him cost what it may, A, whatever his metaphysics and whatever his epistemology, ends up saying, and saying in the most eloquent manner possible, which is by his actions: B is *wrong* about the issue over which we have fallen out, and I am *right*. Now A's metaphysical and epistemological commitments may or may not

admit of his making any such assertion; if A is a Liberal, they certainly do not admit of it, because the Master, John Stuart Mill,<sup>7</sup> taught above all that one does not assert one's "infallibility." In asserting it, A postpones until later (perhaps, as in the two cases mentioned, until the Greek kalends) a day of reckoning that, properly speaking, he has no right to sidestep (and along with it, the day on which he will get back to normal, which is to say: not be mad at Stalin, not be mad at World Communism, not be mad at Khrushchev—because who can say, after all, who is right and who is wrong in politics?). Yet, I am saying, A the Liberal did get mad at Joe McCarthy, did set out to defeat him *coûte que coûte*, did proclaim to the four winds that McCarthy was wrong and he was right. And this, I suggest, forces upon us a slightly revised but still more fascinating version of my original statement, namely that everybody got mad, including the professional Tentative Ones, the professional Don't-get-madders. At the same time, it lends color to our suspicion that the issue actually at stake went very deep, and never got itself stated in satisfactory terms. (As for the McCarthyites, they, unlike the Liberals, have built-in reasons for getting mad; they are the Non-tentative Ones of our politics, the Absolutists, the people who couldn't care less if they get caught assuming their own "infallibility." We have, therefore, less reason to be surprised at their getting mad. They are on the point of getting mad, and for good reason, all the time.)<sup>8</sup>

B. We might profitably, though without making too big a thing of it, remind ourselves of the other issues about which Americans, despite their low-key politics, have had big quarrels in the past. Mercifully, there have been very few of them; and conspicuously absent from among them, mercifully again, have been the Constitution, the Bill of Rights, and, surprisingly perhaps, the Amendments to the Constitution posterior to the Bill of Rights. Let us, by way of background, tick them off: During the years 1776-1779 there was the issue of *Loyalism*, which resulted in our driving the Loyalists into Canada. In the early

<sup>7</sup> See below, Chapter Six.

<sup>8</sup> See below, pp. 69-76.

years of the Republic there arose the issue of the Alien and Sedition Acts—which resulted in the silencing, nay, the persecution, of the alleged seditionists. During the years just before and during the Civil War, there was the issue of slavery. All three, I say, are cases where Americans got very mad at one another. They stayed mad for a long time, and were determined not to compromise, or let the matter drop, but to *win*—either to repudiate or perpetuate the authority of the King in Parliament, either to enforce or get rid of the Alien and Sedition Acts, either to abolish slavery or to save it as the South's "peculiar institution." And all three, as we can see in retrospect, involved an issue that bore, in the deepest and most direct manner possible to imagine, on the very destiny of the American people. All three involved, that is to say, a question that the American people must answer in order to know themselves as the kind of people they are, in order to achieve clarity as to their identity as a people, their mission in history, their responsibility under God—so, at least in those days, they would have put it—for the kind of political and social order they were to create and maintain in history. All three, let us note finally, are cases in which people kept on being mad until somebody won, and was understood by both sides to have won, and so made good its point about the destiny of America.

So much for preliminaries. I turn now to my question, and I propose to work my way toward an answer to it by taking up, then rejecting, in good Socratic manner, some "easy" answers that for one reason or another (as I hope to show) simply will not do. They are, as the reader will guess from my reference to Socratic method, the answers you will get if you go button-holing people down in the market place, putting the question to them, and listening attentively to what they come up with. I got mine by bringing the question up one evening in the Spring of 1962, at a "stag" dinner party made up of professors of political science at a well-known East Coast university. I shall, for convenience' sake, assign numbers to them, and devote a section of the present chapter to each.

ANSWER NUMBER ONE

The issue was Joe McCarthy himself. McCarthy was rude, ruthless, fanatical. He lacked, as the good Mr. Welch<sup>9</sup> put it, all "sense of decency." He was a master of demagoguery, of, to quote the Federalist Papers, those "vicious arts, by which elections are too often carried." He reflected a mood of "hysteria" amongst the electorate, was himself hysterical, generated hysteria in others. He did not play politics according to the rules of the game as we understand them here in America. His conduct, as a Senate majority finally got around to putting it, was unbecoming a Senator and a gentleman. He browbeat witnesses. He took advantage of his senatorial immunity in order to blacken the reputations and assassinate the character of innocent persons; like Fr. Coughlin, like Gerald L. K. Smith, like Fritz Kuhn himself, he was a hater, a know-nothing, a man who knew and spoke no language other than that of hatred. He represented, in any case, a tendency that had to be nipped in the bud—lest it develop into an American version of that which it most resembled, namely, Nazism. He was, finally, a fraud; he never uncovered a single Communist. All you had to do was *see* him, on television, in order to realize that here was a man who must be struck down. What more natural, then, than that he should divide the country into two fanatically warring groups, namely, (a) those who like and go in for that kind of thing—of whom there are always only too many, all only too ready to respond with fury to any who resist them—and (b) the rest of us, who cling to at least minimum standards of civility?

