

Duty to Defend: McNeill Smith and the Education of Southern White Liberalism

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*"I never questioned the duty the bar had to defend him."*<sup>1</sup>

--McNeill Smith

For the family of McNeill Smith. Thank you for sharing this wonderful man with me.

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<sup>1</sup> Autobiographical Memo, "I defended Junius Irving Scales..." Folder 602, McNeill Smith Papers, Southern Historical Collection, Louis Round Wilson Library, University of North Carolina at Chapel Hill, Chapel Hill, North Carolina.

In January of 1942, a young man named McNeill Smith walked to the nearest enlisting office and joined the United States Navy. Born in 1918 in rural Robeson County to the local country doctor, Smith grew up in a small, racially diverse town in Eastern North Carolina.<sup>2</sup> At twenty-three years old, Smith did not represent the average enlistee, having graduated from both the University of North Carolina at Chapel Hill and Columbia Law School. At UNC, Smith participated in a number of campus activities. He was editor of the campus newspaper *The Daily Tar Heel* and a member of the Delta Kappa Epsilon Fraternity. At Columbia Law School in New York, classmates voted Smith president of their third year class, and in the summer of 1941, the precocious young law school graduate passed the Bar examinations in both North Carolina and New York.<sup>3</sup> However, when news of the Japanese attack on the United States naval base at Pearl Harbor broke on December 7, 1941, Smith felt a duty to support his country. In early 1942, Smith was deployed to China, Burma, and India, where he served over the following eighteen months. Smith's experiences in South and Southeast Asia had a profound effect on his worldview. Upon seeing racial injustice overseas, young McNeill Smith "realized that what the structure of society there was, was not too different from what we had in North Carolina, in the South, and to some extent the rest of the country. But it was legalized in the South."<sup>4</sup> When Smith returned home to North Carolina in late 1945, he settled in Greensboro with a fresh perspective on the state of American civil liberties.<sup>5</sup> McNeill Smith's involvement in the Navy

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<sup>2</sup> McNeill Smith, Interview by Jay Mebane, 15, Law School Oral History Project, University of North Carolina at Chapel Hill, February 18, 1994, March 11, 1994. [original transcript on deposit at the Southern Historical Collection], accessed 18 August 2014, File:///C:/Users/kecrook/Downloads/J0049.pdf; McNeill Smith, Interview by Kevin Costello, 2, "Greensboro Voices," Greensboro Civil Rights Oral History Collection, Jan. 3, 1987, Accessed 9 September 2014, <http://libcdm1.uncg.edu/cdm/fullbrowser/collection/CivilRights/id/887/rv/singleitem/rec/1>.

<sup>3</sup> McNeill Smith to Mr. E. Smythe Gambrell, January 6, 1941, Folder 505, McNeill Smith Papers, Southern Historical Collection.

<sup>4</sup> McNeill Smith, Interview by Costello, 4.

<sup>5</sup> Smith, Interview by Mebane, 88.

proved the single most eye-opening experience of his young life, and it deeply shaped his later activism as a civil rights attorney in Greensboro, North Carolina.<sup>6</sup>

McNeill Smith's experiences in the Navy shaped his perceptions of political equality, and he found himself drawn to the liberal side of the Democratic Party. These liberals descended from the politics of Franklin Roosevelt, the New Deal, and big government, but they faced factionalism among themselves in the late 1940s. The Cold War and domestic perceptions of Communism forced them to divide into camps. One side, represented by the likes of Henry Wallace and the Progressive Citizens of America, adopted more leftist, radical policies. Though officially non-Communist, these liberals were often associated with Communism by conservatives in the American public. The other camp consisted of what historians like Sarah Hart Brown have dubbed "Cold War liberals." They advocated for moderate approaches to the country's race problems, and they vehemently denied any affiliation with Communism or the Communist Party.<sup>7</sup> In reality, the distinction between the two factions might not have operated as clearly as historians have suggested. In fact, McNeill Smith borrowed from *both* progressive liberal and Cold War liberal ideologies to assert his worldview. He represented the kind of liberal that historian David Chappell dubs a "conscientious movement supporter," a moderate driven by

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<sup>6</sup> For more information on the relationship between attorneys and their abilities to affect social movements, please see Jerold S. Auerbach's *Unequal Justice: Lawyers and Social Change in Modern America* (London: Oxford University Press, 1976).

<sup>7</sup> Sarah Hart Brown, *Standing Against Dragons: Three Southern Lawyers in an Era of Fear* (Baton Rouge: Louisiana State University Press, 1998), 1, 3; for more on moderate liberals, please see Arthur M. Schlesinger Jr.'s *The Vital Center: The Politics of Freedom* (Boston: Houghton Mifflin Company, 1949). In this thesis, I refer to "leftist" policies and "leftism" as somewhere to the left of liberalism, tending on the more radical side of politics. For more on the history of liberalism, please see Alan Brinkley's *Liberalism and its Discontents* (Boston: Harvard University Press, 1998).

his sense of morality, using his law degree and connections with other white Southerners to push for civil rights and integration.<sup>8</sup>

However, in the late 1940s and into the next decade, North Carolina's message for less moderate liberals rang clearly and forcefully: Stay Away. During a campaign stop for his 1948 presidential bid, former Vice President Henry Wallace, leader of the Progressive Party and advocate of integration and world peace, met violent disdain from North Carolinians who associated him and his party with Communism and leftist ideology. Though Wallace received support from some North Carolinians, including Chapel Hill liberals and African Americans in Winston-Salem and Durham, much of North Carolinian response proved mostly negative.<sup>9</sup> After an angry mob in Durham stabbed Wallace's bodyguard eight times, the former Vice President encountered more name-calling and food-throwing antics before leaving the state in disgrace. Even in the Deep South, despite Wallace's support of racial integration, opponents staged no such riots against him. Wallace later described the North Carolina political climate he encountered as fascist.<sup>10</sup>

The surprising scene Wallace experienced might have constituted an aberration in the otherwise moderate, progressive image of North Carolina were it not for Frank Porter Graham's failed Senate election of 1950. Primary runoff opponent Willis Smith red-baited and race-baited Graham, using both Graham's perceived affiliation with Communism and his support of

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<sup>8</sup> David Chappell, *Inside Agitators: White Southerners in the Civil Rights Movement* (Baltimore: Johns Hopkins University Press, 1994), xxii.

<sup>9</sup> Robert R. Korstad and James L. Leloudis, *To Right These Wrongs: The North Carolina Fund and the Battle to End Poverty and Inequality in 1960s America* (Chapel Hill: University of North Carolina Press, 2010) 23; Rob Christensen, *The Paradox of Tar Heel Politics: The Personalities, Elections, and Events that Shaped Modern North Carolina* (Chapel Hill: University of North Carolina Press, 2008), 131.

<sup>10</sup> Christensen, *Paradox of Tar Heel Politics*, 129-132; for more information on Vice President Wallace's presidential campaign and its connection with liberalism, please see Thomas Devine's *Henry Wallace's 1948 Presidential Campaign and the Future of Postwar Liberalism* (Chapel Hill: University of North Carolina Press, 2013).

integration to destroy his Senate bid. Willis Smith seized on the politically-ripe climate in North Carolina and in much of the South to connect progressive interracialism with Communism, a perceived association that meant almost-certain death for an ambitious politician's career. The beloved UNC president lost the Senate race to Smith by a significant margin, forever affecting his political legacy.<sup>11</sup>

Thus on the whole it seemed that outright political connections to Communism or integration, ideas widely associated with the left, resulted in disaster for politicians. Historians James Leloudis and Robert Korstad describe in detail the challenges faced by progressive liberals in North Carolina, of which Graham's failed Senate race constituted just one.<sup>12</sup> If beloved UNC President Frank Porter Graham, described by historian William Chafe as the "ideal of the quintessential Southern white liberal," could not succeed in such a political climate, then who could?<sup>13</sup> This is the situation in which McNeill Smith, transformed by his naval experience into a white Southern liberal bent on civil liberties, found himself in the beginning of the 1950s.

This thesis explores how McNeill Smith navigated the politically charged conservative atmosphere of North Carolina in the 1950s and early 1960s while adhering to his liberal beliefs.<sup>14</sup> Smith stood for many liberal values, including internationalism and disarmament during the Cold

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<sup>11</sup> Korstad and Leloudis, *To Right These Wrongs*, 25-28; for more on Graham's failed Senate election in 1950, please see Karl E. Campbell's "Tar Heel Politics: An Overview of North Carolina Political History in the Twentieth Century, 1900-1972" (Institute for Emerging Issues, North Carolina State University, March 2010), 13-14, Accessed 29 Sept. 2014, <http://iei.ncsu.edu/wp-content/uploads/2013/02/Campbell-Tar-Heel-Politics.pdf>.

<sup>12</sup> Korstad and Leloudis, *To Right These Wrongs*, 28.

<sup>13</sup> William Chafe, *Civilities and Civil Rights: Greensboro, North Carolina, and the Black Struggle for Freedom* (Oxford: Oxford University Press, 1980), 5.

<sup>14</sup> In this thesis, I refer to the political moniker "conservative" to denote an adherence to the political and social status quo of the South, including segregation, isolationism, and a fear of anything deemed "foreign." I refer to the title of "liberal" as the embodiment of a more progressive worldview, with a dedication to integration, tolerance, and civil liberties. Please see Sarah Hart Brown's *Standing Against Dragons* for more on Southern fears of "foreignness" (3). In addition, see the history of the Southern fear of "outside agitators" in Jeff Woods's *Black Struggle, Red Scare: Segregation and Anti-Communism in the South, 1948-1968* (Baton Rouge: Louisiana State University Press, 2004), 14-16.

War, civil liberties for Communists, and civil rights for African Americans. However, if the lessons of Henry Wallace and Frank Porter Graham taught him anything, Smith understood that he could not openly divulge his liberal and sometimes leftist leanings. Though not running for political office, he faced alienation from his community and even threats should he advocate for issues like free speech for a Communist or integration.<sup>15</sup> Instead, Smith used such tactics as conservative rhetoric, appealing to a latent liberal base, and state's rights and localism arguments to push for equal civil rights for all North Carolinians.<sup>16</sup>

In fact, Smith demonstrates how white Southern liberals as a whole operated in the segregated, red-baiting South. Instead of openly proclaiming their leftist or liberal views, these Southerners used the language of their time to elude conservative witch-hunters and race-baiters. Toward the end of the 1950s and into the early 1960s, Southern liberals like Smith took a cue from their environment, understanding that the earlier failures of Henry Wallace and Frank Porter Graham hinged on political opinions too liberal for the state. As such, the Southern white liberals adjusted accordingly, either disguising their liberal views altogether or working to bring other latent liberals into the fold. This clever manipulation of rhetoric resulted in a more progressive state with more equal rights.

## **Historiography**

In terms of scholarly literature, historians have focused significant attention on the connection between anticommunism and the civil rights movement. Beginning with the idea of massive resistance, many historians have established the link between conservative anticommunism and the perpetuation of the Jim Crow South. Historian George Lewis examines

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<sup>15</sup> Also, for more of the issues white Southern liberals advocated for during this time, please refer to Brown's *Standing Against Dragons*, 27.

<sup>16</sup> For more on how white Southerners used their relationships with other whites for persuasion toward their cause, please see David Chappell's *Inside Agitators: White Southerners in the Civil Rights Movement*, xxii.

how white supremacists used the fear of Communism and anticommunist rhetoric to discredit Southern integrationists.<sup>17</sup> Sarah Hart Brown argues that like conservatives, liberals too used anticommunist rhetoric, not to maintain segregation but to protect themselves from Communist accusations and to “remain on the safe side of the witch-hunters.”<sup>18</sup> Historian Jeff Woods explores the efforts of black civil rights activists in conjunction with domestic Communism.<sup>19</sup> In his PhD dissertation, Jonathan Gentry furthers the connection between anticommunism and racism to assert that in North Carolina, the use of anticommunism precluded the state from ever enjoying a “liberal political tradition.” Indeed, he argues that the split in the liberal party during the early years of the Cold War prevented North Carolina liberals from wielding much political power against their stronger conservative rivals when it came to issues of anticommunism. Gentry uses the political defeat of Frank Porter Graham and the criminal prosecution of Communist Junius Scales to determine that conservatives in the state ultimately won the battle against liberalism in the mid-century.<sup>20</sup> North Carolina historian Rob Christensen posits a similar view, arguing that conservative North Carolina constituents only elected famed Democratic governor Terry Sanford because he at least nominally endorsed segregation.<sup>21</sup>

The problem with these accounts is that they mischaracterize or cloud our understanding of how Southerners used anticommunist rhetoric and how politics operated in North Carolina in the mid-century. Certainly some segregationists used anticommunism to further Jim Crow, but

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<sup>17</sup> George Lewis, *The White South and the Red Menace: Segregationists, Anticommunism, and Massive Resistance* (Gainesville: University Press of Florida, 2004); for more on the connection between anticommunism and segregation, please see Wayne Addison Clark’s “An Analysis of the Relationship between Anti-Communism and Segregationist Thought in the Deep South, 1948-1964” (PhD Dissertation, University of North Carolina at Chapel Hill, 1976).

<sup>18</sup> Brown, *Standing Against Dragons*, 11.

<sup>19</sup> Jeff Woods, *Black Struggle, Red Scare: Segregation and Anti-Communism in the South* (Baton Rouge: Louisiana State University Press, 2004).

<sup>20</sup> Jonathan Gentry, “Seeing Red: Anti-Communism, Civil Liberties and the Struggle Against Dissent in North Carolina, 1949-1968” (PhD Dissertation, University of South Carolina, 2003), 175-176; 224-225.

