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The Individual and the State

The Problem as Presented by the
Sentencing of

Roger N. Baldwin

November 1918.

ROGER N. BALDWIN

Roger N. Baldwin was born in Wellesley Hills, Mass. in 1884. His education was received in the public schools and at Harvard College where he received the degree of A. B. in 1905, and A. M. in 1906. After graduation he went to St. Louis and became the head of a large neighborhood house in a congested district of the city. During this period he also acted as Instructor in Sociology at Washington University in St. Louis. In 1907 he was appointed Chief Probation Officer of the Juvenile Court of the City of St. Louis and resigned from the work of the neighborhood house. As Chief Probation Officer he gained extensive experience in the investigation of neglected or delinquent children and had probationary oversight over some 1500 children under the Court's care. For two years, 1908-1910, Mr. Baldwin was Secretary of the National Probation Association, and Secretary of the special committee of that organization which prepared an exhaustive report on Juvenile Courts and Probation, of which he was a joint author.

In 1910, he became Secretary of Civic League of St. Louis, a large citizens' organization particularly concerned with the extension and improvement of the city government. This work took him into every field of local government and into state affairs as well, and in this connection he was instrumental in effecting many progressive changes in the City government. In 1912-1913, Mr. Baldwin was President of the Missouri State Conference of Charities and Corrections, and Chairman of the Social Service Conference of St. Louis. When America entered the war, he resigned his position as Secretary of the Civic League in St. Louis and came to New York to give all his time without other compensation than his expenses, to work for the preservation of civil liberties as Director of the National Civil Liberties Bureau.

Mr. Baldwin has also been an advisory editor of the *National Municipal Review*, Chairman of the Committee on Juvenile Courts of the National Probation Association, and Secretary of the Division on Economic and Industrial Problems of the National Conference of Social Workers.

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The Individual and the State

The Problem As Presented by the Sentencing of Roger N. Baldwin

On October 30th, Roger Nash Baldwin was sentenced in the Federal Court in New York to serve one year in prison for violation of the Selective Service Law. The scene in the court room was one of intense interest, not only because of Mr. Baldwin's personality and his clear statement of his reasons for an act whose consequences he did not seek to escape, but also because of Judge Mayer's logical and uncompromising statement of the opposite position in imposing sentence. The auditors in the court-room had the rare experience of listening to a conflict of ideas above the plane of personal anger or bitterness.

Those who now publish the following record do so because they have felt that it would be a genuine public service. It is scarcely necessary to say that in so doing the men and women responsible are not actuated by a desire to spread Mr. Baldwin's entire philosophy with all its implications; on the contrary, they are of widely differing views and some of them disagree heartily with certain of his opinions. But when a man, fortunate in the possession of unusual advantages, educational and otherwise, endowed with more than common gifts, deliberately, without either bitterness or thirst for notoriety, stakes freedom, reputation, friendships and a future career for an unpopular ideal, it is well that his fellow citizens should know the facts.

Especially is this true when those facts bear upon a problem of such absorbing importance as the relation of the state to the individual. In sentencing a man who plead guilty and asked for no favors, Judge Mayer did his obvious duty.* But is it well for the state, is it necessary for the finest development of mankind, that coercive laws should leave Judges no option but to put idealists—even mistaken idealists—in

*The maximum penalty for violation of the Selective Service Act is one year in prison. At the conclusion of the prison term the law provides for the compulsory induction of the defendant into military service. In many cases this has led to court martial and long sentences to military prisons.

prison? Judge Mayer stated one of the plainest lessons of history when he said: "It may often be that a man or woman has greater foresight than the masses of the people. And it may be that in the history of things, he who seems wrong today may be right tomorrow." He added, quite correctly, "but with these possible idealistic and academic speculations a court has nothing to do." Yet a progressive society which has great need of her idealistic heretics has much to do with just such speculations. Is jail always to be the answer to heresy?

And this question is the more pressing because Roger Baldwin is by no means the chief or the only sufferer for the views he expressed. By the time he has served his sentence in all probability we shall have peace and he will not be compulsorily enrolled in the army. But as he himself points out, there are now in military prisons between two hundred and three hundred men who for conscience sake have taken a position similar to his own—but usually less extreme. They have been sentenced for terms running from ten to thirty years under conditions Mr. Baldwin described to the Judge. These men for the most part have lacked Roger Baldwin's power of clear statement, or his standing in the community but are not less idealistic. Their reasons for the uncompromising course of action they have pursued have been unheard by the public, or heard only in distorted form. Is it tolerable to think of them serving sentences so much longer than those imposed upon dangerous criminals? Shall we not resolve that at the least the coming of peace must bring them freedom?