That, I think, is a fair summary of the "case" against McCarthy as, say, a *Washington Post* editorial might have put it in 1952, or as a deeply convinced anti-McCarthyite (with, of course, a longer memory than most anti-McCarthyites have) would put it today.

Now, the McCarthyites among my readers would, no doubt, like me to linger over the charges, one by one, and refute them—as, for the most part anyhow, they have been refuted in *The Book*

<sup>9</sup> Counsel for the Government in the "famous" televised hearings.

No Liberal Reads, Buckley and Bozell (see Note 2, above). I propose, however, to do nothing of the kind, since one of the advantages of my simple question—as compared to the questions on which discussion in this area has turned in recent years—is this: It frees us from the necessity of conducting the argument on that plane and enables us to take what we may, I think, fairly call higher ground. It enables us even to enter a demurrer—not, of course, to plead McCarthy guilty as charged, but to plead that the facts, even if they were as alleged, do not support the claim with which we are concerned, namely, that we have before us an answer to my simple question. The facts, as alleged, can at best illuminate only a small part of our problem, and for the following easy-to-document reason: The McCarthyites and anti-McCarthyites were mad at each other, “fightin’” mad at each other, before ever McCarthy appeared on the scene, and long, long before he became Chairman of the Committee on Government Operations. Which is to say, those who offer the answer before us are, quite simply, talking bad history and exaggerating out of all proportion the importance of McCarthy in the development of what I, at least, have no objection to calling McCarthyism. They are answering at most only a tiny part of our question, when what we want, what we must demand, is an answer to the whole question. McCarthy, like Achilles after the death of Patroclus, stepped into a battle that was already raging, one in which the lines were already drawn, one whose outcome he could and did still affect, but *not* one in which he could possibly become the issue being fought over. Never mind that the battle-waging armies ended up with new names—McCarthyites, anti-McCarthyites—because of his entry into the fray. Never mind, either, that the anti-McCarthyites do seem, as a matter of history, to have promptly got a lot madder at the McCarthyites than they had been before. Never mind, finally, that both armies increased considerably in size between the famous speech at Wheeling and the famous censure motion in the United States Senate. We are not asking why people got madder off at the end, or even why at some point the anger suddenly spread in ever-widening circles (as it did), but rather, What were people mad about to begin with?

*What, for example, what were they mad about at the (earlier) time of the Hiss case? What was the real issue? And the real issue was not, could not have been, McCarthy himself.*

ANSWER NUMBER TWO

The issue was an issue between two conflicting views of World Communism and the World Communist movement, between—I shall try here, as I did with Answer Number One, to put the thing from the side of the anti-McCarthyites, lest I be accused of stacking the cards in favor of the position with which, for good or ill, my own name is associated—those who are running scared in the presence of the so-called Communist threat, and those who are keeping their heads. Between those who would seek a false security by attempting to use against Communism the Communists’ own weapons, and those who are prepared to settle for that degree of security that is possible, who believe that security can be achieved with an arsenal limited to democracy’s normal weapons, which are those of negotiation and persuasion. Between those who think that by striking out at the Communist danger in all directions at once we can somehow eliminate it, somehow conjure it out of existence, and those who have got it through their heads that Communism, the Communist Empire on the world scene, the Communist minority at home, is something you have to learn to live with and ought to learn to live with because it is, after all, something that *we*, by our shortcomings, have brought upon ourselves. Between those who believe that the correct answer to Communism is military force internationally and coercive thought-control domestically, and those who know that these are not answers at all, that the struggle against Communism is a struggle over men’s minds and hearts and souls, is in any case a battle that you win, if you win at all, by eliminating the poverty, the discrimination, the injustice, the inequality, that make Communism attractive and give the Communists their strategic opportunities. Between those who see the Communist danger as imposing upon us a choice between liberty and security, and would unhesitatingly sacrifice the former to the latter, and those of us who know for one thing that Com-

munism is not that kind of danger, and know for another thing that the battle against Communism is not worth winning if, in winning it, we must lose our freedom. Between those who attribute to the Communists supernatural, nay, miraculous powers of seduction, of deceit, of winning against even the most unfavorable odds, and those who know that the Communists are mere men like ourselves, no more able to infiltrate our councils, our institutions, our high places, than we are to infiltrate theirs. Between those who have somehow convinced themselves that the Communists never sleep, and those of us who know that Communists, like other people, need their eight hours in the sack. Between those who think the Communists actually believe in their so-called ideology: Marxism, the inevitability of Communist victory, etc., and those of us sufficiently knowledgeable to take that sort of thing with a grain of salt, to realize that what we are up against is not something new and different properly called the Communist Empire, but something old and familiar properly called Russian nationalism. Between those who think that a Communist dictatorship can keep on being Communist and keep on being a dictatorship for ever and ever, and those of us who know that dictatorships, including Communist dictatorships, mellow and go soft as they get old, and that revolutionaries, even the wildest of revolutionaries, grow conservative and cautious as they become habituated to power. Between those who think the Communists will stop at nothing, not even totally destructive universal war, in their bid for world empire, and those of us who know that the Communists, the Russian government and the Russian people alike, want, above all, peace. Between those so addled in their wits by Communism that they think that even their next door neighbor may well be a Communist, and so see a Communist stripling behind every sapling, and those of us who remember, in the teeth of the Communist threat, that America is built upon trust among neighbors, that Americans do not sow the seeds of suspicion in each other's back yards. Between those who think the Communists really have found a way to repress, and hold in check, the forces that make for freedom in any society, and those of us who know that man's desire for free-