<sup>21</sup> Christensen, *Paradox of Tar Heel Politics*, 179.



integrationists used anticommunism for their own devices, as well. McNeill Smith employed anticommunist rhetoric not to protect himself, as Brown asserts, but to further liberal causes. Moreover, North Carolina represented neither a “conservative” nor a “liberal” state. While conservatives might have appeared louder and more visible, moderate liberals did not lose all of their political power in the mid-century, as Gentry asserts.

In truth, white Southern liberals like Smith did not disappear in mid-century North Carolina. Rather, they adapted. How did liberals navigate the conservatively-dominated Southern issues like anticommunism and segregation? Taking a lesson from Frank Porter Graham, they did not openly acknowledge their liberal leanings. Instead, they grew smarter, learning to disguise their liberal goals beneath conservative buzzwords and rhetoric. In various episodes of his life, McNeill Smith gives us a lens through which to understand these liberal strategies. The American Freedom Association he established in 1953 had decidedly liberal goals, following Henry Wallace’s platform of disarmament and international peace. However, unlike Wallace, Smith and his group used patriotic-sounding rhetoric that they knew would appease conservatives while promoting a liberal cause. Likewise, in Smith’s legal defense of Communist Junius Scales in the late 1950s, Smith again appealed to latent liberals in the state, urging them to write letters to the President for a commutation of Scales’s prison sentence. Finally, Smith used conservative rhetoric again when he advocated for African Americans during the Greensboro lunch counter sit-in of 1960. Employing well-known conservative calls for state’s rights and localism, Smith used these same arguments to bring about integration of Greensboro’s public facilities and equal rights for blacks through the Civil Rights Commission. Historian Jonathan Gentry writes that the sit-in and other civil rights efforts “left no middle ground for liberals to

stand on.”<sup>22</sup> To the contrary, McNeill Smith stood tall in that middle ground, masterfully navigating between conservatives and liberals to bring out meaningful social change.

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<sup>22</sup> Gentry, “Seeing Red...,” 176.

### **The American Freedom Association: A New Face of Anticommunism**

*“The United States has no real security as long as atomic weapons and the means to deliver them are in the hands of those who may decide to use them against us.”*<sup>23</sup>

At 7:00 sharp on the evening of September 11, 1953, Greensboro attorney McNeill Smith stepped up to a microphone and a room full of watchful eyes in the dining room of the Mayfair Hotel in Greensboro, North Carolina.<sup>24</sup> The event marked a proud moment in the life of the thirty-five year old lawyer. It was the inaugural dinner of his newly formed organization the American Freedom Association, a political entity dedicated to providing information to Americans about the dangers of international Communism and the need for world peace through the United Nations. The rural Robeson County native had been named Director of the AFA and Master of Ceremonies for the evening’s dinner. After delivering his opening remarks, he looked on as the associate editor of the *Greensboro Daily News*, William Polk, invited the night’s speaker, executive editor of the *Winston-Salem Journal* Honorable Wallace Carroll, to the stage for an inaugural address.<sup>25</sup> In his speech, Carroll set the tone for the decades of activism by the American Freedom Association that followed, praising the organization for “stressing information, discussion and education, and not dogmatically urging one ‘pat’ solution to the world’s problems.”<sup>26</sup>

Of course, the “information, discussion, and education” provided by the Association served a specific purpose. McNeill Smith and a group of North Carolina intellectuals formed the

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<sup>23</sup> “Statement of Henry Brandis, Jr., Before the Subcommittee of the Senate Committee on Foreign Relations on the United Nations Charter, May 15, 1954 at Greensboro, N.C.,” Folder 863, McNeill Smith Papers, Southern Historical Collection.

<sup>24</sup> Oscar K. Merritt to McNeill Smith, September 4, 1953, Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>25</sup> “Carroll Address Founding Dinner,” 1, A.F.A. Bulletin: Vol. I, No. 2, September 1953, Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>26</sup> Ibid.

American Freedom Association in response to the upcoming re-charter of the United Nations, scheduled for 1955.<sup>27</sup> Smith, Secretary of State John Foster Dulles, and others believed the original charter was ineffectual because it did not address the use of nuclear weapons.<sup>28</sup> In order to gauge the popularity of re-chartering the United Nations, Congress authorized nationwide hearings on the issue open to the public. Smith and the AFA hoped the committee hearings might come to Greensboro, and Smith wanted North Carolinians informed about the United Nations and international peace. The organization's founders believed the United Nations and international law represented the only viable method of attaining world peace, a goal on the minds of many Americans fearing the pervasive threat of Communist ideology. Adopting the kind of internationalist platform championed by Progressive Party candidate Henry Wallace, Smith and the AFA quietly endorsed not only international peace through the United Nations but the more radical position of nuclear disarmament of the world's major states. The only way to keep the world safe, they reasoned, had less to do with the spread of Communism and more to do with ensuring no nation had the ability to use nuclear weapons.

These goals of the newly-formed American Freedom Association, had the organization publicly announced them, probably would have elicited contempt from many North Carolinians. In fact, a report by the House Un-American Activities Committee in 1951 dubbed the movement for international peace "the most dangerous hoax ever devised by the international Communist conspiracy."<sup>29</sup> With members of the United States House of Representatives convinced that any

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<sup>27</sup> In truth, the re-charter vote in Congress never happened, and the United Nations kept its original 1945 charter.

<sup>28</sup> "Dulles Declares for Revisions in Charter of United Nations," *The Salisbury Evening Post*, August 26, 1953, Folder 862, McNeill Smith Papers. For more on Secretary of State John Foster Dulles and his relationship with the United Nations and nuclear problems, please see Stephen Kinzer's *The Brothers: John Foster Dulles, Allen Dulles, and Their Secret World War* (New York: Henry Holt and Company, 2013).

<sup>29</sup> "Report on the Communist 'Peace' Offensive: A Campaign to Disarm and Defeat the United States," 1, April 1, 1951, Prepared and Released by the Committee on Un-American Activities, U.S. House of Representatives, accessed March 16, 2015,

movement toward nuclear disarmament represented a Communist plot to overthrow the United States, clearly McNeill Smith and the AFA could not divulge their exact intentions. After all, the progressive and leftist opinions of former Vice President Henry Wallace, whose ideas the AFA imitated, caused President Truman to remove him from his position as Secretary of Commerce in Truman's Cabinet.<sup>30</sup> Furthermore, when Wallace visited North Carolina during a stop on his presidential campaign in 1948, North Carolinians attacked his convoy and drove him from the state. Wallace's perceived affiliation with the Communist Party made him extremely unpopular, especially in an area of the country where Communism had become synonymous with the unacceptable concepts of integration and progressive racial politics.<sup>31</sup> Despite North Carolina's image as a moderate and progressive state, by 1953 the "limits of liberalism," as historian Karl Campbell coined, had taken shape.<sup>32</sup>

Thus in 1953, the American Freedom Association's founders faced significant obstacles. Subtly advocating for leftist positions, including nuclear disarmament, McNeill Smith and his group of intellectuals understood that in North Carolina, publicly announcing those positions might result in the same fate as Henry Wallace's failed presidential stop. The question remained: how could a liberal, anticommunist organization function, and even thrive, in such an atmosphere? Historian Sarah Hart Brown offers a solution, arguing that liberals used anticommunist rhetoric to convince other anticommunists of their patriotism, thus presumably

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[http://congressional.proquest.com/congressional/result/pqpresultpage.gispdfhitspanel.pdflink/http%3A%2f%2fprod.cosmos.dc4.bowker-dmz.com%2fapp-bin%2fgis-serialset%2f7%2f3%2f9%2fa%2f11501\\_hrp378\\_0001\\_from\\_1\\_to\\_50.pdf/entitlementkeys=1234%7Capp-gis%7Cserialset%7C11501\\_h.rp.378](http://congressional.proquest.com/congressional/result/pqpresultpage.gispdfhitspanel.pdflink/http%3A%2f%2fprod.cosmos.dc4.bowker-dmz.com%2fapp-bin%2fgis-serialset%2f7%2f3%2f9%2fa%2f11501_hrp378_0001_from_1_to_50.pdf/entitlementkeys=1234%7Capp-gis%7Cserialset%7C11501_h.rp.378)

<sup>30</sup> Devine, *Henry Wallace's 1948 Presidential Campaign...*, 193.

<sup>31</sup> For more on massive resistance and the connection between anticommunism and the continuation of segregation in the South, please see George Lewis's *The White South and the Red Menace: Segregationists, Anticommunism, and Massive Resistance 1945-1965*.

<sup>32</sup> Christensen, *Paradox of Tar Heel Politics*, 133; Campbell, "Tar Heel Politics..." 4, accessed 29 Sept. 2014, <http://iei.ncsu.edu/wp-content/uploads/2013/02/Campbell-Tar-Heel-Politics.pdf>.

escaping the label of Communist sympathizer. She argues these liberals “took refuge” in the popular anticommunism language of the day, earning the agreement of the conservative right.<sup>33</sup> Smith and the AFA certainly used anticommunism rhetoric, espousing the perils of international Communism. However, their language contained more than the virulent and nationally-popular anticommunism. Instead of loudly taking a stance against Communism, the AFA used more subtle, conservative buzzwords unrelated to Soviet ideology itself. Not using anticommunist or conservative speech to passively protect themselves from accusations, as Brown argues, Smith and the AFA actively pursued a liberal agenda under its guise.

In truth, the American Freedom Association adapted to the political climate of North Carolina and the nation. The AFA did not blatantly state its true goals, which constituted nuclear disarmament through the auspices of the United Nations. Instead, using the concept of education to encourage other North Carolinians to vote for a United Nations re-charter, McNeill Smith and the AFA used conservative rhetoric to advance a more liberal agenda of disarmament and international law enforcement. In this sense, Smith and the founders of the organization successfully navigated a treacherous space that had ensnared Henry Wallace. Using the buzzwords of the day, including words like “patriot” and “Americanism,” the American Freedom Association enabled itself not only to hide from accusations of Communist sympathies, but to thrive in the politically charged atmosphere of North Carolina in the 1950s.<sup>34</sup> Eventually, the organization achieved its goal of relocating a committee hearing on the re-charter of the United Nations to Greensboro, North Carolina, a culmination of its efforts to educate Americans about the importance of international law.

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<sup>33</sup>Brown, *Standing Against Dragons*, 11, 12.

<sup>34</sup> For more on the conservative right’s “100 percent Americanism,” please see Sarah Hart Brown’s *Standing Against Dragons*.

## The Re-Charter of the United Nations: The Reason for the AFA

“The United Nations is eight years old and seven and a half years obsolete,” declared a Salisbury newspaper’s headline in August of 1953.<sup>35</sup> Indeed, this sentiment echoed around the country that summer, as fears of Soviet nuclear warfare closed in on the United States. In a speech given earlier that month, Secretary of State John Foster Dulles proclaimed the need for changes to the United Nations Charter, originally drafted in 1945, to reflect the coming nuclear age. One newspaper wrote, “Had the delegates at San Francisco in the spring of 1945 known the A-bomb’s power for mass destruction... provisions dealing with disarmament and the regulation of armaments would have been ‘far more emphatic and realistic.’”<sup>36</sup> Dulles and others argued that while the United Nations had been written with the greatest of intentions, the detonation of the world’s first atomic bomb, used on the Japanese cities of Hiroshima and Nagasaki, just one month after its charter rendered the global organization entirely ineffectual.<sup>37</sup> In addition, the Secretary of State pointed to Russia’s “abuse” of its veto power within the United Nations Security Council, having used a veto fifty-two of the fifty-three times a veto was employed since the United Nations began in 1945.<sup>38</sup>

Dulles and many top American officials exhibited a real and credible fear of the Soviet Union, believing the nation “[could not] afford to repudiate the U.N. at a time when Russia works frantically to sway world opinion her way and isolate the U.S. from its allies.”<sup>39</sup> The

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<sup>35</sup> “Thought for Today,” *The Salisbury Post*, August 30, 1953, Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>36</sup> “Dulles Declares for Revisions in Charter of United Nations,” *The Salisbury Evening Post*, August 26, 1953, Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>37</sup> *Ibid.*

<sup>38</sup> “U.N. Overhaul Plan Reaction Alertly Awaited,” *Salisbury Evening Post*, August 27, 1953; “The U.N.: All We Have,” *Greensboro Daily News*, August 31, 1953; Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>39</sup> “The U.N.: All We Have,” *Greensboro Daily News*, August 31, 1953, Folder 862, McNeill Smith Papers, Southern Historical Collection.

United Nations, many believed, offered the only hope of preventing the Soviet Union from hastening a nuclear war. Acting on this conviction, the United States Senate formed a subcommittee consisting of eight men to tour the country and discern public opinion for a possible re-charter of the United Nations.<sup>40</sup> The earliest possible date for a Congressional vote to revise the United Nations Charter was set for 1955. In preparation for this subcommittee's testimonial hearings, the founders of the American Freedom Association saw their opportunity to educate the country about the need for international law.

### **Education for Disarmament: The Formation and Goals of the American Freedom Association**

McNeill Smith and a prestigious assortment of community leaders, attorneys, professors, businessmen, and intellectuals from the piedmont of North Carolina founded the American Freedom Association in June of 1953. Indeed, the list of founders "read like a who's who of some of the leaders of this area," wrote one observer.<sup>41</sup> From the beginning, it stated its theoretical purposes very clearly. An early internal memo suggested that given the "great need for factual, reliable, and pertinent information on the relation of world law to peace," the American Freedom Association served to make this "greatly needed information available to the public" with the help of various civic and religious organizations.<sup>42</sup> Indeed, Smith and the founders were adamant that their organization, touted as "the only organization of its kind in the

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<sup>40</sup> "A Resolution Requesting the United States Senate to Hold Public Hearings in North Carolina in Connection with the Senate's Study of United Nations Charter Revision," Folder 863, McNeill Smith Papers, Southern Historical Collection.