Mr. Baldwin's Statement

Your Honor, I presume that myself, and not the National Civil Liberties Bureau, is on trial before this court this morning* I do not object to the reading into this record of the letters which the Government's attorney has read. Some of them I did not write. They represent one side of a work which I have been conducting as the Executive Officer of that organization during the past year. Our work is backed up and supported both by those who call themselves Pro-War Liberals, who are supporters of the war, and by those who are so-called Pacifists.

I have not engaged in personal propaganda. I have not made public addresses, except upon the subject matter of this Bureau. I have not written articles, except upon the subject matter of the Bureau, and I have felt throughout that it was a work which could be supported genuinely and honestly by those who opposed the war in principle, and by those who were supporting the war. I believe that the examination of the records of the Bureau now being made by the Department of Justice will conclusively demonstrate that the work has been undertaken with that sole purpose in view, and that it has been in the interest of the solution of certain democratic problems that this country has to face during war time.

I will say, in that connection for instance, that although the Post Office censorship throughout the war has been intolerant, narrow and stupid, but one little pamphlet which we have issued—and we have issued a great many of them—has been excluded from the mails, and that in this Court within the last two weeks an injunction was issued, requiring the Post-Master of New York to accept for mailing all the pamphlets of this Bureau. I think that demonstrates pretty clearly that where the law is narrowly interpreted, rigidly interpreted, arbitrarily interpreted, as it is in the Post-Office Department at Washington, no

*This statement of Mr. Baldwin's had reference to certain remarks made by the District Attorney concerning some aspects of the work of the National Civil Liberties Bureau.

exception has been taken to the general matter which has been sent out by this organization.

I know that the Government's Attorney is merely attempting to put before this Court my state of mind in taking the position I have about this act—in coming here as its deliberate violator.

I want to read to the Court, if I may, for purposes of record, and for purposes of brevity too, a statement which I have prepared, and which I hope will get across a point of view which the United States Attorney does not consider logical, but which I trust, at least, with the premises I hold, is consistent.

I am before you as a deliberate violator of the draft act. On October 9, when ordered to take a physical examination, I notified my local board that I declined to do so, and instead presented myself to the United States Attorney for prosecution. I submit herewith for the record the letter of explanation which I addressed to him at the time.

I refused to take bail, believing that I was not morally justified in procuring it, and being further opposed to the institution of bail on principle. I have therefore been lodged in the Tombs Prison since my arraignment on October 10. During that period I have been engaged daily at the Department of Justice offices in systematizing the files of the National Civil Liberties Bureau, of which I have been the director. These files had been voluntarily turned over to the Department for examination, and had, through much handling, become seriously disarranged. That work being completed, I am before you for sentence.

And, by the way, may I take this occasion, your honor—this is quite aside from the proceedings—to express my thanks for the courtesy of every officer of this court, and of the Department of Justice, through these trying weeks. It has been exceptional.

The compelling motive for refusing to comply with the draft act is my uncompromising opposition to the principle of conscription of life by the State for any purpose whatever, in time of war or peace. I not only refuse to obey the present conscription law, but I would in future refuse to obey any similar statute which attempts to direct my choice of service and ideals. I regard the principle of conscription of life as a flat contradiction of all our cherished ideals of individual freedom, democratic liberty and Christian teaching.

I am the more opposed to the present act, because it is for the purpose of conducting war. I am opposed to this and all other wars. I

do not believe in the use of physical force as a method of achieving any end, however good.

The District Attorney calls your attention your Honor, to the inconsistency in my statement to him that I would, under extreme emergencies, as a matter of protecting the life of any person, use physical force. I don't think that is an argument that can be used in support of the wholesale organization of men to achieve political purposes in nationalistic or domestic wars. I see no relationship at all between the two.

My opposition is not only to direct military service but to any service whatever designed to help prosecute the war. I could accept no service, therefore, under the present act, regardless of its character.