dom must in the end triumph over all obstacles. Between those who think the Communists mean it when they say they will "bury" us, and those of us who know that all that is just Communist "talk" and blustering. Between those who cling stubbornly to the notion that there are deep and irreconcilable differences between our so-called free society and the so-called slave society of the Soviet Union, and so take no cognizance of the political and economic and social change that goes forward within the Communist Empire, and those, better-informed, unencumbered by dogmatic preconceptions, who realize that with each passing day American society and Soviet society become "more alike"—become, each of them, a closer approximation to the universal society of the future, which will of course combine in beneficent union the better features of them both.

Answer Two is, clearly, a better answer than Answer One. It is, for one thing, better history. Through the period that we ought to have in mind when we speak of these matters, there have indeed been current among us two views of the nature and meaning of World Communism, two views of which, as I like to think anyhow, the little rundown I have just given provides a not inaccurate summary; two views and, in general, two groups of "those who's," respectively committed to the one or the other; two groups, moreover, whose stand on a whole series of issues in public policy that arose through the period tended to reflect the one or the other of the two views. No harm is done, furthermore, by calling the one of the two views the McCarthyite view and the other the anti-McCarthyite view—*provided*, however, that we remember, here as before, that both views had crystalized, and attracted numerous adherents, long before McCarthy appeared upon the scene; that the McCarthyite view was not invented by McCarthy; that it had, indeed, through the years in question, both more knowledgeable and more vigorous exponents than McCarthy; that, in a word, *it had best be thought of as having itself produced McCarthy rather than McCarthy it*. Insofar as it is correct, then, Answer Two has the further advantage of being correct for the whole period and not, like Number One, only for the years immediately following the Wheeling speech.



One easily sees, moreover, why those who entertained the McCarthyite view tended to get mad at those who entertained the anti-McCarthyite view. At least one of the two views, possibly perhaps both of them but at least one of them, must be wrong, intellectually incorrect, which is to say they cannot both be correct. Each of the two views, pretty clearly moreover, is pregnant with implications about policy, both foreign policy and internal security policy, that flatly contradict the implications of the other, so that any time a policy decision has to be made in either of those two areas the two groups are likely, other things being equal, to array themselves on opposite sides. Nor is that all. Since each view, from the standpoint of the other, would commit the nation to policies certain to turn out to be suicidal, we readily understand how and why the two groups did get mad at each other early in the period, and got madder and madder at each other as the period progressed. For each, in the eyes of the other, was guilty of an error of judgment so great as to seem unforgivable.

Indeed, Answer Two makes so much sense that we are tempted to adopt it out of hand as the correct answer to our question, and let it go at that. Our question is answered, and we can all settle back in our chairs and forget about it.

I suggest, nevertheless, that we take (but hold until we are sure we can do better) a rain-check on Answer Two as well as on Number One—not because Answer Two isn't correct as far as it goes (which I have conceded it is), but because, to me at least, it seems inadequate psychologically, and because its assumptions about the articulateness of American political struggles are somewhat more flattering than we deserve. Concretely, I find that Answer Two explains to me why some people got mad, but not why so many people got mad, or why anybody—to go back to my original form of words—got all *that* mad. The issue that Answer Two insists upon is (a) for the most part an issue about foreign policy, and I do not believe that Americans in general were at any time during that period that interested in foreign policy, and (b) an intellectual issue, where the ultimate crime the alleged criminals are being accused of is merely stupidity, and I do not believe we had yet reached the day when intellectual is-

issues, issues ultimately capable of being talked out or, failing that, capable of being resolved by sound scholarship, arouse in us the kind of passions that were displayed in the clash between McCarthyism and anti-McCarthyism.<sup>10</sup> Millions of the persons who rallied around McCarthy, I should guess, and hundreds of thousands (for I do not believe there were millions) of the persons who rallied against him, entertained no view whatever on the nature of Communism, and, in any case, were not about to be moving in the direction of civil war against those who entertained a view different from their own. In other words, our correct and inclusive answer, if and when we find it, will tap a dimension that Answer Two conspicuously avoids, namely—for they were not a slip on my part, those words “civil war”—the civil war dimension, the dimension, if you like, of mutual accusations of heresy. And having said that, I can venture the following thesis: The ultimate crime of which McCarthyites and anti-McCarthyites were accusing one another was, make no mistake about it, that of heresy; the passions generated were, make again no mistake about it, passions appropriate not to an intellectual debate but to a heresy-hunt, and we shall not understand them, ever, unless we bear that in mind.