<sup>41</sup> "Press Release for Sunday 6 Sept.: American Freedom Association Founded, Winston-Salem Editor to Speak at Dinner Celebrating Founding of New Organization," Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>42</sup> "AFA and Community Organizations," Memorandum, 1, Folder 862, McNeill Smith Papers, Southern Historical Collection.



Nation,” would educate the American public about the need for international peace.<sup>43</sup> To educate the American public on matters of “religion, peace, and freedom,” the organization performed two major functions: the establishment of a high school speaking contest and conducting an annual convention on international affairs, held in the Blue Ridge Mountains of North Carolina each summer.<sup>44</sup>

However, the organization placed a strong emphasis on education for a much more narrowly tailored purpose than its theoretical mission to inform Americans about the need for international law. Specifically, the founders conceived of the organization as preparing American citizens for the upcoming hearings on the re-charter of the United Nations. As one internal memo explained,

Today, plans and programs for and against world law [are] being considered by our Congressmen and government leaders... The establishment of any form of meaningful world law will require the support of the American people. Without wide-spread public understanding of the problems and the possibilities involved, the American people will not be able to honestly approve or disapprove a particular plan for world law to prevent aggression and war.<sup>45</sup>

The “plans and programs for and against world law” included the re-charter to the United Nations, and the American Freedom Association was very concerned about ensuring the UN’s success. The organization specifically emphasized its focus on the re-charter as early as its first newspaper press release.<sup>46</sup> Like Secretary of State Dulles, McNeill Smith and the founders of the American Freedom Association also believed the United States could not afford to turn away from the United Nations. The reason for the AFA’s almost-desperate confidence in the United

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<sup>43</sup> Oscar K. Merritt to McNeill Smith, September 4, 1953, Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>44</sup> “Confidential: Partial List of Activities in the American Freedom Association, Inc., During the Past Three Months: Fall 1953,” Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>45</sup> “AFA and Community Organizations,” 1, Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>46</sup> “New Freedom Association to Meet,” Sept. 6, 1953, Folder 862, McNeill Smith Papers, Southern Historical Collection.

Nations and international law illuminated an inescapable anxiety of the Cold War. Four years before the formation of the AFA, the Soviet Union developed its own nuclear weapons, giving the “Cold” War the potential to become smoking hot. Though the American Freedom Association officially formed in response to the possible re-charter of the United Nations, both the AFA and the UN existed to mitigate the world’s most pressing concern—nuclear warfare—and saw international law as the tool to achieve peace. In fact, the United Nations considered re-chartering its declaration for this very purpose. As Smith, Secretary of State Dulles, and others believed argued, the original United Nations charter became obsolete just one month after its conception, when the United States used nuclear weapons against Japan.

At its core, the American Freedom Association believed that worldwide disarmament constituted the only method to ensure world peace without nuclear threats. The organization strongly emphasized education about international law because it believed that international law, in the form of the United Nations and its re-charter, provided a channel for nuclear disarmament. As Dean of the UNC Law School and member of the AFA advisory board Henry Brandis suggested,

World wide security can be achieved only by eliminating the power of every nation, including our own, to wage atomic war or large-scale war of any type. This cannot be done by conventional treaty. No sane American would stake the entire future of our country on the good faith of a Communist promise. This can only be done by a plan for enforceable disarmament, backed by World Law.<sup>47</sup>

As Brandis argued, the only way to alleviate the threat of nuclear warfare lay with a purposeful disarmament of *every* nation, including the United States, and world law in the form of the United Nations provided a vehicle for disarmament. Brandis borrowed his argument directly

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<sup>47</sup> “Statement of Henry Brandis, Jr., Before the Subcommittee of the Senate Committee on Foreign Relations on the United Nations Charter, May 15, 1954 at Greensboro, N.C.,” Folder 863, McNeill Smith Papers, Southern Historical Collection.

from the inventor of nuclear energy, Robert Oppenheimer. In 1945, Oppenheimer met with President Truman to discuss the need for international restrictions on nuclear energy. Unlike Truman, who insisted that the Soviet Union would never acquire the atomic bomb, Oppenheimer understood that Russia one day would inevitably develop nuclear weapons for itself. The only way to prevent worldwide destruction, in Oppenheimer's view, included international law controlling nuclear usage. President Truman received Oppenheimer's opinions unkindly, accusing Oppenheimer of behaving like a "cry-baby scientist."<sup>48</sup> Nevertheless, the following year the United Nations created its Atomic Energy Commission with the support of President Truman. As part of the negotiations within the AEC, Oppenheimer proposed that atomic knowledge should be internationalized, theorizing that every country should relinquish some of its sovereignty in this area. In an argument nearly identical to the one used by the AFA seven years later, Oppenheimer believed that "without world government there could be no permanent peace, that without peace there would be atomic warfare."<sup>49</sup> Oppenheimer's view reflected a brewing international concern over the spread of nuclear weapons since the United States first used atomic weapons in World War II. When the United States developed the hydrogen bomb in 1954, the argument to end nuclear weapons production reached a new high, and by the late 1950s, groups like the American Freedom Association met all over the world to "ban the Bomb" and push for nuclear disarmament.<sup>50</sup>

In the United States, some politicians adopted the international nuclear disarmament crusade. Former Vice President Henry Wallace, leader of The Progressive Party of the United States, constituted one such politician. Politically left of liberal, the Progressive Party was often

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<sup>48</sup> Kai Bird and Martin J. Sherwin, *American Prometheus: The Triumph and Tragedy of J. Robert Oppenheimer* (New York: Alfred A. Knopf, 2005), 331-332.

<sup>49</sup> Bird and Sherwin, *American Prometheus*, 341-342.

<sup>50</sup> Lawrence S. Wittner, *Resisting the Bomb: A History of the World Nuclear Disarmament Movement, 1954-1970* (Stanford: Stanford University Press, 1997), 41, 4.

associated with extreme leftism or even Communism.<sup>51</sup> It proved especially unpopular in North Carolina, when in 1948 the state president of the party, Mary Watkins Price, was accused of acting as a Soviet spy. Price accompanied presidentially nominee Wallace on his campaign stop in Durham, North Carolina, where the crowd jeered so loudly that they drowned out Wallace's speech. After angry protestors stabbed one of Wallace's bodyguards and hurled food at Wallace himself, he left North Carolina in disgrace, going on to solidify only three percent of the national vote in the 1948 election.<sup>52</sup>

Thus, the American Freedom Association borrowing both Oppenheimer's and Wallace's view of nuclear disarmament symbolized a risky political move, especially in North Carolina. However, believing that this method constituted the only path to international peace, the AFA continued to push for disarmament. Though the AFA nominally existed to "educate" Americans, the education had a specific and goal-driven purpose. Drawing on a history of leftism, the AFA sought to convince Americans, and North Carolinians specifically, to vote in favor of nuclear disarmament should they receive the chance to participate in the United Nations hearings on its re-charter.

### **How the AFA Operated**

Given that the American Freedom Association formed in response to the re-charter of the United Nations and sought to educate Americans about the virtues of international law, it still faced the possibility of virulent rejection as a liberal organization in a conservative state. As historian Sarah Hart Brown points out, liberal organizations founded by liberal attorneys tended

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<sup>51</sup> L.G. Churchward, "The Progressive Party—1948," *The Australian Quarterly* 21, No. 1 (1949): 43, 39, accessed March 12, 2015, <http://www.jstor.org.libproxy.lib.unc.edu/stable/pdf/20633127.pdf?acceptTC=true>.

<sup>52</sup> Christensen, *The Paradox of Tar Heel Politics...*, 130-132; Churchward, "The Progressive Party—1948," 37, 45.

to be met with scorn and isolation from the legal community.<sup>53</sup> Furthermore, the AFA's main goal—nuclear disarmament through international law and the United Nations—was decidedly left of mainstream liberal thought, and members of the AFA could not help but remember the reception of Henry Wallace and the Progressive Party in North Carolina just five years earlier. To solve this problem, the AFA operated under a unique method: appropriating conservative buzzwords for their liberal cause. Using such language, even in their internal memos, as “patriotic” and “veteran,” the AFA appealed to a sense of Americanism that was continually debated and doubted during the Cold War years.<sup>54</sup> As their 2015 website suggests, even the name American *Freedom* Association pays homage to the prevailing rhetoric of the time period, “reflect[ing] a need for a name that was acceptable at the height of the era of Senator Joe McCarthy.”<sup>55</sup> Local leaders of AFA groups were called to be “enthusiastic, loyal American[s] who [are] seriously interested in international affairs and Americanism.”<sup>56</sup> In another pamphlet, an AFA member employed religion, “Communism is immensely evil. It scoffs at God and His purposes, denies the worth and dignity of men and women, and ruthlessly destroys their liberties and lives.”<sup>57</sup> Words such as “loyal,” “patriotic,” “veteran,” “Americanism,” “liberties,” and the use of religion all represented familiar landmarks in the roadmap of American rhetoric in the height of the Cold War era.

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<sup>53</sup>Brown, *Standing Against Dragons*, 20.

<sup>54</sup> For more information on American nationalism and Americanism during the Cold War years, please refer to John Fousek's *To Lead the Free World: American Nationalism and the Cultural Roots of the Cold War* (Chapel Hill: University of North Carolina Press, 2000); Yehoshua Arieli's *Individualism and Nationalism in American Ideology* (Baltimore: Penguin Books, 1966); or Hamilton Cravens's “Column Right, March! Nationalism, Scientific Positive, and the Conservative Turn of the American Social Sciences in the Cold War Era” in *Cold War Social Science: Knowledge Production, Liberal Democracy, and Human Nature*, ed. Mark Solovey and Hamilton Cravens (New York: Palgrave Macmillan, 2012), 117-135.

<sup>55</sup> *American Freedom Association*, Accessed 10 Oct. 2014, <http://americanfreedomassociation.org/moreinfo.html>.

<sup>56</sup> “AFA and Community Organizations, Memorandum, Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>57</sup> “The Purpose and Program of the American Freedom Association, Inc.,” Pamphlet, Folder 863, McNeill Smith Papers, Southern Historical Collection.

Thus, the AFA did not raise any flags with its appeals for public participation. It sought to “prevent war and preserve our American way of life.”<sup>58</sup> The American way of life, by definition during the Cold War, meant diametric opposition to anything Communist-related. Communism represented such an intolerable evil precisely because it was the opposite of what it meant to be an American and antithetical to American values and freedoms. Even the name of the committee designed to investigate subversive Communists, the House Un-American Activities Committee, reflected the deep and abiding fear of Americans to associate themselves with anything deemed “un-American.”<sup>59</sup> Responding to this environment, Smith and the AFA used conservative language meant to soothe North Carolinians with its familiarity, capitalizing on the Southern conservative’s virtues of “100 percent Americanism.”<sup>60</sup> In this sense, the AFA cleverly avoided denunciation from staunchly anticommunist conservatives while advocating their leftist, disarmament objectives.

In addition to re-appropriating conservative rhetoric, McNeill Smith devised another very shrewd method in order to operate undetected by conservative forces. Specifically, he used the idea of localism and state pride to bring the United Nations re-charter to Greensboro. The idea of using North Carolinians to solve North Carolina’s own problems is a resounding theme throughout Smith’s life. He used this pride in state identity, often engaged by the conservative right to keep progressives out of conservative affairs, to further his own liberal agenda. Smith exemplified this conservative tactic best when he began writing letters to advocate for the relocation of the UN re-charter hearings to his hometown, Greensboro, North Carolina in January of 1954. He grew absolutely determined the subcommittee of the Senate Foreign

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<sup>58</sup> “Suggested Techniques in Making Interviews,” memo, Folder 862, McNeill Smith Papers, Southern Historical Collection.

<sup>59</sup> For more on HUAC, please see Stephen J. Whitfield’s *Culture of the Cold War* (Baltimore: Johns Hopkins University Press, 1996).

<sup>60</sup> Brown, *Standing against Dragons*, 10.

Relations Committee should stop in piedmont North Carolina for a visit. After all, the formation of his American Freedom Association reflected Smith's wishes that North Carolinians be informed about the need for the United Nations and vote in favor of its re-chartering should they get the chance. In an early letter to then-Senator Clyde R. Hoey, Smith wrote,

Don't you agree that North Carolina is the best located state in the southeast for one of such hearings to be held, in this general area? I believe that we have a number of leaders in all walks of life in the state who could give the Senate Committee valuable testimony, not only on specific suggestions for Charter revision, but perhaps more important, on the general understanding of our people.<sup>61</sup>

This letter suggests Smith's insistence that North Carolina be brought into the realm of world affairs and placed on a map of international peace advocacy. His reasons for introducing North Carolina to the Senate subcommittee, nominally for the "general understanding of our people," represented dual motivations. Smith understood that his localist argument might appease conservatives concerned with inviting a federal agency into North Carolina and allow the AFA to fly undetected on the radars of many North Carolina conservatives. Additionally, on a more personal level Smith knew that should the hearings move to Greensboro, many of his like-minded acquaintances would defend the re-charter of the United Nations.

After writing numerous politicians in the early months of 1954, Smith's efforts proved successful. In April, Senator Hoey responded to his requests, "Senator Wiley [leader of the hearings subcommittee] is very much interested in your request and is anxious to comply if he can possibly arrange to do so... He has been much impressed with the interest shown by you and the other citizens of Greensboro."<sup>62</sup> Just one month later, on May 15, 1954, Smith and the founders of the American Freedom Association were delighted when Senator Wiley and his

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<sup>61</sup> McNeill Smith to Senator Clyde R. Hoey, January 20, 1954, Folder 863, McNeill Smith Papers, Southern Historical Collection.