Holding such profound convictions, I determined, while the new act was pending, that it would be more honest to make my stand clear at the start and therefore concluded not even to register, but to present myself for prosecution. I therefore resigned my position as director of the National Civil Liberties Bureau so as to be free to follow that personal course of action. But on the day my resignation took effect (August 31) agents of the Department of Justice began an examination of the affairs of that organization, and I was constrained to withdraw my resignation and to register in order to stand by the work at a critical moment. With that obligation discharged, I resigned, and took the next occasion, the physical examination, to make my stand clear.

I realize that to some this refusal may seem a piece of wilful defiance. It might well be argued that any man holding my views might have avoided the issue by obeying the law, either on the chance of being rejected on physical grounds, or on the chance of the war stopping before a call to service. I answer that I am not seeking to evade the draft; that I scorn evasion, compromise and gambling with moral issues. It may further be argued that the War Department's liberal provision for agricultural service on furlough for conscientious objectors would be open to me if I obey the law and go to camp, and that there can be no moral objection to farming, even in time of war. I answer first, that I am opposed to any service under conscription, regardless of whether that service is in itself morally objectionable; and second, that, even if that were not the case, and I were opposed only to war, I can make no moral distinction between the various services which assist in prosecuting the war—whether rendered in the trenches, in the purchase of bonds or thrift stamps at home, or in raising farm

products under the lash of the draft act. All serve the same end—war. Of course all of us render involuntary assistance to the war in the processes of our daily living. I refer only to those direct services undertaken by choice.

I am fully aware that my position is extreme, that it is shared by comparatively few, and that in the present temper it is regarded either as unwarranted egotism or as a species of feeble-mindedness. I cannot, therefore, let this occasion pass without attempting to explain the foundations on which so extreme a view rests.

I have had an essentially American upbringing and background. Born in a suburban town of Boston, Massachusetts, of the stock of the first settlers, I was reared in the public schools and at Harvard College. Early my mind was caught by the age-old struggle for freedom; America meant to me a vital new experiment in free political institutions; personal freedom to choose one's way of life and service seemed the essence of the liberties brought by those who fled the mediæval and modern tyrannies of the old world. But I rebelled at our whole autocratic industrial system—with its wreckage of poverty, disease and crime, and childhood robbed of its right to free growth. So I took up social work upon leaving college, going to St. Louis as director of a settlement and instructor in sociology at Washington University. For ten years I have been professionally engaged in social work and political reform, local and national. That program of studied, directed social progress, step by step, by public agitation and legislation, seemed to me the practical way of effective service to gradually freeing the mass of folks from industrial and political bondage. At the same time I was attracted to the solutions of our social problems put forth by the radicals. I studied the programs of socialism, the I. W. W. European syndicalism and anarchism. I attended their meetings, knew their leaders. Some of them became my close personal friends. Sympathizing with their general ideals of a free society, with much of their program, I yet could see no effective way of practical daily service. Some six years ago, however, I was so discouraged with social work and reform, so challenged by the sacrifices and idealism of some of my I. W. W. friends, that I was on the point of getting out altogether, throwing respectability overboard and joining the I. W. W. as a manual worker.

I thought better of it. My traditions were against it. It was more

an emotional reaction than a practical form of service. But ever since, I have felt myself heart and soul with the world-wide radical movements for industrial and political freedom,—wherever and however expressed—and more and more impatient with reform.

Personally, I share the extreme radical philosophy of the future society. I look forward to a social order without any external restraints upon the individual, save through public opinion and the opinion of friends and neighbors. I am not a member of any radical organization, nor do I wear any tag by which my views may be classified. I believe that all parts of the radical movement serve the common end—freedom of the individual from arbitrary external controls.

When the war came to America, it was an immediate challenge to me to help protect those ideals of liberty which seemed to me not only the basis of the radical economic view, but of the radical political view of the founders of this Republic, and of the whole mediæval struggle for religious freedom. Before the war was declared I severed all my connections in St. Louis, and offered my services to the American Union Against Militarism to help fight conscription. Later, that work developed into the National Civil Liberties Bureau, organized to help maintain the rights of free speech and free press, and the Anglo-Saxon tradition of liberty of conscience, through liberal provisions for conscientious objectors. This work has been backed both by pro-war liberals and so-called pacifists. It is not anti-war in any sense. It seemed to me the one avenue of service open to me, consistent with my views, with the country's best interest, and with the preservation of the radical minority for the struggle after the war. Even if I were not a believer in radical theories and movements, I would justify the work I have done on the ground of American ideals and traditions alone—as do many of those who have been associated with me. They have stood for those enduring principles which the revolutionary demands of war have temporarily set aside. We have stood against hysteria, mob-violence, unwarranted prosecution, the sinister use of patriotism to cover attacks on radical and labor movements, and for the unabridged right of a fair trial under war statutes. We have tried to keep open those channels of expression which stand for the kind of world order for which the President is battling today against the tories and militarists.