To which let me add, before passing on to Answer Number Three: if Answer Two were correct, people would evidently be madder today than they were in 1953, which in point of fact, as I have intimated above, they certainly are not. For the differences among us as to the nature and meaning of Communism are no less deep, no less unresolved, than in 1952; nor, I feel safe in saying further, have the stakes, which I repeat involve the very survival of the United States, got any lower. The correct answer to our question, then, must be able to explain why the clash between McCarthyites and anti-McCarthyites seems not only not to have become sharper, but to be less sharp today than it did nine years ago; and Answer Two cannot explain that for us. The cor-

<sup>10</sup> Not that intellectual issues never arouse passions. They do, but exactly in the quarters where we are taught least to expect them, namely, those of the so-called “exact” physical scientists. On the latter point, see Michael Polanyi, *Personal Knowledge: Towards a Post-Critical Philosophy* (Chicago: University of Chicago, 1958), *passim*.

rect explanation, in short, must explain not only the storm, but also the apparent ensuing calm.

ANSWER NUMBER THREE

The clash between McCarthy and his enemies was merely another chapter in the history of the separation and balancing of power within the American political system. What was at issue was neither differing views of Communism as such (the clash might equally well have occurred over some other topic), nor, to go back to Answer One, McCarthy himself as such (although, say the proponents of this view, McCarthy had personal qualities that made the dispute angrier than it would otherwise have been, perhaps even innate tendencies of character that disposed him to play the role of hysteria-monger), since the forces operating through McCarthy might equally have expressed themselves through some other leader. The issue was, rather, that of legislative encroachment on the constitutional powers of the Executive. For one thing McCarthy pressed the prerogatives of congressional investigating committees to hitherto-unheard-of-lengths—as witness, for example, his apparent belief that those prerogatives extended even within the sacred precincts of the nation's universities. For another, even if we were to grant that Congress was acting within its constitutional powers when it put the Internal Security program on the statute books (even if we were, *per impossible*, to grant that the program did not violate the freedom of speech clause of the First Amendment), still enforcement of the relevant laws was the proper business of the President and his subordinates in the executive branch of government—with, of course, appeals where appeals might be required to the courts of law. McCarthy's attempts to intervene in the dispatch of individual cases, his explicit claim that the Committee on Government Operations was entitled to watch over and criticize the detail of internal security administration, therefore represented congressional self-aggrandizement in its most blatant and dangerous form. Nor is that all. McCarthy undermined discipline in the Executive Branch by openly inviting civil servants with tales to bear to break the chain of command and come directly to him; he

would right all wrongs, punish all iniquities. Nor is even that all. The day came when foreign service officers were obliged to falsify their reports lest McCarthy haul them before his committee and, with his usual techniques of insinuation and innuendo, his usual willingness to assume a man guilty until proven innocent, crucify them for their alleged pro-Communist bias. Nay, still more. The day came when the foreign service could no longer attract able recruits because no young man in his senses would expose himself to the risks McCarthy had injected into the career of the foreign service officer; considerations alike of decency and of self-interest sent men of talent into other careers. Even McCarthy's "working capital," for that matter, the scraps of so-called "information" that he "held in his hand" and that enabled him to move in on his victims, came to him through violations of security regulations; his very possession of them was legislative encroachment. McCarthy, in short McCarthy every time he opened his mouth, upset the separation of powers equilibrium that is central and sacred in the American political tradition. He upset it, moreover (if we abstract from his having been a Senator not a member of the House of Representatives), in precisely the manner contemplated by the Founders of the Republic, namely, through the workings of a demagogically-led popular movement, adverse to natural rights and to the public interest, which sweeps through the country, establishes itself in Congress, finds itself unable to accomplish its objectives because of the defensive weapons the Constitution entrusts to the two other co-equal and coordinate branches of government—and must, willy-nilly, seek to concentrate all power in its own hands. The McCarthy movement did just that, and, naturally enough, all in America who love constitutional government, that is, limited government, saw in him a threat to all that they most value in the American political tradition, responded to him with righteous anger, struck back at him as best they could. Nor, on the anti-McCarthy side at least, is any other answer needed to the question, "Why did people get so mad?"