<sup>62</sup> Senator Clyde Hoey to McNeill Smith, April 13, 1954, Folder 863, McNeill Smith Papers, Southern Historical Collection.

subcommittee of eight men arrived in Greensboro for a hearing. Several leaders in the community, including Smith himself, spoke in favor of revising the United Nations Charter. Perhaps the most influential speaker proved to be Henry Brandis, Jr., one of the AFA's most ardent supporters of nuclear disarmament. In a spirited speech, Brandis relayed his fears of the coming hydrogen age and stressed the need for international law, a sentiment unfailingly maintained by the AFA. In an especially revealing passage, Brandis connected all of the global unrest since World War I with the lack of international law, claiming that the "failure to establish worldwide security through enforceable world law has cost us the right to control our own affairs... This is the price of international anarchy; and the price is constantly rising."<sup>63</sup> Like the other liberal members of the AFA, he reiterated that all nations should relinquish their nuclear arms in an effort to protect the world from atomic warfare. The subcommittee hearing ended with the presumption that Congress would soon vote on a re-charter for the United Nations, having heard the favorability of this outcome from North Carolinians and other Americans.

## **Conclusion**

In truth, the conference to revise the United Nations Charter never occurred. Some within the United States, including once-supporter Secretary of State John Dulles, grew concerned that changes to veto power could erode its own influence in the Security Council. Dulles gradually withdrew his support of the re-charter, and it was put off by the other member countries until its relevancy ceased to exist.<sup>64</sup> This fact must have disappointed Smith and the AFA, given their efforts to maintain international law through the United Nations. Though Congress never approved a reworking of the United Nations charter, McNeill Smith and his American Freedom

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<sup>63</sup> "Statement of Henry Brandis, Jr. . . ." Folder 863, 4, McNeill Smith Papers, Southern Historical Collection.

<sup>64</sup> Shirley Scott, "The Failure of the UN to Hold a Charter Review Conference in the 1950s: The Future in the Past?," *Australian and New Zealand Law and History Society E-Journal* (2005): 75-76, 78, Accessed 10 Oct. 2014, [http://www.anzlhsejournal.auckland.ac.nz/pdfs\\_2005/Scott.pdf](http://www.anzlhsejournal.auckland.ac.nz/pdfs_2005/Scott.pdf).



Association represent an important part of the liberal history of North Carolina. The organization was founded during a time when outright liberal or leftist political ideas were associated with Communism and therefore renounced or even persecuted. The fact that Smith not only established the organization but enabled its success through the clever manipulation of conservative, patriotic rhetoric provides insight as to how white Southern liberals navigated the conservative anticommunist framework. The story of the American Freedom Association and its success in locating a hearing on the re-charter of the United Nations in Greensboro helps deeply root North Carolina in a liberal, progressive tradition that has been repeatedly questioned by historians.<sup>65</sup>

Looking back on the goals and stated purposes of the AFA, a clear pattern emerges. The members of the organization masterfully employed the prevailing rhetoric of the day, seizing on such language as “Americanism,” “freedom,” “loyalty,” and “patriotism.” By working within this framework, the organization enabled itself to push through a liberal agenda—the re-charter of the United Nations and nuclear disarmament—nearly undetected. North Carolinians felt comfortable with an organization that promoted the “American way of life,” an antithesis to the Soviet Union’s “evil” Communism. In addition, McNeill Smith’s insistence that North Carolina should host a UN hearing represented an intentional maneuver to both appease conservatives while maintaining a liberal agenda. Without knowing the true goals of the American Freedom Association, one might easily examine its language and methods and conclude it represented yet another conservative anticommunist organization. Or, as historian Sarah Hart Brown asserts, one might recognize the liberal political identity of its members and surmise the AFA only used conservative rhetoric to remain undetected by Communist witch-hunters. However, the

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<sup>65</sup> For more information about the mixed legacy of North Carolina’s progressivism, see Rob Christensen’s *The Paradox of Tar Heel Politics: The Personalities, Elections, and Events that Shaped Modern North Carolina*.

American Freedom Association creatively used the conservative buzzwords of the day not to protect itself, but to push the organization toward its liberal goals. The AFA placed North Carolina on a national map of liberal progressivism at a time when Southern liberalism retreated and sectionalism once again ran rampant.<sup>66</sup> The small path the AFA carved for progressive thinking during the height of the Cold War only widened in the coming years of the civil rights movement.

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<sup>66</sup> Christensen, *The Paradox of Tar Heel Politics...*, 154.

## The Untold Story: Junius Scales and the Search for Clemency

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*“I think freedom to speak and freedom to think and freedom to read is the very essence of what America has contributed to the world. And if we get so uptight that we begin to shut the mouths and shut the minds of our young people and anybody in our society, then we’re going to head for some terrible mistakes.”<sup>67</sup>*

—McNeill Smith

McNeill Smith and Telford Taylor erupted from their seats at the defense attorney’s table while Ralph Clontz continued to read from the witness stand. The courtroom sat stunned into silence. The scene devolved into chaos as Smith shouted for the judge to grant a motion of mistrial. Judge Bryan denied the request as Clontz’s voice continued. In that 1958 Greensboro courtroom, attorneys McNeill Smith and Telford Taylor knew their case was lost. Judge Bryan had allowed Clontz, a paid informant for the Federal Bureau of Investigation, to enter into evidence an inflammatory Communist book condemning American involvement in the Korean War.<sup>68</sup> Junius Scales, the defendant and Smith’s client, had no connection with the particularly disturbing Communist literature. However, the book represented the perceived monolithic violence of the Communist threat, and Junius Scales was undoubtedly a former Communist. Against the Smith Act, which prohibited mere membership in an organization advocating the violent overthrow of the United States Government, Scales had little defense. As his attorney McNeill Smith wistfully remembered, once the prosecution proved the violent nature of the Communist Party, “it was easy to say that Scales as an officer was obviously guilty of being a

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<sup>67</sup> McNeill Smith, Video Interview prepared by Richard Moore and Paul Lessard, “Liberty and Justice for All – The Junius Scales Case,” Fall 1985, Videotape 4990/2, Southern Folklife Collection, Louis Round Wilson Library, University of North Carolina at Chapel Hill, Chapel Hill, North Carolina.

<sup>68</sup> “Brief and Appendix for Appellant: United States Court of Appeals for the Fourth Circuit,” Folder 604, McNeill Smith Papers, Southern Historical Collection.

knowing member.”<sup>69</sup> After Smith’s failed motion for a mistrial, the jury took only a little over two hours to convict Scales, and he left the courtroom an imprisoned man.<sup>70</sup>

The story of Junius Irving Scales is both well-known and oft cited as a low point for American civil liberties during the Second Red Scare. Junius Scales, the son of a wealthy Chapel Hill businessman, joined the Communist Party in 1946 to combat the racial and classist prejudices he saw often in his hometown of Greensboro, North Carolina.<sup>71</sup> In 1954, authorities arrested him in Tennessee and brought him to stand trial twice in North Carolina for involvement with the Communist Party of the United States of America. After his 1955 trial and 1958 retrial, Scales was convicted and imprisoned for violation of the Membership Clause of the Smith Act, which prohibited membership in an organization that advocated the violent overthrow of the United States Government.<sup>72</sup> Passed during peacetime in the summer of 1940, the Smith Act represented a culmination of efforts by J. Edgar Hoover and the Federal Bureau of Investigation to illegalize not only violent actions, but also membership in a violent organization.<sup>73</sup> Dozens of members of the Communist Party found themselves prosecuted under the Smith Act from its passage in 1940 until its decline in the late 1950s, including the famous 1948 indictment of twelve national party leaders.<sup>74</sup> During both trials, Scales’s supporters, including his North Carolina attorney McNeill Smith, questioned the legality of the Smith Act, as it allowed the

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<sup>69</sup> Autobiographical Memo, “I defended Junius Irving Scales...,” Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>70</sup> McNeill Smith, interview by Mebane, 149.

<sup>71</sup> “Scales Describes Early Awakening, Lasting Dedication,” Oct. 13, 1976, Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>72</sup> Gregory S. Taylor, *The History of the North Carolina Communist Party* (Columbia: University of South Carolina Press, 2009), 199.

<sup>73</sup> Ellen Schrecker, *Many are the Crimes: McCarthyism in America* (Boston: Little, Brown and Company, 1998), 97-98.

<sup>74</sup> Schrecker, *Many are the Crimes*, 104-105, 295; Taylor, *The History of the North Carolina Communist Party*, 168.

prosecution to indict Scales not for violent actions, but merely for his ideas.<sup>75</sup> Nevertheless, Scales served fifteen months in prison before President Kennedy commuted his sentence in late 1962.

Many historians have since questioned the fairness of the Smith Act, the influence of Cold War fears on the violation of Scales's rights, and the effects of his prison term for membership in an organization that, at the time, proved unsavory but not illegal. In addition, many have noted how Scales's case represented the ability of prejudices and fear to cloud the justice of the legal system.<sup>76</sup> Historian Gregory Taylor even traces the decline of the Communist Party in North Carolina to Scales's 1954 arrest.<sup>77</sup> However, historians have devoted little time or attention to Scales's North Carolina attorney, McNeill Smith. Smith agreed to defend Scales in his 1958 retrial at a time that proved inhospitable to Communists and their attorneys. Tensions between the Soviet Union and the United States continued to escalate, especially with the launch of Russian satellite *Sputnik* on October 4, 1957, just months before Scales's retrial in February. The tense arms race between the nations continued, and future Communist Fidel Castro took control of the small island nation of Cuba in January of 1958.<sup>78</sup>

Not surprisingly, in North Carolina Smith's defense of Scales proved an unpopular decision. Both Scales and Smith received threatening letters for association with the Communist Party. In addition, Scales found it nearly impossible to find reliable legal counsel, as no North Carolina attorney agreed to represent him in his 1955 trial. In the 1958 retrial, two Greensboro

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<sup>75</sup> Autobiographical memo, "I defended Junius Irving Scales..." Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>76</sup> See Jonathan Gentry's PhD Dissertation, "Seeing Red..." 172.

<sup>77</sup> Taylor, *The History of the North Carolina Communist Party*, 199.

<sup>78</sup> For more on the intense fear that surrounded nuclear warfare, please see Peter J. Kuznick and James Gilbert's "U.S. Culture and the Cold War," in *Rethinking Cold War Culture*, ed. by Peter J. Kuznick and James Gilbert (Washington, D.C.: Smithsonian Books, 2001), 1-13.

attorneys refused to provide counsel for Scales before Smith learned of the case and agreed to defend him.<sup>79</sup> Clearly, given the threatening letters and unwillingness of other attorneys, even a perceived association with Communism meant societal isolation in 1950s North Carolina. Despite this, McNeill Smith took Scales's case regardless of the social consequences. Not only did Smith, accompanied by Nuremburg War Trial prosecutor Telford Taylor, defend Junius Scales in 1958, but he also helped move the case out of the lower courts and into the United States Supreme Court later that year. Most importantly, Smith proved instrumental in securing Scales's clemency in 1962, writing persuasive letters to citizens from all over the United States and urging them to support Scales's release from prison.

With the harsh political climate surrounding anyone with an affiliation with Communism, how was Junius Scales released from prison with the support of much of North Carolina in 1962 when he could barely find legal representation just four years earlier? The answer begins with McNeill Smith, who represented an unusual aberration of Cold War liberalism, and his work to convince a latent, liberal base of North Carolinian followers. Smith's advocacy was uncommon because, as historian Ellen Schrecker argues, on the whole Cold War liberals refused to take a stance against anticommunism, afraid they might be implicated in the witch-hunts themselves. As a result, liberals suffered from a loss of political power during the Cold War, as the Left withdrew and politics took a more conservative turn.<sup>80</sup> Other historians have agreed with Schrecker, arguing that the 1950s represented "lost opportunities" for the liberals of North Carolina.<sup>81</sup> To the contrary, McNeill Smith represented a Cold War liberal unafraid to associate with Communism, at least in the form of defending an innocent client. Moreover, Smith's work

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<sup>79</sup> Autobiographical Memo, "I defended Junius Irving Scales...", Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>80</sup> Schrecker, *Many are the Crimes*, 411-412.

<sup>81</sup> Jonathan Gentry, "Seeing Red...", 224.

demonstrated a *growing* liberal movement in North Carolina at the dawn of the turbulent 1960s. Smith's advocacy, and especially his unceasing letter-writing and efforts to secure Scales's freedom, demonstrated not a loss of liberal political power, but an organized, latent liberal base of North Carolinians intent on reviving the traditional notions of liberalism. In truth, Smith's defense of Scales and his faithful supporters demonstrated the strong hold liberalism had on some in North Carolina.

### **Junius Scales: The Idealist**<sup>82</sup>

Junius Irving Scales was born in 1920 to an affluent Greensboro family. His father, Alfred Moore Scales, became a prominent Greensboro attorney, and young Junius, in his own words, lived in "the lap of luxury" in a thirty-six room estate during his childhood. When he was sixteen, Scales moved to Chapel Hill, North Carolina, where he radicalized his political views through copious amounts of reading in an influential bookstore named Abernethy's Intimate Bookshop.<sup>83</sup> Later, Scales attended college at the University of North Carolina at Chapel Hill, where he met like-minded idealists like himself.<sup>84</sup>

Scales joined the Communist Party in 1946 as a lofty idealist with a deep mistrust of the inequalities he witnessed during his early days in Greensboro.<sup>85</sup> He stated his reasons for joining in a 1988 newspaper article, asserting that Communists were "the only ones who believed in complete, total economic, social and political equality for blacks. Nobody else did, no organization did. They seemed to be putting their money where their mouth was – so I

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<sup>82</sup> McNeill Smith, Video Interview, "Liberty and Justice for All..." Southern Folklife Collection.