Now comes the Government to take me from that service and to

demand of me a service I cannot in conscience undertake. I refuse it simply for my own peace of mind and spirit, for the satisfaction of that inner demand more compelling than any consideration of punishment or the sacrifice of friendships and reputation. I seek no martyrdom, no publicity. I merely meet as squarely as I can the moral issue before me, regardless of consequences.

I realize that your Honor may virtually commit me at once to the military authorities, and that I may have merely taken a quicker and more inconvenient method of arriving at a military camp. I am prepared for that—for the inevitable pressure to take an easy way out by non-combatant service—with guard-house confinement—perhaps brutalities, which hundreds of others objectors have already suffered and are suffering today in camps. I am prepared for court martial and sentence to military prison, to follow the 200 - 300 objectors already sentenced to terms of 10 - 30 years for their loyalty to their ideals. I know that the way is easy for those who accept what to me is compromise, hard for those who refuse, as I must, any service whatever. And I know further, in military prison I shall refuse to conform to the rules for military salutes and the like, and will suffer solitary confinement on bread and water, shackled to the bars of a cell eight hours a day—as are men of like convictions at this moment.

I am not complaining for myself or others. I am merely advising the court that I understand full well the penalty of my heresy, and am prepared to pay it. The conflict with conscription is irreconcilable. Even the liberalism of the President and Secretary of War in dealing with objectors leads those of us who are “absolutists” to a punishment longer and severer than that of desperate criminals.

But I believe most of us are prepared even to die for our faith, just as our brothers in France are dying for theirs. To them we are comrades in spirit—we understand one another's motives, though our methods are wide apart. We both share deeply the common experience of living up to the truth as we see it, whatever the price.

Though at the moment I am of a tiny minority, I feel myself just one protest in a great revolt surging up from among the people—the struggle of the masses against the rule of the world by the few—profoundly intensified by the war. It is a struggle against the political state itself, against exploitation, militarism, imperialism, authority in all forms. It is a struggle to break in full force only after the war.

Russia already stands in the vanguard, beset by her enemies in the camps of both belligerents—the Central Empires break asunder from within—the labor movement gathers revolutionary force in Britain—and in our own country the Nonpartisan League, radical labor and the Socialist Party hold the germs of a new social order. Their protest is my protest. Mine is a personal protest at a particular law, but it is backed by all the aspirations and ideals of the struggle for a world freed of our manifold slaveries and tyrannies.

I ask the Court for no favor. I could do no other than what I have done, whatever the court's decree. I have no bitterness or hate in my heart for any man. Whatever the penalty I shall endure it, firm in the faith, that whatever befalls me, the principles in which I believe will bring forth out of this misery and chaos, a world of brotherhood, harmony and freedom for each to live the truth as he sees it.

I hope your Honor will not think that I have taken this occasion to make a speech for the sake of making a speech. I have read you what I have written in order that the future record for myself and for my friends may be perfectly clear, and in order to clear up some of the matters to which the District Attorney called your attention. I know that it is pretty nigh hopeless in times of war and hysteria to get across to any substantial body of people, the view of an out and out heretic like myself. I know that as far as my principles are concerned, they seem to be utterly impractical—mere moon-shine. They are not the views that work in the world today. I fully realize that. But I fully believe that they are the views which are going to guide in the future.

Having arrived at the state of mind in which those views mean the dearest things in life to me, I cannot consistently, with self-respect, do other than I have, namely, to deliberately violate an act which seems to me to be a denial of everything which ideally and in practice I hold sacred.

Judge Mayer's Remarks in Imposing Sentence

I have not any question at all in my mind that the position which you have announced as being held by you, is honestly and conscientiously held.

In one regard, out of a considerable number of cases that are of similar character, you do stand out in that you have retained your self-respect, because you state to the Court your position without quibble, and you don't seek to avoid the consequences of that position, as some others who have been much louder in words, have done, by taking the chance of a trial and the possibility of escaping through either some technicality of the law or through some inability of a Jury to decide appropriately on the facts.