Here, moreover, as with Answer Two though not with Answer One, the supposed issue is neat and symmetrical, that is, joined

in almost identical terms from the other side: The Internal Security Program, or Loyalty Program as it was called in its early days, went onto the statute books by virtue of the exercise by Congress of powers clearly vested in it by the Constitution. The Executive Branch of government, the Department of State in particular, refused from the first moment to recognize the necessity for such legislation. It called its constitutionality into question, showed a complete lack of sympathy both with its underlying principles and its objectives, openly defied it, did everything it could to frustrate the committees—the Internal Security Committee in the Senate, the Committee on Un-American Activities in the House—Congress charged with responsibility for studying and reporting upon the Communist threat. The Executive withheld information from them (on the mostly spurious grounds of so-called “classification”), lied to them *ad libitum*, refused, even in the clearest cases, to act upon information provided by them—or, for that matter, upon information provided by their great ally within the Executive Branch itself, the F.B.I. The Executive kept in positions of high authority and honor men who obviously could not meet the loyalty-security standards set by the Congress. It moved—through the Truman Loyalty Order of 1947, which arbitrarily shifted the administrative standard in loyalty cases so as to give to the individual not the government the benefit of doubt—to emasculate the Program, starved the security offices in the great government departments, and mobilized against the Program not only the formidable opinion-making resources of its bureaucracy but also those of the newspapers and the radio and television networks. Subsequently, after McCarthy’s appearance on the scene as a sub-committee chairman, it denied Congress’ crystal-clear right to inquire whether its statutes were being faithfully executed. If there was encroachment, then it was clearly a matter of the Executive’s encroaching upon Congress. Congress, off at the end, had no alternative but to raise up a McCarthy, and insist upon its right to exercise the investigative powers needed in order to prevent the Executive from becoming, quite simply, a law unto itself. Nor could any man capable of grasping the clear language of the Constitution hesitate as to where, in the interests of constitutional govern-

ment and of the American political system as traditionally understood, to throw his support. If McCarthy had not existed it would have been necessary, for the sake of constitutional equilibrium, to invent him; and, naturally enough, the people, jealous always of the powers of that branch of government which, because closest to them in point both of time and of distance, they regard as peculiarly theirs, rallied around him. As for abuse of investigative powers, the Supreme Court is always there to set metes and bounds for congressional committees, and the records contain no Supreme Court decision that rules adversely to the McCarthy Subcommittee.

The issue, I repeat, is neat and symmetrical, but as regards an answer to our question we are back, I think, to where we were with Answer Two. Some people no doubt got mad about legislative encroachment in the area of internal security, and some no doubt about executive defiance of the will of Congress. Both groups, no doubt, got madder still because of the continuing dispute over the nature and meaning of the World Communist movement; but also no-one ever heard of anybody with a soft view of Communism getting worried, in those days, about *executive* encroachment, or of anybody with a tough view of Communism getting worried about *legislative* encroachment. Once again, therefore, the suspicion arises that we are flattering ourselves; that is, vastly exaggerating, this time, our capacity as a people to work ourselves up into a fury over an issue so legalistic and intellectual as separation of powers. The admittedly hard-to-read slogan emblazoned upon the banners of the McCarthyites, whatever it proclaimed, could not have proclaimed the principle: “All legislative powers herein granted shall be vested in a Congress of the United States. . . .” Answer Three is better than Answer Two in that it edges us over toward the kind of issue that could breed charges of heresy not stupidity. But we do not, I think, yet have hold of the right heresies.

#### TESTS FOR A CORRECT ANSWER

I have now taken up one at a time, and examined, the three answers to our simple question that, as I put it to begin with, one is likely to encounter in the market place of contemporary Ameri-

can political discussion. I have in each case found the answer either unconvincing or, insofar as convincing, inadequate; that is, incapable of explaining the *whole* of the phenomenon that has engaged our curiosity. I should, however, be very sorry for the reader to conclude that we have wasted our time; that is, made no progress whatever with our task. For we have, I like to think, insofar as we have reasoned together correctly, begun to apprehend certain tests that a correct answer to our question must be able to meet, namely:

First, it must point to an issue deep enough to possess what, for lack of a better term, we may call *genuine civil war potential*, an issue capable, therefore, of being mentioned in the same breath with the slavery issue, the Loyalism issue during the American Revolution, and the issue (about which, let me say, we know all too little) posed, very early in our history as a nation, by the Alien and Sedition Acts.

Second, it must be an issue that large numbers of people are capable of grasping with hooks that are not precisely those of the intellect—an issue capable, I am tempted to say, of being grasped intuitively, of being felt as well as thought. “As well as,” mind you, not “rather than,” for I do not wish to imply that it must be an issue not susceptible of being put into words, or an issue that wholly eludes rational discussion.

Thirdly, it must be an issue that, somewhere along the line, calls for an act, though not I should think necessarily a conscious act, of *moral choice* on the part of the man who “takes sides” on it. That is why I have stressed that one of its characteristics is that of not lending itself to resolution merely by sound scholarship, or to being just plain “talked out”—to a point where all may agree because all objections, on one side or the other, have been met and answered. That notion we may now refine a little by adding that it must be an issue that we would expect to be “talkable—outable,” if I may put it so, only amongst men who move in their talk from common or at least reconcilable moral premises.

Fourthly, the issue must meet certain historical tests or requirements. We must be able to see why, as a matter of history, it

might well have begun to make itself felt (again, I stress “felt,” for it will not necessarily have been clearly articulated), why people began to get mad about it at such and such a period rather than earlier.