<sup>83</sup> Mickey Friedman, *A Red Family: Junius, Gladys & Barbara Scales* (Urbana: University of Illinois Press, 2009), 1, 16.

<sup>84</sup> See Glenda Gilmore's *Defying Dixie: the Radical Roots of Civil Rights 1919-1950* (New York: W.W. Norton & Company, 2008).

<sup>85</sup> Friedman, *A Red Family*, 5.

joined...All that time, liberals were pussyfooters. Most of them even favored segregation.”<sup>86</sup> Scales found a home among Communists that he could not find in more moderate white liberal groups, once describing his North Carolina comrades as “selfless idealists.”<sup>87</sup> Soon after joining, Scales became a regional Chairman of the Communist Party in North and South Carolina.<sup>88</sup> In the early 1950s, students at the University of North Carolina often witnessed Scales handing out pamphlets on campus to those both interested and disgusted by his cause, and he sometimes chose to proselytize from a very central location on campus, Gerrard Hall.<sup>89</sup> Scales’s beliefs, and the advocacy of his beliefs in North Carolina, are important in understanding the dramatic way in which his trials unfolded. McNeill Smith and Scales’s supporters always contended the man was tried for his beliefs, not actions, in the Communist Party. While perhaps unappealing to many North Carolinians in the 1950s, McNeill Smith argued that Scales still deserved protection under the law. Smith later stated that the Scales’s ordeal was a “trial of what a man might believe and not what he did.”<sup>90</sup>

Scales’s involvement with the Communist Party came to a head in 1954, when authorities called for his arrest. J. Edgar Hoover, director of the Federal Bureau of Investigation, claimed Scales had directed a “Red conspiracy from underground” in three Southern states, including Tennessee, South Carolina, and North Carolina.<sup>91</sup> According to McNeill Smith, however, the United States Justice Department and the Federal Bureau of Investigation had been searching in the 1950s for someone to prosecute under the Membership Clause of the Smith Act. The

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<sup>86</sup> Tom Moore, “Insight,” *The Chapel Hill Newspaper*, April 17, 1988, Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>87</sup> McNeill Smith Memorandum, March 9, 1962, Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>88</sup> Autobiographical Memo, “I defended Junius Scales...,” Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>89</sup> McNeill Smith, Interview by Mebane, 150.

<sup>90</sup> McNeill Smith, Video Interview, “Liberty and Justice for All...,” Southern Folklife Collection.

<sup>91</sup> “Scales Cited for Activities as Communist,” Nov. 18, (1954?), Folder 602, McNeill Smith Papers, Southern Historical Collection.



Department hoped to make the act a legitimate method of preventing Communism from taking root in the United States, and according to Smith, the Justice Department chose Scales as a scapegoat.<sup>92</sup> Furthermore, as a vocal Southern Communist, Junius Scales made himself an easy target for Southern officials offended by much of the Communist literature advocating the organization of “Negroes” for the cause.<sup>93</sup> Orders for Scales’s arrest resulted in a “nationwide manhunt” and sensationalism in the media. Officers from the Federal Bureau of Investigation surveilled Scales’s mother’s home in Greensboro, North Carolina around the clock for signs of the “dangerous” Communist. Eventually, Scales turned himself in to police in Memphis, Tennessee and was quickly arrested for violation of the Membership Clause.<sup>94</sup>

After his arrest in Memphis, Junius Irving Scales was brought to stand trial in Greensboro, North Carolina, his childhood home and the place where he first learned of the inequalities that led him toward the Communist Party ten years earlier. As the date for his trial approached, Scales grew concerned he might not find legal counsel. Attorney after attorney denied his request for representation. In fact, no North Carolina lawyer stepped forward to defend him.<sup>95</sup> Only after last-minute pleas by Scales’s wife Gladys did Scales secure an attorney, Nashville-based Fyke Farmer, the attorney who represented Julius and Ethel Rosenberg in their famous espionage trials.<sup>96</sup> The first trial lasted only two weeks. After all if an *organization*, and not an individual, widely considered to advocate violence stands trial, and a defendant readily

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<sup>92</sup> Autobiographical Memo, “I defended Junius Irving Scales...,” Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>93</sup> McNeill Smith, Video Interview, “Liberty and Justice for All...,” Southern Folklife Collection.

<sup>94</sup> Ibid.

<sup>95</sup> Autobiographical Memo, “I defended Junius Irving Scales...,” Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>96</sup> “Junius Scales to Face Trial in North Carolina,” unnamed and undated newspaper, Folder 602, McNeill Smith Papers, Southern Historical Collection.

admits his membership in such an organization, it is a small leap to convict him of violence himself.<sup>97</sup> The jury handily found Scales guilty.

Believing the trial unfair, Scales's attorneys quickly appealed the case to the Fourth Circuit Court of Appeals, which confirmed the Greensboro Court's ruling. In turn, Scales appealed again, this time to the United States Supreme Court, which agreed to hear oral arguments. However, before the Court could hear the case, it handed down two other decisions involving the amount of FBI information available to a defendant and the First Amendment right to free speech.<sup>98</sup> The case of *Jencks v. United States* proved especially relevant to Scales's case, as it required transparency of FBI reports gathered against a defendant. As the FBI appeared reluctant, at least to Smith, to publicize the extent of its investigations on Scales, the decision nearly rendered Scales's case moot.<sup>99</sup> However, the prosecution, led by Robert Gavin, decided to continue the case against Scales, and his retrial was set for February 1958.

### **“A Dangerous Time:” North Carolina Political Climate**

Sometime in late 1957, after Scales had already left the Communist Party having become disillusioned with Joseph Stalin, McNeill Smith fortuitously entered the life of Junius Scales.<sup>100</sup> For his second trial, Scales had already secured the representation of Telford Taylor, a brilliant lawyer responsible for trying Nazi officers during the Nuremburg Trials.<sup>101</sup> However, Taylor, a New York attorney, had never tried a jury case before and suggested Scales should also seek

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<sup>97</sup> McNeill Smith, Video Interview, “Liberty and Justice for All...” Southern Folklife Collection.

<sup>98</sup> “Brief and Appendix for Appellant...” Folder 604, McNeill Smith Papers, Southern Historical Collection.

<sup>99</sup> Autobiographical Memo, “I defended Junius Irving Scales...” Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>100</sup> “Draft of the Petition for Executive Clemency,” May 15, 1962, Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>101</sup> McNeill Smith, Interview by Mebane, 145.

counsel from a local lawyer.<sup>102</sup> Then-superior court judge Richardson Preyer called Smith to ask if he might take the case, revealing that several other attorneys had already turned it down.<sup>103</sup> Smith remembered that before he took the case, he “talked to Scales’s mother and [he] talked to Scales—I wouldn’t have represented him without talking to him—and I agreed to do it. And I’ll say this: My law firm was very generous. I’m not sure that everybody relished the prospect, but I think they felt it was a duty that somebody should represent him.”<sup>104</sup> The hesitancy of Smith’s colleagues exemplified historian Ellen Schrecker’s typical Cold War liberal, unwilling to associate in any way with Communism.<sup>105</sup> Telford Taylor, Smith’s co-defense attorney, recalled that even the local prosecutors and their clerks acted suspicious of Smith. Taylor remembered that the atmosphere surrounding the trial consisted of “local press reports and their editors [who] were generally hostile.”<sup>106</sup> Thus, not only was representation of Scales displeasing to several unknown Greensboro attorneys, but also to Smith’s own colleagues, his friends, and neighbors.

The reluctance of North Carolina’s attorneys to defend Junius Scales, including McNeill Smith’s own law partners, revealed an important aspect about the political climate of North Carolina in the late 1950s. Smith defended Junius Scales during a time when North Carolina politics, like politics around the nation, rejected any hint of Communist association.<sup>107</sup> This hostile climate bore significant weight on the fairness of Scales’s trial. Smith remembered that Junius Scales’s trial was “not an antique story. It involves the people of North Carolina and the kind of hysteria we got into where we were willing to burn people for being witches because we

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<sup>102</sup> Smith to Coates, Sept. 21, 1973, Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>103</sup> Smith, Interview by Mebane, 145.

<sup>104</sup> *Ibid.*, 146.

<sup>105</sup> Schrecker, *Many are the Crimes*, 411.

<sup>106</sup> Telford Taylor, introduction to *Cause at Heart: A Former Communist Remembers* by Junius Irving Scales and Richard Nickson (Athens: University of Georgia Press, 1987), xxxv.

<sup>107</sup> For more on the relationship between the Democratic Party, liberalism, and anticommunism, please see Philip Jenkins’s case study *The Cold War at Home: The Red Scare in Pennsylvania, 1945-1960* (Chapel Hill: University of North Carolina at Chapel Hill, 1999), 5-7.

thought we could tell what they were believing.”<sup>108</sup> Smith perfectly captured the sentiment of North Carolina in the late 1950s, still dominated by fear of a uniform Communist threat. Smith remembered that “everybody could say that someone else was a Communist and got a good audience. [It was] a dangerous time [to be associated with Communism].”<sup>109</sup> For example, many students on the campus of the University of North Carolina found Scales’s proselytizing from Gerrard Hall revolting. One wrote, “Why don’t you get the hell out of this country and go to Russia where you will be satisfied. You are rotten and we don’t need your kind in this country. Your mind is warped with your stinking ideas.”<sup>110</sup> Junius Scales received hate mail regularly for his peaceful actions on the campus of UNC due to his Communist affiliation. However, he knew the risks and accepted the consequences, as he very publicly and deliberately announced his political beliefs.

Perhaps more frightening was the response of some North Carolinians to Scales’s attorney, McNeill Smith. Long before Smith accepted the case, letters to Junius Scales forebode the menacing environment Smith would encounter. In one especially alarming letter, UNC head football coach Carl Snavelly wrote to Scales that eleven Communists currently serving time in jail “*and their attorneys* should be taken out of jail immediately – and hanged.”<sup>111</sup> While Snavelly’s views certainly did not represent all of North Carolina, his words do reflect the kind of fear and hate-filled environment that defending a Communist might hold for McNeill Smith. Indeed, Smith later received hate mail from angry North Carolinians until the 1960s. These commonly-held fears and prejudices of the time certainly influenced the decision in Scales’s trials. In a most telling episode, Smith remembered appellate Judge Soper during Scales’s

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<sup>108</sup> McNeill Smith, Video Interview, “Liberty and Justice for All...,” Southern Folklife Collection.

<sup>109</sup> *Ibid.*

<sup>110</sup> John M. Dancy to Junius Scales, February 1952, Folder 1, Junius Scales Papers, Southern Historical Collection.

<sup>111</sup> Carl G. Snavelly to Junius Scales, October 24, 1949, Folder 1, Junius Scales Papers, Southern Historical Collection; emphasis mine.

appellate hearing asking, ““What do we have to try about this? The radio every Sunday night plays something called ‘The FBI in Peace and War,’ and we all know that the Communist Party is advocating the overthrow of the United States Government.””<sup>112</sup> The fact that one of the judges in Scales’s case, a highly educated man, proved so affected by the propaganda of the Second Red Scare that he could not rule impartially indicates the kind of harsh political climate Junius Scales and McNeill Smith faced in the 1950s.

Despite the obstacles, Smith’s decision to defend Junius Scales denoted an important moment in the history of North Carolina liberalism. The duty Smith felt to defend Scales, and his loyalty to the cause in the face of adversity, later spurred a latent base of North Carolina liberals. Smith became the first to navigate the tricky waters of anticommunism in North Carolina during the Scales trial, and others immediately followed in his wake. A first indication of the changing tides came when other Greensboro attorneys, Cold War liberals at first unwilling to appear associated with Communism themselves, told Smith they felt “glad that somebody in the local bar was willing to undertake [Scales’s] defense.”<sup>113</sup> The lawyers’ initial hesitance and then approval for Smith’s defense of Scales proved a harbinger of things to come for North Carolina, as more liberals felt comfortable taking Smith’s lead in defending not only Junius Scales, but American liberal freedoms in the process. However, several more years and another trial and Supreme Court argument passed before Scales’s individual rights were truly realized.

### **Scales’s 1958 Retrial**

The second trial began in February 1958. According to Smith, only five of the ten witnesses called by the prosecution knew Scales personally. The others were chosen merely to give insight into the Communist Party in North and South Carolina, Scales’s principle area of

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<sup>112</sup> McNeill Smith, Interview by Mebane, 150.

<sup>113</sup> Autobiographical Memo, “I defended Junius...,” 4, Folder 602, McNeill Smith Papers, Southern Historical Collection.

operation within the party.<sup>114</sup> Smith described the experience as an “eerie sort of thing,” as the Communist Party itself, rather than Junius Scales, appeared to be on trial.<sup>115</sup> In fact, for the first ten days of the three week ordeal, the prosecution did not mention Scales’s name at all, focusing instead on the nature of the Communist Party. The prosecution merely set about proving that the Communist Party was a violent organization intent on the overthrow of the United States Government. Given the politically charged climate in North Carolina at the time, as well as what many otherwise-educated people—like the aforementioned appellate Judge Soper—believed about Communism, the prosecution had little difficulty.<sup>116</sup>

When at last the trial focused on the actions of Junius Scales himself, FBI informant Ralph Clontz took center stage. Clontz previously held a position as military intelligence officer for the Army before the Federal Bureau of Investigation hired him in 1948 to conduct surveillance on Junius Scales. During Clontz’ time working undercover for the FBI, Scales allegedly advocated for the use of blacks and the working classes to cause a bloody revolution in the United States.<sup>117</sup> In addition, Clontz testified Scales had told him that “force [was] the only answer” and proceeded to demonstrate how to attack someone using a pencil.<sup>118</sup> McNeill Smith sardonically replied he did not believe the entirety of the United States Government could be overthrown using a pencil, but Clontz had already inflicted damage.<sup>119</sup> Perhaps the most damning blow came when, halfway through Clontz’s testimony, he began reading from the critical book about America’s involvement in the Korean War. Believing the “evidence” was

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<sup>114</sup> “Brief and appendix for Appellant...,” Folder 604, McNeill Smith Papers, Southern Historical Collection.