And therefore I want you to distinctly understand, as I think you will, with your ability and intelligence, that I deal with the disposition of your case entirely from the standpoint of the law. And although our individual views are not considered as a matter of import, it may or may not be some satisfaction to know, that while your views are exactly opposite to those that I entertain, I cannot help but contrast in my mind your self-respecting and manly position in stating views which to my mind are intolerable, but which are so stated so as at least to put your case in a somewhat different position from that of others to which I referred.

Now it may be impossible for me to convey to your mind successfully the point of view which I think is entertained by the great masses of the people, and which must be entertained by the Courts and by those, such as the Department of Justice, who are charged with the administration of the law.

In all that you have said, I think that you have lost sight of one very fundamental and essential thing for the preservation of that American liberty of which by tradition you feel that you are a genuine

upholder. A Republic can last only so long as its laws are obeyed. The freest discussion is permitted, and should be invited in the processes that lead up to the enactment of a statute. There should be the freest opportunity of discussion as to the methods of the administration of the statutes. But the Republic must cease to exist if disobedience to any law enacted by the orderly process laid down by the constitution is in the slightest degree permitted. That is, from my point of view, fundamental. That is the sense, not only from an ideal standpoint, but from a practical standpoint. We should not be able, as I think most Americans believe, to maintain what we regard as a Government of free people, if some individual, whether from good or bad motives, were able successfully to violate a statute, duly and constitutionally and properly passed, because his own view of the same might differ from that entertained by the law makers who have enacted the law, and from that of the Executive who has given it his approval.

Now that is my point of view, based upon a system whose perpetuity rests upon obedience of the law.

It may often be that a man or woman has greater foresight than the masses of the people. And it may be that in the history of things, he, who seems to be wrong today, may be right tomorrow. But with those possible idealistic and academic speculations a Court has nothing to do.

I don't take into consideration any of the details of the organization with which you were connected. I cannot and will not endeavor to arrive at any conclusions as to whether its activities were good, bad, or indifferent. If it should come before the Court sometime, why then, the Court, however composed, will deal with the subject matter as the evidence may justify. I am concerned only with your perfectly definite, frank statement that you decline to take a step which the law provides. I am directing my mind solely to the indictment to which you plead guilty. You are entirely right. There can be no compromise. There can be neither compromise by you as the defendant, as you say, because you don't wish to compromise. Nor can there be compromise by the Court, which, for the moment, represents organized society as we understand it in this Republic. He who disobeys the law, knowing that he does so, with the intelligence that you possess, must, as you are prepared to—take the consequences.

When at times there have been brought in here, ignorant men—men of low intelligence—men who have lacked opportunity of education

and cannot see things clearly—the Court, by whatever Judge may be sitting, has seen its way clear to make the punishment light, where theoretically under the statutes it might be made severe. You have made my task this morning an entirely easy one. I have no difficulty in concluding how your case will be treated, because at the moment you represent one extreme of thought, and in my capacity at the moment, I represent another. I cannot emphasize too strongly that in my view, not only could this war not have been successfully and in a self-respecting way carried on by the United States Government if such an attitude as yours had prevailed, but I think such an attitude would have led inevitably to disorder and finally to the destruction of a Government, which with all of the imperfections that may attach to human government, has proved itself, as I view it, to be a real people's Government, as evidenced by the millions upon millions of men who voluntarily obey the laws—and some of them requiring great sacrifice—which, as enacted by the legislature, embody the judgment of the people at large.

Now in such circumstances, you representing the utterly contrary view, you representing—although possibly not meaningly—a position which in my judgment if carried out would mean the subversion of all the principles dear to the American people, and the ultimate destruction of the Republic, there is nothing left for me to do except to impose the full penalty of the statute. It would be obviously most unwise to permit you to go into the army now, and there become a disturbing element and cause the military authorities only an increase to the many great and difficult problems with which they are now dealing. The case is one, from the standpoint of the penalty to be imposed, no different from that which has been imposed in many similar cases. The maximum penalty, as I understand it, is one year in the penitentiary. You have already spent twenty days in imprisonment. You ask for no compromise. You will get no compromise. You are sentenced to the penitentiary for eleven months and ten days.

The foregoing pamphlet is presented to the public by the following persons:

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