Fifthly, it must be an issue about which we can explain, not too unsatisfactorily, why it has seemed less sharp through the years since McCarthy’s death than it did through the years preceding McCarthy’s death.

Now I believe, as the reader will have guessed, that I know what the issue is, and I am going to try, in the next and concluding section of the present chapter, to get it into words and “justify” it over against the tests I have just enumerated.

#### THE CORRECT ANSWER

Let us go right to the heart of the matter. By the late 1930’s, that is, by the end of the second decade after the Communist Revolution, every free nation in the world, whether it realized it or not, faced the following question: Are we or are we not going to permit the emergence, within our midst, of totalitarian movements? Every free nation, in other words, was by that time already confronted with evidence that efforts would in due course be made to call such movements into being, that such efforts would be strongly supported from the home bases of the existing totalitarian movements, and that those efforts could, to some extent at least, be encouraged or discouraged by the action of its own government. Most free nations, to be sure, chose to ignore that evidence, and did not pose to themselves the question I have named, not even in some more cautious form such as “Are we at least going to try to prevent the emergence here of the totalitarian movements we see flourishing in other countries?” Not so, however, the United States. By the mid-1940’s it had on its statute-books an impressive array of legislation—the great names here, of course, are the Hatch Act, the Smith Act, and the so-called McCarran Rider—which (a) reflected a very considerable awareness that the problem of encouraging or discouraging totalitarian movements existed, and called for some kind of answer, and (b) announced in effect: We—whatever other free nations

may do or not do—are going to put certain major obstacles in the way of such movements; we at least are not going to facilitate their emergence; we at least are going to take some perfectly obvious immediate steps that should make clear alike to the self-appointed leaders of such minorities, to the world in general, and to ourselves, where we stand on the matter; and we at least regard the emergence and growth of such minorities as on the face of it undesirable. Let us proceed at once, then, to exclude representatives of such minorities from the service of our governments, national, state, and local; and let us proceed also to clip the wings of such minorities by forbidding them, on pain of imprisonment, to advocate the overthrow of the government of the United States. Opinions might differ, let us be fair and concede it at once, as to the moment the question narrowed in legislators' minds from one concerning totalitarian movements in general to one concerning a Communist minority in particular. Opinions might differ, too, as to the moment at which the Communist movement burgeoned, in legislators' minds, from the status of a logical possibility to that of a clear and present danger. Opinions might differ, finally, as to the moment at which the American Liberals decided that the question as to the future of totalitarian movements in the United States came under the general constitutional rubric of so-called freedom-of-speech questions, and therefore under the rubric of actions permitted or prohibited to the Congress of the United States by the First Amendment to the Constitution. But all three of these developments did, in due course, take place; and we must, in order to approach the correct answer to my question, get them clearly in mind—first of all as background for the following (in my opinion) crucial points:

First, the motive that underlay the original internal security legislation was certainly *not* that of impairing or limiting the Communists' freedom of speech. The Communist being struck at was for the most part the Communist who precisely did not exercise his constitutional right (if any) to freedom of speech in order to advocate Communism, but rather the man who, having transferred his allegiance from the United States to World Com-

munism, set out to systematically conceal the fact from his fellow-citizens. The "freedom" at stake in the early legislation, then, assuming there was one worthy the name, was not freedom of speech, which the First Amendment does forbid the Congress to impair, but rather, if a "freedom" we must have, freedom of thought—the freedom to entertain such and such opinions in the United States without being subjected to such and such disabilities and such and such disagreeable consequences. Freedom of *thought*, I say, about which the Constitution of the United States says nothing at all. (Never mind that the Liberals say that when the Constitution says freedom of speech it means, must mean, freedom of thought. We have only their word for it.)

Second, the authors and supporters of the original legislation do not appear to have had, in passing the legislation, any freedom of speech "inhibitions," or for that matter any notion that the legislation they were putting on the statute-books involved anything especially novel in the way of principle.

Thirdly, it was, nevertheless, not long before one began to hear, from Liberal quarters of course, rumblings about freedom of speech, about the patent unconstitutionality of all such legislation, about, finally, the incompatibility of all such legislation with traditional American concepts of—of all things!—freedom.<sup>11</sup> The United States could not take preventive action against the emergence of a Communist movement because, precisely, of its commitment to liberty!

Fourthly, after a certain moment in this train of events, everything, as I see it, conspired to conceal the issue actually, really and truly being fought over; everything but, as I have already intimated, two things: (a) Communism did at some moment acquire, in the eyes of Americans generally, the status of a "clear and present danger." And (b) the Liberals, at some moment, did pull in their horns, did change their public stance on anti-Communist legislation. Up to that moment (or those moments) what debate there was turned on the question, "Is the United

<sup>11</sup> The *locus classicus* remains the two-article series by Professor Thomas Emerson and David M. Helfeld, "Loyalty Amongst Government Employees," *Yale Law Journal*, Vol. 58, I and II (1948-1949).