<sup>115</sup> McNeill Smith, Interview by Mebane, 148.

<sup>116</sup> Ibid.

<sup>117</sup> “Witness Against Scales would Do it Again,” Oct. 29, 1976, Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>118</sup> McNeill Smith, Video Interview, “Liberty and Justice for All...,” Southern Folklife Collection; Autobiographical Memo, “I defended Junius Irving Scales...,” Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>119</sup> Autobiographical Memo, “I defended Junius...,” Folder 602, McNeill Smith Papers, Southern Historical Collection.

improperly included as it bore no relation to Scales himself, Smith moved for a mistrial. However, Judge Albert Bryan overruled Smith, and the trial proceeded.<sup>120</sup> In a swift end to the trial, Smith remembered that the jury “didn’t take but about two and half hours to find him guilty. It was pretty obvious that if being a member of the Communist Party was per se a crime, what was the defense?”<sup>121</sup> Scales was sentenced to an unprecedented six years in prison, a length not matched even by the prison sentences of the top leaders of the Communist Party.<sup>122</sup>

As in the first trial, Scales immediately appealed his case to the United States Supreme Court, which granted review later in 1958. McNeill Smith never strayed from his argument that Junius Scales was innocent of any violent crime and not guilty merely by association with the Communist Party. However, despite several legal precedents in Scales’s favor, a divided Supreme Court ruled against Scales in a five-to-four decision.<sup>123</sup> Scales returned to the Lewisburg Prison in Pennsylvania to serve his six year prison sentence.

### **A Second Chance: Clemency for Junius Scales**

At this point in the saga of Junius Irving Scales, most historians cease their retelling. Clearly, Junius Scales fell victim to the undemocratic terror of his time. Many consider Scales a pawn of the Federal Bureau of Investigation’s excesses and blatant misuse of power during the Cold War. In addition, North Carolina, like much of the South at that time, struggled with a history of racism and anticommunism, often conflating progressive racial politics with Communist beliefs. As such, the Old North State gave home to an unfair trial, in which a man innocent of any violence was sentenced to six years behind bars. Even those historians who

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<sup>120</sup> “Brief and Appendix for Appellant...,” Folder 604, McNeill Smith Papers, Southern Historical Collection.

<sup>121</sup> McNeill Smith, Interview by Mebane, 149.

<sup>122</sup> McNeill Smith, Video Interview, “Liberty and Justice for All...,” Southern Folklife Collection.

<sup>123</sup> Ibid.

recount the details of the commutation of Scales's sentence in 1962 fail to attach much significance to those North Carolinians who supported the movement to free Scales.<sup>124</sup>

To end Scales's story here, however, is to miss a subtle but important turning point in the history of North Carolina liberalism. Scales's petition for clemency, written from his Lewisburg prison cell with the help of McNeill Smith, received support from all over the country, but especially at home in North Carolina.<sup>125</sup> Smith strongly advocated for Scales's release by writing persuasive letters to North Carolinians of all backgrounds and careers, asking for their support. He coaxed many to support a man whose political beliefs were incompatible with their own. In this way, Smith rose above his legal duties because he felt an obligation to protect the liberties of the United States Constitution, personified in the free speech of Scales. Acting on these beliefs, Smith helped transform North Carolina into a very different-looking place from the state where no attorney wanted to represent Scales just six years before.

Smith began writing letters to well-known North Carolinians almost as soon as the Supreme Court ruled against Scales in June 1961. He mailed one of the first of these letters to his old friend, Dr. Henry Brandis of UNC Law and board member of Smith's organization, the American Freedom Association. Brandis wrote enthusiastically in support of Scales, reassuring Smith that he could use Brandis' approval of clemency before a judge.<sup>126</sup> Smith contacted many North Carolinians in the waning years of 1961 and beginning of 1962, including several Duke University professors and even the Governor of North Carolina, Terry Sanford. Though Sanford

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<sup>124</sup> For much more information on the details of the trials of Junius Scales, as well as the commutation of his sentence, please see Jonathan Gentry's "Seeing Red..." 151-185.

<sup>125</sup> For more on the nationwide support for Scales's clemency petition, please see Mark A. Sheft's "The End of the Smith Act Era: A Legal and Historical Analysis of Scales v. United States," *The American Journal of Legal History* 36, no. 2 (1992): 200-201, accessed March 12, 2015, <http://www.jstor.org.libproxy.lib.unc.edu/stable/pdf/845856.pdf>.

<sup>126</sup> Henry Brandis, Jr. to McNeill Smith, August 3, 1961, Folder 602, McNeill Smith Papers, Southern Historical Collection.



refused to petition the President for Scales's clemency outright—as he did not want to associate himself with Communism—he did ambiguously promise to help Scales in other ways.<sup>127</sup> In addition, Smith wrote constant letters to Scales's wife Gladys during these months and spoke with Scales's other attorney, Telford Taylor, often about the best way to have Scales's sentence commuted.<sup>128</sup> Taylor later wrote that Smith “did much more than I on Scales's behalf, by taking statements from the Greensboro jurors supporting his release, traveling to Lewisburg to take a statement from Scales himself, and lobbying the Justice Department.”<sup>129</sup> Of course, Smith's unceasing letter-writing did not always find a favorable audience. One especially scathing letter came in late 1961, when medical doctor Thornton Hood of Kinston accused Smith's “respected firm [of choosing] to be used by the Communist Party.” He continued, “In the case of your client I personally believe that his punishment has been far too lenient.”<sup>130</sup> Hood's criticism revealed a portion of North Carolinians still suspicious of Communism and hesitant to be associated with the Party.

Despite some critique, Smith did succeed in organizing a reliable support system behind Junius Scales. Nationally, Senator Frank Porter Graham, former president of the University of North Carolina, along with Martin Luther King, Jr. and Attorney General Robert Kennedy expressed their support for Scales's clemency.<sup>131</sup> In North Carolina, some of the state's most liberal newspapers, including Raleigh's *News and Observer*, the *Greensboro Daily News*, and

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<sup>127</sup> McNeill Smith to John and Mary Leigh Woltz, November 19, 1962, Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>128</sup> “Telephone Conversation between Telford Taylor and McNeill Smith, RE: Scales advs. U.S.A.,” November 28, 1962, Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>129</sup> Taylor, *Cause at Heart* by Scales and Nickson, xxxix.

<sup>130</sup> R. Thornton Hood to McNeill Smith, December 27, 1961, Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>131</sup> Gentry, “Seeing Red...,” 170.

Chapel Hill's *Daily Tar Heel* also lent their approval.<sup>132</sup> In turn, the official clemency petition for Scales included a long list of North Carolinians persuaded by Smith to have Scales's sentence commuted. The petition included backing from two United States District Judges from North Carolina, including the judge who first introduced Smith to the case, Richardson Preyer, and countless other North Carolinians. Their occupations ranged from housewife to farmer to lawyer to professor to minister, but all shared Smith's belief that a man should not be persecuted for his peaceful convictions.<sup>133</sup> Perhaps the most significant influence on President Kennedy's decision, and the advocacy for which McNeill Smith was most proud, was Smith's contact with the original fourteen jurors who decided Scales's case in 1958. Smith wrote persuasive letters to each of them, asking them to support the clemency petition. Amazingly, of the fourteen, *eleven* agreed that President Kennedy should reduce Scales's sentence.<sup>134</sup> In 1958, the prosecution had effectively convinced the jurors of the evils of Communism. Given time to reflect however, they came to realize the Communist Party, and not Scales himself, had stood trial four years before.<sup>135</sup> Without Smith's contact the jurors never would have received the chance to reconsider their original votes on Scales's case.

Just like the negative North Carolina political climate in 1958 that sent Scales to prison, the positive letters and support from North Carolinians to release him four years later bore an enormous impact on the conclusion of Scales's long ordeal. McNeill Smith later confessed that he believed that the North Carolinian approval of clemency for Junius Scales most influenced President Kennedy's decision.<sup>136</sup> Smith remembered Kennedy's announcement well: "You may

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<sup>132</sup> Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>133</sup> "Petition for Executive Clemency," Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>134</sup> Autobiographical Memo, "I defended Junius Irving Scales...", Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>135</sup> McNeill Smith, Video Interview, "Liberty and Justice for All...", Southern Folklife Collection.

<sup>136</sup> *Ibid.*

recall that on Christmas Day, 1962, President Kennedy commuted Scales's sentence to the time served, which had been about fifteen months. Scales caught a bus to his home in New York, and he and his wife called me at Rowland on Christmas afternoon to tell me that he was out."<sup>137</sup>

Junius Irving Scales returned to North Carolina again only once in his lifetime and spent his remaining years as a proofreader with the *New York Times*.<sup>138</sup> Eventually, he retired to his New York countryside home in 1982, where he died peacefully in 2002 nearly forty years after his ordeal.<sup>139</sup>

Some years after Scales made that fateful phone call to McNeill Smith on Christmas Day, a professor of political science at the University of North Carolina at Chapel Hill wrote a dramatic play about Scales's long trial. Entitled "Limits of Dissent," professor Lewis Lipsitz released the play in 1976 to audiences all over the state of North Carolina with a twist ending.<sup>140</sup> Instead of the jury returning a guilty verdict, Lipsitz declined to write an ending to the drama. Instead, he asked that audiences interact with the story and decide for themselves what Scales's fate might entail. In every instance, the audience found Scales innocent of any crime.<sup>141</sup> Just eighteen years after he defended Junius Scales, and fifteen years after he helped secure his release from prison, McNeill Smith now saw visible proof that his efforts to defend Scales's rights succeeded in influencing a new generation of more progressive North Carolinians.

## Conclusion

Defense attorney and American Freedom Association creator McNeill Smith found

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<sup>137</sup> Autobiographical Memo, "I defended Junius..." 6, Folder 602, McNeill Smith Papers, Southern Historical Collection.

<sup>138</sup> Gentry, "Seeing Red..." 171.

<sup>139</sup> McNeill Smith, Video Interview, "Liberty and Justice for All..." Southern Folklife Collection; Junius Irving Scales to William A. Stern, July 11, 1986, Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>140</sup> Tom Moore, "Insight," *The Chapel Hill Newspaper*, April 17, 1988, Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>141</sup> Gentry, "Seeing Red..." 172; for more information, see "Drama in the Courtroom: The Scales Trial," *Raleigh News and Observer*, 24 October 1976 [Gentry cites this source].

himself in a precarious situation in early 1958. An old friend called to ask him to take a case so unappealing that two of his prominent contemporaries had refused association with it. The same case just three years earlier produced no representation from *any* North Carolina lawyer, forcing defendant Junius Scales to find an out-of-state attorney. McNeill Smith knew not only that Junius Scales was on trial for membership in the Communist Party, but also that if the charge were mere *membership*, his client was certainly guilty. Both the North Carolina and national political climate shied away from any association with Communism. Smith knew that should he take the case, he would represent an American whose political beliefs formed the basis of fear in the United States after World War II. Yet Smith's unyielding belief in the liberal rights of man led him to take Junius Irving Scales's hopeless cause in 1958.

In taking Scales's case, McNeill Smith helped launch a liberal movement in North Carolina. Smith's advocacy for his client encouraged others to come forward at a time when promoting liberal rights, like freedom of unpalatable speech and association, proved unpopular. First hesitant lawyers, then North Carolinians from all over the state and North Carolina newspapers were drawn, by Smith, to support Communist Junius Scales. Most importantly, Smith convinced a large majority of the original jurors to petition for a reduced sentence, though they once condemned Scales's actions. McNeill Smith, despite the risk of considerable harm to his reputation, emboldened an organized movement of liberal North Carolinians to defend the rights of all Americans. Though his organization, the American Freedom Association, fought the ideological underpinnings of Communism, for McNeill Smith, anticommunism stopped at the door of individual American freedoms.

The Junius Scales trial is largely known for the influence of Communism on America's legal system.<sup>142</sup> The excesses of the Federal Bureau of Investigation, coupled with the paranoia and fear of a nation, collided to put a man guilty of nothing more than his beliefs behind bars. However, the lesser-known but far more optimistic story lies with the person of McNeill Smith, a man who championed liberal rights in the face of virulent repression of those rights. While Scales's saga may indeed reveal an undemocratic and fear-driven North Carolina, it also reveals a growing liberal movement, organized by Smith to defend the liberties of even the most reviled Americans. The story of McNeill Smith, his advocacy for Junius Scales, his persuasive letter-writing and unyielding activism, dispels the myth that North Carolina, as one historian wrote, never enjoyed a "liberal political tradition at any time in [its] history."<sup>143</sup> Many historians read the case of Junius Scales as a triumph for anticommunism and conservatism in midcentury America. In truth, Smith's defense of Scales represented the heights to which North Carolina liberals reached to secure freedom for an innocent man.

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<sup>142</sup> Sheft, "The End of the Smith Act Era . . .," 197, accessed March 10, 2015, <http://www.jstor.org.libproxy.lib.unc.edu/stable/pdf/845856.pdf>.

<sup>143</sup> Gentry, "Seeing Red . . .," 224.

## The Education of Southern White Liberalism: McNeill Smith and Civil Rights

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*“We say God must burn you at the stake, because you’re thinking wrong. And the heresies are not dead.”*<sup>144</sup>

—McNeill Smith

In May 1950, human rights advocate and UNC Anthropology professor Guy Benton Johnson wrote a little-noticed pamphlet on the state of black civil liberties at the dawn of the new decade. A well-known civil rights supporter long before the movement had a name, Johnson was dubbed the “specialist on the Negro here in our shop” by one colleague at the University of North Carolina.<sup>145</sup> His pamphlet first enumerated the various problems African Americans faced, including workplace discrimination and equal educational opportunities. Then Johnson predicted the following decade,

But against this dark picture we must set the growing liberalism of the white man and the growing competence and solidarity of the Negro... More and more of the white South realizes that the colored fourth of its population must be counted in as a partner in rights and in responsibilities if the South is to continue up the road of prosperity. For all these reasons, I am convinced that the general outlook is good.<sup>146</sup>

In the segregated South, black activists advocated for racial equality for decades before reaching the attention of white Americans, finally awakening the “growing liberalism of the white man” at the end of the 1950s.<sup>147</sup> However, once animated, Southern white liberals began acting in conjunction with the black civil rights movement, lending it a kind of legitimacy that historians James Leloudis and Robert Korstad argue it had not previously enjoyed.<sup>148</sup> Toward the end of the

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<sup>144</sup> McNeill Smith, Interview by Costello, 26.

<sup>145</sup> John P. Gillin to McNeill Smith?, October 17, 1958, Folder 513, McNeill Smith Papers, Southern Historical Collection.

<sup>146</sup> Guy Benton Johnson, “Progress of the Negro in the South,” 1, 2, Folder 6, Guy Benton Johnson Papers, Southern Historical Collection.

<sup>147</sup> Chafe, *Civilities and Civil Liberties*, 248; historian David Chappell argues that the moderation of the white South allowed the civil rights movement to begin in the 1950s and not earlier (for more, please see Chappell’s *Inside Agitators*, 214).

<sup>148</sup> Korstad and Leloudis, *To Right These Wrongs*, 68.

decade, the civil rights movement caught the attention of white politicians, prompting the 1957 establishment of the Commission on Civil Rights and its State Advisory Committees. Two years later, the North Carolina State Advisory Committee met for the first time to investigate claims of discrimination in North Carolina with McNeill Smith at the helm. In another year, black students sat down at a lunch counter in Greensboro, North Carolina, hoping to integrate the all-white facility. McNeill Smith acted as negotiator between whites and African Americans during the sit-ins. In quick succession, civil rights caught the attention of white activists, willing to join the struggle in the beginning of the 1960s.

However, the Southern atmosphere during integration imposed serious restrictions on the activism of Smith and white Southern liberals. The State Advisory Committee on which McNeill Smith served could offer little more than advice on how to solve the state's inequalities, given no enforcement powers of its own. Many of Smith's neighbors opposed his work with both the State Advisory Committee and the Greensboro sit-in, and Smith himself sometimes wondered about the legitimacy of black claims to civil rights. In addition, while black activists had pushed for civil rights since the mid-nineteenth century, Smith and other white liberals focused little attention on their plight until the end of the 1950s.<sup>149</sup> With the Cold War booming and the threat of nuclear destruction ever-present, much of 1950s white America dedicated itself to anxiously contemplating international problems. During this time, Smith and other white liberals found themselves focusing mostly on educating the public about the need for international law, not equal rights for African Americans.

As the 1950s ended, however, white liberals like Smith began taking note of the already long-established civil rights movement. Historian William Chafe notes that this newfound white

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<sup>149</sup> Chappell, *Inside Agitators*, 214.

attention resulted from the “groundswell of grass-roots involvement” by black activists.<sup>150</sup> Historian David Chappell expounds further, arguing that it took until the late 1950s for black protestors to finally exploit the sympathies of white Southern moderates, after which the civil rights movement blossomed.<sup>151</sup> On a more international level, historians like Mary Dudziak have hypothesized that the antiracism movement quickly followed its anticommunist predecessor because the United States could not claim moral superiority over the Soviet Union with such institutionalized racism.<sup>152</sup> The trajectory of McNeill Smith’s civil rights interests certainly followed this narrative. He first founded the American Freedom Association in 1953 to combat worldwide Communism and the threat of nuclear destruction, only focusing his energy on the civil rights movement in late 1950s.<sup>153</sup>

For these reasons, as the nation turned its attention to civil rights in the early 1960s, so too did McNeill Smith, fulfilling Johnson’s prediction of the “growing liberalism of the white man.” As an educated, white man, McNeill Smith understood that his involvement in civil rights might benefit the movement. Smith also understood the environment in which he worked, with Greensboro and much of the state of North Carolina controlled by conservative politicians. To merge his political beliefs with the political atmosphere of his surroundings, Smith cleverly employed states’ rights, conservative rhetoric to appease segregationists while simultaneously pushing for integration. Smith repeatedly announced that civil rights reform in North Carolina should originate with North Carolinians themselves, an argument used by the likes of Alabama Governor George Wallace to advance segregation. Using the State Advisory Committee and the

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<sup>150</sup> Chafe, *Civilities and Civil Rights*, 79.

<sup>151</sup> Chappell, *Inside Agitators*, 214.

<sup>152</sup> Mary Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton: Princeton University Press, 2000), 3; for an opposing argument on how the Red Scare hurt the civil rights struggle in terms of anticommunist rhetoric, please see James Zeigler’s *Red Scare Racism and Cold War Black Radicalism* (Jackson: University Press of Mississippi, 2015).

<sup>153</sup> It should be noted that the Cold War was still in full effect at this time.



sit-in negotiations as vehicles, Smith pushed for a white, liberal agenda that had lain dormant for years as other issues took precedence. Eventually, his and others' efforts culminated with the passage of the Civil Rights Act of 1964 and Voting Rights Act of 1965, landmark pieces of legislation that ensured equal rights, at least legally, for all Americans.<sup>154</sup>

### **Becoming a Liberal: McNeill Smith's Early Days**

McNeill Smith's childhood in rural Robeson County, North Carolina provided him experience with diversity early in his life. In Smith's youth, town residents dubbed Smith and one of his earliest friends, a black child, the "Gold Dust Twins" after a popular soap advertisement featuring two young boys, one white and the other black.<sup>155</sup> Indeed, a racially mixed population characterized McNeill Smith's home county.<sup>156</sup> Smith remembered that "the area [he] grew up in was very rich in diversity of language and race...if you wanted to get elected to public office [in Robeson County] you've got to bring blacks or Indians or if you can bring both of those together in some way, then you've got a good combination to win."<sup>157</sup> The racially-mixed environment, however, did not preclude racial segregation. The county operated four segregated schools and numerous churches and public facilities segregated by race.<sup>158</sup> In addition, the Smith family employed black servants, as Smith argued "nearly all Southern homes did," who lived behind the family home and helped with driving, cooking, and entertaining.<sup>159</sup> Smith remembered that his family "all had very good relations with blacks. But they were all usually of the servant class. There were no social equals. But my mother and my aunts would

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<sup>154</sup> "Greensboro Bar Association Memorial Resolution Honor John McNeill Smith, Jr., April 18, 2012," *Neal Robbins*, accessed March 12, 2015, [http://nealrobbins.com/greensboro/wp-content/uploads/2010/04/J\\_McNeill\\_Smith\\_Jr\\_4-18-2012.pdf](http://nealrobbins.com/greensboro/wp-content/uploads/2010/04/J_McNeill_Smith_Jr_4-18-2012.pdf).

<sup>155</sup> McNeill Smith, Interview by Mebane, 12.

<sup>156</sup> *Ibid.*, 5.

<sup>157</sup> McNeill Smith, Interview by Costello, 2.

<sup>158</sup> *Ibid.*, 1-2.

<sup>159</sup> McNeill Smith, Interview by Mebane, 12; McNeill Smith, Interview by Costello, 3.

say, 'I love black people or brown people so long as they are in their place.' And the idea of place was very important."<sup>160</sup> Indeed, knowing one's place as a person of color in 1920s Robeson County kept the lid on simmering race relations that would erupt later in Smith's life.

Despite his upbringing in a racially segregated community, Smith began to confront his perceptions of race while attending college. As President of his law school class at Columbia, Smith was asked to attend a meeting at Howard University, the most prestigious historically-black school in the country. He remembered his ignorance, "thinking they were talking about Harvard University, because I was just insensitive to the role that this great black university, Howard, was playing in the life of the country."<sup>161</sup> Attending a Northern university opened his eyes to race relations in a way that growing up in Rowland, North Carolina had not, but it was not until Smith joined the military in 1942 that his opinions on racial discrimination really solidified. He remembered his experience overseas "was brought more clearly into focus by the existence of the caste system that we had at the time of my service in India during the war. ...And I realized that what the structure of society there was, was not too different from what we had in North Carolina, in the South, and to some extent the rest of the country. But it was legalized in the South."<sup>162</sup> Similarly, while working in the naval bomb dispersal unit in South Africa, Smith noticed the discriminatory treatment of black soldiers by white officers. "Their attitude toward the black man was like the attitude towards the servants in a way, but somehow even rougher than anything I remembered at home...it was clearly a master/servant relationship."<sup>163</sup> Perhaps this treatment jolted Smith into re-examining his own family's relationship with the servants of his childhood, or perhaps he had learned too much about constitutional law by then, having

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<sup>160</sup> McNeill Smith, Interview by Costello, 4.

<sup>161</sup> Ibid.

<sup>162</sup> Ibid.

<sup>163</sup> Ibid., 5.

graduated from Columbia Law, to ever look back. But after growing up in a segregated, rural town, attending both Southern and Northern universities, and seeing violent discrimination based upon race in other countries during World War II, McNeill Smith came home to Greensboro in 1945 a changed man. In just eight years, he would help found the American Freedom Association, and within twenty years, he had defended a known Communist and spearheaded a state-wide campaign to look at North Carolina's injustices with the United States Commission on Civil Rights.

### **“Holds up a Mirror:” The United States Commission on Civil Rights**

Nearing the end of the decade of the 1950s, the struggle for civil rights for black Americans began to accelerate. Southern states continued to refuse to implement the Supreme Court's 1954 school desegregation decision, *Brown v. Board of Education*, or voluntarily desegregate most public or private institutions. After an Alabama bus forced NAACP activist Rosa Parks to relinquish her front seat in 1955, Martin Luther King and others launched a year-long bus boycott to integrate Montgomery, Alabama's buses. The same year, white supremacists murdered a young black boy, Emmitt Till, in Mississippi for whistling at a white woman. And in the fall of 1957, nine young black students, backed by the United States military, integrated their Little Rock, Arkansas high school amid national turmoil.<sup>164</sup> The deteriorating state of civil rights embroiled the country and reached the ears of the White House. Several years earlier in 1948, President Truman tried and failed to secure Congress's approval of a “ten-point civil rights program.” However, by the late 1950s amid a backdrop of troubling social unrest, Congress finally heeded the call President Eisenhower set forth in his State of the Union address and

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<sup>164</sup> For more on the chronology of the civil rights movement, please see James Patterson's *Grand Expectations: The United States, 1945-1974* (New York: Oxford University Press, 1996), 375-406; see also Theodore M. Hesburgh's “The Commission on Civil Rights—And Human Rights,” *The Review of Politics* 34, no. 3 (1972), 291, accessed March 12, 2015, <http://www.jstor.org.libproxy.lib.unc.edu/stable/pdf/1406496.pdf>.

established a Commission on Civil Rights, the first piece of federal legislation passed on civil rights since Reconstruction.<sup>165</sup>

Consisting of three members of each of the nation's two major parties, the Commission's main goal included investigating claims of discrimination in voting. The Commission also sought to uncover states' denials of equal protection of the laws more generally.<sup>166</sup> Lawmakers theorized in order to pass meaningful legislation to protect civil rights, they must first understand the full extent to which states did *not* protect those rights. As part of the fact-finding mission, the Commission established smaller "advisory" committees in all fifty states, endeavoring to capture the "great value of local opinion and advice." Three hundred and fifty American citizens, geographically and racially diverse, participated in these committees without pay to uncover the true state of civil rights in the country. Thus, the state advisory committees researched civil rights complaints within their own communities and reported to the United States Commission. In turn, the Commission informed both the President and Congress with "recommendations for general corrective action...pav[ing] the way for laws and government action in the broad field of civil rights."<sup>167</sup> It was in the North Carolina State Advisory Committee that McNeill Smith would find an avenue to promote civil rights two years later.

The mood in the nation's capital, at least among liberal Republicans and Democrats, seemed positive toward the Commission. One optimistic observer wrote that "great advances [had] been made in recent years toward assuring all citizens full enjoyment of these rights," and

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<sup>165</sup> "Congress Approves Civil Rights Act of 1957," in *CQ Almanac 1957*, 13th ed., 07-553-07-569, Washington, DC: Congressional Quarterly, 1958, accessed March 12, 2015, <http://library.cqpress.com.libproxy.lib.unc.edu/cqalmanac/cqal57-1345184>.

<sup>166</sup> *Ibid.*

<sup>167</sup> "US Commission on Civil Rights..." 2, 4, 13, Folder 693, McNeill Smith Papers, Southern Historical Collection.

this Commission would help turn “constitutional ideals into living realities.”<sup>168</sup> In a meeting of Committee delegates, President Eisenhower spoke favorably about the Commission’s establishment and goals. He believed “Congress was wise in establishing this Commission... Indeed at times I think it holds up before us all a mirror so that we may see ourselves, what we are doing and what we are not doing, and therefore making it easier for us to correct our omission.”<sup>169</sup> Indeed, the Commission represented the first of its kind in the nation’s history, uniquely created to help enforce the Fourteenth Amendment in a way that states had not in the one hundred years since its passage.<sup>170</sup> White political leaders congratulated themselves on successfully passing the first civil rights bill since 1875.<sup>171</sup>

However, both the Civil Rights Act of 1957 and the Commission on Civil Rights it created possessed little ability to make any real change. “When there is a crisis of the conscience, the natural human response on the part of many churchgoers is to put a little something extra into the collection plate on Sunday,” wrote historian Theodore Hesburgh sardonically.<sup>172</sup> While many lawmakers supported the bill, Southern Democrats vehemently opposed its passage, and the act faced significant pushback in the Senate. For example, Georgia Democrat Richard Russell argued it gave too much power to the federal government and armed forces to intervene in school integration. North Carolina Senator Sam Ervin agreed, calling the bill “cunningly conceived and deviously worded.” South Carolina Democrat Strom Thurmond conducted the longest filibuster in Senate history against the bill, speaking for twenty four hours and eighteen minutes. The bill

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<sup>168</sup> “US Commission on Civil Rights...,” 11, Folder 693, McNeill Smith Papers, Southern Historical Collection.