States entitled to impose disabilities upon an emergent 'political' movement deemed undesirable even if it is not a clear and present danger?" or, variously, "Is there anything in the Constitution or in the American political tradition that prevents American government or American society from announcing: We intend to proscribe such and such 'political' opinions; to that end we intend to *persecute* those opinions, that is, to place the price of holding them—not expressing them, but holding them—so high that people will be forced to avoid them or, if they have already adopted them, to abandon them?" Up to that moment (or those moments) what debate there was was a matter of the legislators answering that question in the affirmative and the Liberals answering it in the negative. While after that moment (or those moments) the debate shifted to the very different question: "Is the United States entitled to strike at a body of opinion which constitutes a clear and present danger?", which question, because of the aforementioned shift on the part of the Liberals, almost everyone, the legislative majority and the Liberals alike, was suddenly answering in the affirmative. The original issue, in other words, simply disappeared, and, we may safely add, has hardly been heard of since.

Let me, so as to guard against any possible misunderstanding, say that over again in a slightly different way. First we get what amounts to the proscription of the Communist movement in America on the grounds merely that such a movement is undesirable in the United States, and that the proscription of an undesirable movement is clearly within the power of Congress—clearly, and without any complications about impairment of "freedom of speech" or "clear and present danger." The Liberals oppose the proscription, on the grounds that Congress has no power to proscribe—unless, just possibly, in the presence of a clear and present danger. A debate gets under way that, had the terms not changed, would have had to be decided one way or the other, yet could not have been decided one way or the other without (as I shall argue more concretely in a moment) what each party to the debate regarded as the very gravest implications as to the nature of our constitutional system. But the terms

did change, because of two developments which, though more or less simultaneous, we must keep rigorously separated in our minds. First, Communism became, in the eyes of people generally, the kind of clear and present danger in the presence of which even the Liberals might concede Congress' power to act. Second, the Liberals, pretty certainly on straight strategic grounds, suddenly decided that they not only might but would give their blessing to the proscription of the Communist movement as, or insofar as it was, a clear and present danger. The original issue, therefore, promptly disappears, since all that remains to be talked about is whether, or the extent to which, Communism is a clear and present danger. The first development, in the absence of the second, would presumably have resulted only in redoubled effort on behalf of a course of action already decided upon before it occurred (just as more fire-fighting equipment is called in when what has seemed a routine fire suddenly threatens to become a conflagration). The second development, in the absence of the first (in the absence, that is, of a decision that the fire was not a routine fire), would merely have signalized overwhelming Liberal defeat on the original issue—which would, accordingly, have been decided in favor of the legislators. But the second development in the context of the first could only have the effect of spiriting the original issue away. Which is what it did.

Now my thesis is that the issue that really divided the McCarthyites and the anti-McCarthyites was, precisely, that original issue; that once we see that to be true, everything falls into place; and that, to anticipate a little, the disappearance of that original issue was, any way you look at it, a major national misfortune. And it remains for me only (a) to note that that original issue is merely an alternative statement of the issue that political philosophers debate under the heading "the open society,"<sup>12</sup> (b) to show that things do, once we recognize that as the issue at stake between the McCarthyites and the anti-McCarthyites, fall neatly into place, and (c) to make clear why I regard its eclipse as a "major national misfortune."

<sup>12</sup> See below, Chapter Six.

Let me put it this way: All political societies, all peoples, but especially I like to think our political society, this "people of the United States," is founded upon what political philosophers call a *consensus*; that is, a hard core of shared beliefs. Those beliefs that the people share are what defines its character as a political society, what embodies its meaning as a political society, what, above all perhaps, expresses its understanding of itself as a political society, of its role and responsibility in history, of its very destiny. I say that is true especially of our political society because in our case the coming into existence as a people, a certain kind of people with a certain conception of its meaning and responsibility, takes place right out in the open for all to see, takes place unshrouded by the mists of remote history or the hazes of possibly inaccurate legend. "We," cries the people of the United States at the very moment of its birth (and we should be grateful to John Courtney Murray for having recently reminded us of the fact<sup>18</sup>), "We," cries the American people at that moment, "hold these truths." That is, "we" believe there is such a thing as Truth, believe that the particular truths of which Truth is made up are discoverable by man's reason and thus by our reason, recognize *these* truths as those to which our reason and that of our forebears have led us, and agree with one another to *hold* these truths—that is, to cherish them as ours, to hand them down in their integrity to our descendants, to defend them against being crushed out of existence by enemies from without or corrupted out of all recognition by the acids of skepticism and disbelief working from within.

Now, such a consensus, conceived of as a body of truths actually held by the people whose consensus it is, is incomprehensible *save as we understand it* (in Murray's phrase) *to exclude ideas and opinions contrary to itself*. Discussion there is and must be, freedom of thought and freedom of expression there are and must be, but within limits set by the basic consensus; freedom of thought and freedom of expression there are and must be, but not anarchy of thought or anarchy of expression. In such a society

<sup>18</sup> See especially the opening pages of his *We Hold These Truths* (New York: Sheed and Ward, 1961).

by no means are *all* questions open questions; some questions involve matters so basic to the consensus that the society would, in declaring them open, abolish itself, commit suicide, terminate its existence as the kind of society it has hitherto understood itself to be. And it follows from that, as August follows July, that in such a society the doctrine according to which all questions are open questions, including, for example, the question as to the merits of Communism, is itself one of the excluded beliefs—one of the beliefs that are excluded because they involve, on the face of them, denial of the consensus that defines the society and sets its tone and character. And, having said that, we can get down to cases. What the McCarthyites distrusted and disliked and got mad about in the anti-McCarthyites was the at first explicit then tacit contention: We in America can't do anything about the Communists because America is a society in which all questions are open questions, a society dedicated to the proposition that *no* truth in particular is true, a society, in Justice Jackson's phrase, in which no one can speak properly of an orthodoxy—over against which any belief, however immoral, however extravagant, can be declared heretical and thus proscribed. And what the anti-McCarthyites distrusted and disliked and got mad about in the McCarthyites was the at first explicit and then tacit contention: America is not the kind of society you describe; the First Amendment does not have that meaning; America is a society whose essence is still to be found in the phrase "We hold these truths"; it *can* therefore proscribe certain doctrines and beliefs, and in the presence of the doctrines and beliefs of the Communists it cannot hesitate: it must proscribe them, and preferably long before they have had an opportunity to become a clear and present danger. Moreover, the McCarthyites knew, instinctively if not on the level of conscious articulation, that the anti-McCarthyites had good reason (long after they had dropped their principled opposition to the internal security program) for continuing their opposition to it in the courts of law, for continuing to provide the most expensive of expensive legal talent for its so-called victims, and this quite regardless of whether or not they were so situated as to constitute a clear and present danger—had good

reason because in their hearts they believed that no measures ought to be taken against the Communists at all. And the anti-McCarthyites knew that the McCarthyites, for all their willing talk of clear and present danger, had good reason for carrying the persecution of the Communists further, at every opportunity, than the clear and present danger doctrine called for; they believed in persecuting the Communists not because they were dangerous but because, from the standpoint of the consensus, their doctrines were wrong and immoral. Each group understood the other perfectly, and each was quite right in venting upon the other the fury reserved for heretics because each was, in the eyes of the other, *heretical*.

It is I repeat unfortunate for us all that the issue, once joined, did not stay joined, and that the question became so confused that each of the two groups emerged from the McCarthy period under the impression that it had won—the McCarthyites because they got the persecution of the Communists that their understanding of the American consensus demanded, the anti-McCarthyites because the persecution went forward with the incantations appropriate to the clear and present danger doctrine. Why unfortunate? Because until that issue is decided we no more understand ourselves as a nation than a schizophrenic understands himself as a person—so that, again in Murray's words, the American giant is likely to go lumbering about the world in ignorance even of who and what he is. And because—dare I say it?—next time around, people are going to get a whole lot madder.

## Freedom of Speech in America

I am often asked whether I am "for" or "against" freedom of speech, or what I understand to be the Conservative position on freedom of speech, or whether in my view freedom of speech is "defensible," and should be defended, "on principle." They are not "happy" questions, because I doubt whether the freedom of speech "issue," as Mill for example stated it in the *Essay*, is a genuine, non-spurious, issue. Rather, it seems to me that most arguments about freedom of speech are really arguments about some prior question, which once resolved to the satisfaction of the disputants would be the end of the matter. But if I must answer the foregoing queries, my answer would have to take the following shape:

Temperamentally, like most Conservatives, I happen to be a man who in any given situation would always favor letting everybody have his "say"—temperamentally, I repeat, which is to say, *not* on principle but partly out of a selfish wish to satisfy my curiosity about what there is *to* say on whatever question happens to be up. This is partly because of some terrible anarchic thing 'way down inside me that always puts me, instinctively, on the side of the pillow-throwers and against the umpire, on the side of the freedom-riders (even though I disagree with them) against the Mississippi sheriff, on the side of George Washington against George III—and therefore on the side of the let-'em-speak contingent against the censors and silencers. In that sense, I am "for" freedom of speech.

Again, where what is in question is freedom of speech in a



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THE  
CONSERVATIVE  
AFFIRMATION

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by WILLMOORE KENDALL

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To Nellie  
who invented it  
and Yvona  
who barreled it through

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*Manufactured in the United States of America.*

**Library of Congress Cataloging in Publication Data**

Kendall, Willmoore, 1909-1967.

The conservative affirmation.

Originally published: Chicago : Regnery, 1963.

Includes bibliographical references and index.

1. Conservatism. 2. Liberalism. 3. United  
States—Politics and government—20th century.  
4. Political science—Book reviews. I. Title.

JC571.K39 1985 320.5'2 85-5517

ISBN 0-89526-811-6 (pbk.)

ISBN 0-89526-591-5 (hardcover)