<sup>169</sup> “Preliminary Report on National Conference of State Advisory Committee Delegates,” June 9-10, 1959, Washington, D.C., Folder 693, McNeill Smith Papers, Southern Historical Collection.

<sup>170</sup> “US Commission on Civil Rights...,” 13, Folder 693, McNeill Smith Papers, Southern Historical Collection.

<sup>171</sup> “Congress Approves Civil Rights Act of 1957.” In *CQ Almanac 1957*, 13th ed., 07-553-07-569. Washington, DC: Congressional Quarterly, 1958. <http://library.cqpress.com.libproxy.lib.unc.edu/cqalmanac/cqal57-1345184>.

<sup>172</sup> Hesburgh, “The Commission on Civil Rights...,” 291.

finally passed on August 29, 1957 without much support from the Southern Democratic faction.<sup>173</sup>

The divisiveness with which the Civil Rights Act of 1957 proved to be a harbinger of the bill's effectiveness. Perhaps the most important indication of the Commission's ineptitude lay with the very purpose it promoted. The committee merely acted as a "fact-finding" agency, or as President Eisenhower so aptly stated, an organization to simply "hold up a mirror" to the country on its civil rights abuses. It had no ability to enforce or prosecute any of the discrimination it reviewed, and members of the committee were aware of its limited powers.<sup>174</sup> Many observers at the time viewed the Commission as a "cop-out," according to one, and a body that would "perform a 'white-wash' job and gloss over the deep civil-rights problems confronting the nation."<sup>175</sup> Thus, despite the self-congratulatory mood among lawmakers and the President, some Americans viewed the Commission as a defunct body from the start, a "substitute for action" by white politicians.<sup>176</sup>

### **McNeill Smith and the Commission on Civil Rights**

Although some doubted the Commission, McNeill Smith strongly believed in the principles for which it stood. Smith had established himself as a long-time advocate of Constitutional civil liberties, beginning in the time of his earliest college years, continuing through his war experiences, and into his work with the American Freedom Association and the trial of Junius Scales. He identified strongly with the belief, as President Eisenhower stated in a

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<sup>173</sup> "Congress Approves Civil Rights Act of 1957." In *CQ Almanac 1957*, 13th ed., 07-553-07-569. Washington, DC: Congressional Quarterly, 1958. <http://library.cqpress.com.libproxy.lib.unc.edu/cqalmanac/cqal57-1345184>.

<sup>174</sup> "US Commission on Civil Rights," 10, 4, Folder 693, McNeill Smith Papers, Southern Historical Collection; Hesburgh, "The Commission on Civil Rights..." 292.

<sup>175</sup> Hesburgh, "The Commission on Civil Rights..." 292.

<sup>176</sup> *Ibid.*, 291.

1958 speech, that “every American whatever his...race...should have exactly the same concern for [civil rights] as does any individual who may have felt embarrassment or resentment because those rights have not been properly observed.”<sup>177</sup> Unsurprisingly at the time, the Southern states felt differently than President Eisenhower and only begrudgingly and slowly established the Commission’s state advisory committees. In an effort to speed up that process, and perhaps legitimize it in the South, a Civil Rights Commission staff member called McNeill Smith personally to serve on North Carolina’s State Advisory Committee.<sup>178</sup> The staff member happened to be an old friend of Smith’s from Columbia Law School, and when he called asking for help on an issue of civil rights, Smith found himself unable to refuse. He later wrote that he “certainly didn’t know of anybody that deserved to be more ‘put on the spot [than himself].’ As a citizen, we all have this responsibility.”<sup>179</sup> Smith understood that his education, ability, and image as a white liberal man in a Southern state could bring legitimacy to the civil rights movement.<sup>180</sup> At their first meeting in 1959, the Board elected Smith chairman of the North Carolina State Advisory Board, a position he held until 1963.<sup>181</sup> Smith later cited his time on the North Carolina State Advisory Board as “one of the most valuable experiences of [his] life.”<sup>182</sup>

The North Carolina State Advisory Committee, created by the Commission on Civil Rights in the 1957 Civil Rights Act, comprised eleven men from all over the state, including two African Americans.<sup>183</sup> The group met bimonthly in hearings across North Carolina, where they

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<sup>177</sup> “US Commission...,” Folder 693, McNeill Smith Papers, Southern Historical Collection.

<sup>178</sup> McNeill Smith to Professor Albert Coates, September 21, 1973, Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>179</sup> Smith to Coates, Sept. 21, 1973, Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>180</sup> For more information on whites lending credibility to the black civil rights movement, please see Korstad’s and Leloudis’ *To Right These Wrongs: The North Carolina Fund and the Battle to End Poverty and Inequality in 1960s America*, 68.

<sup>181</sup> McNeill Smith, Interview by Costello, 9, 12.

<sup>182</sup> *Ibid.*, 21.

<sup>183</sup> “Equal Protection of the Laws in North Carolina,” Report of the North Carolina Advisory Committee to the United States Commission on Civil Rights, 1959-62, Courtesy of Eleanor Smith and the Smith family.

welcomed complainant testimony. Tackling areas of discrimination specified by the United States Commission on Civil Rights, including voting, education, housing, and employment, the North Carolina Advisory Board sought also to investigate possible discrimination in healthcare and medical treatment. To discern the full extent of institutionalized discrimination in the state of North Carolina, the Board used a variety of creative methods. For example, trying to determine the amount of illiteracy in the state, the Board examined driver's license exams to see how many applicants took oral tests, suggesting the examinee could not read or write. They studied housing maps to point out that many of the substandard homes in the state housed African Americans.<sup>184</sup> Confirming the thoroughness of the Board's investigations, the Raleigh-based newspaper *News and Observer* praised the Advisory Board for its "scientist-like respect for detail, accuracy, and objectivity" in a 1961 feature on Smith.<sup>185</sup> Smith himself agreed with this sentiment, taking immense pride in the State Advisory Board's work. He remembered that "the first committee had an advantage, in the sense that we were able to write on a somewhat clean slate as far as any kind of state committee taking a look at equal protection under the laws of North Carolina... I think the committee achieved a lot of credibility, because we tried to document what we were reporting."<sup>186</sup> Not surprisingly, those reports showed that the supposed progressivism of North Carolina's state politics did not extend to black civil rights.<sup>187</sup> Compiling these findings into a book, entitled "Equal Protection of the Laws in North Carolina," Smith and the other board members took seriously their obligation to paint an accurate picture of the state of North Carolina's civil rights in the early 1960s. Smith made copies of the book and reported not only to

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<sup>184</sup> McNeill Smith, Costello, 13-15.

<sup>185</sup> "Tar Heel of the Week: John McNeill Smith," Nov. 12, 1961, *News and Observer*, Folder 693, McNeill Smith Papers, Southern Historical Collection.

<sup>186</sup> McNeill Smith, Interview by Costello, 12-13.

<sup>187</sup> Chafe, *Civilities and Civil Liberties*, 103.



the national Commission on Civil Rights, but also made copies available to the state archives housed in Raleigh, North Carolina.<sup>188</sup>

McNeill Smith knew that his social status gave him a legitimacy to conduct this kind of research in North Carolina, but he needed more than his political beliefs to navigate the still-conservative world of North Carolina politics. After all, as Smith himself later wrote, “desegregation is still a very remote thing for most of us in North Carolina.”<sup>189</sup> As a result, Smith began crafting a conservative-sounding argument for civil rights reform in North Carolina after his election to the State Advisory Board. Smith’s rhetoric revealed this strategy,

If any persons, particularly any identifiable groups of people, in North Carolina were being denied equal protection of the laws, then I thought the first people to know about it ought to be the people of North Carolina; and the knowledge should come from other people in North Carolina, on the spot, familiar with the history and conditions in the state, who were willing to take a look at it and make the necessary investigation and reports.<sup>190</sup>

Over and over again, Smith emphasized a resounding theme used by conservatives for decades: North Carolina could and should take care of its own problems, without the prying oversight of outsiders. Smith rightly assumed that North Carolinians might receive integration orders more willingly should they come from a fellow Tar Heel like himself and “not some alien eyes pointing the glare of condemnation from afar.”<sup>191</sup> This derogatory “glare of condemnation” represented the federal government, and Smith intentionally used the phrase because he understood how much value the South placed on managing its own affairs. Sixty years before Smith’s birth, the South used states’ rights rhetoric to justify the continuation of slavery. In Smith’s time, prominent Southern leaders used the same rhetoric to continue segregation in

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<sup>188</sup> Eleanor Smith, email message to author, September 18, 2014.

<sup>189</sup> McNeill Smith to Joe L. Oppenheimer, October 1961, Folder 700, McNeill Smith Papers, Southern Historical Collection.

<sup>190</sup> Smith to Coates, Sept. 21, 1973, Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>191</sup> *Ibid.*

schools and businesses in the South. Famously, Alabama Governor George Wallace's "Segregation Now, Segregation Forever" inaugural speech pitted Alabama's state right to continue segregation against the "tyranny" of the federal government.<sup>192</sup> Given this history and his background as a constitutional lawyer, Smith undoubtedly understood the importance, especially in the South, of emphasizing a state's ability to manage its own affairs. As with the American Freedom Association, Smith expertly used the rhetoric of states' rights, a symbolic and conservative rallying cry to maintain discrimination in the South, to advance the very opposite outcome: civil rights for all North Carolinians with the Advisory Board of the Civil Rights Commission as his vehicle. Soon, the meaning of reforming North Carolina from the inside took on new meaning for Smith as the civil rights movement moved to his own backyard.

### **The Greensboro Sit-in**

"I suppose I never really concentrated on what to do about the racial segregation until the sit-ins started in Greensboro [on] February 1, 1960," recounted McNeill Smith on his growing concern over civil rights.<sup>193</sup> Though the contemporary civil rights movement began long before the lunch counter desegregation efforts of 1960, Smith's contemplation typified much of the white, liberal response to civil rights following World War II. During his time with the American Freedom Association at the height of the Cold War, Smith remembered feeling comfortable with the idea that winners of the organization's high school speaking program would travel to the United Nations in New York City by separate and segregated transportation. He explained, "Look, we've got enough ... without taking on the race problems...' We were very concerned that we were going to have another nuclear war. It'd been—we'd just dropped two atomic

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<sup>192</sup> George Wallace, "Segregation Now, Segregation Forever" (Speech, Inaugural Address, Alabama, 1963), Accessed 23 January 2015, [http://web.utk.edu/~mfitzge1/docs/374/wallace\\_seg63.pdf](http://web.utk.edu/~mfitzge1/docs/374/wallace_seg63.pdf).

<sup>193</sup> McNeill Smith, Interview by Costello, 7.

bombs.”<sup>194</sup> However, as Americans realized the hypocrisy of condemning the Soviet Union while perpetuating discriminatory stereotypes at home, the nation, including McNeill Smith, turned its attention to civil rights concerns.<sup>195</sup>

Just five weeks into the new decade, a flashpoint in the civil rights movement put Greensboro, North Carolina on the map and captured the attention of white liberals like McNeill Smith. On February 1, 1960, four black students from the North Carolina Agricultural and Technical State University attempted to integrate a whites-only lunch counter at Woolworth’s Department Store in Greensboro, North Carolina. A new era of peaceful sit-ins and demonstrations began, and soon the protests spread across the piedmont region of North Carolina. Students organized sit-ins in Raleigh, High Point, Charlotte, and Winston-Salem immediately following Greensboro’s example. Civil rights leader Martin Luther King, Jr. visited Durham two weeks after the Greensboro sit-in to encourage the students protesting there.<sup>196</sup> Sit-ins and demonstrations demanding equal rights continued to gain traction in the ensuing months, and Greensboro consistently served as an epicenter for some of the greatest unrest.<sup>197</sup>

As both his home and law practices lay in Greensboro, McNeill Smith could no longer ignore the “race problems” as he had during his time with the American Freedom Association. He observed that the demonstrations “didn’t take a week before [they were being] tested all around the South. And by a month or so we had sit-ins going—we all had sit-ins going everywhere. And it was a very fine experience for all of us.”<sup>198</sup> Finally, white Southern liberals like Smith began flocking to the movement, to the disgust of Greensboro’s segregationists. As

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<sup>194</sup> McNeill Smith, Interview by Costello, 7.

<sup>195</sup> Sarah Hart Brown, *Standing Against Dragons...*, 12.

<sup>196</sup> Korstad and Leloudis, *To Right These Wrongs*, 38.

<sup>197</sup> *Ibid.*, 68.

<sup>198</sup> McNeill Smith, Interview by Costello, 19.

historians Korstad and Leloudis observed, the involvement of white liberals in the protests not only symbolized long-feared “interracialism,” but also helped legitimize the civil rights movement in a way that only African Americans could not.<sup>199</sup> Smith was acutely aware of his white, educated professional image lending credibility to the civil rights movement in his hometown. He once wrote, “As a citizen, we all have...responsibility. Some of us have more responsibility than others because unto us more has been given; i.e. greater opportunities and privileges.”<sup>200</sup> Also, like his involvement with the Civil Rights Commission, Smith strongly believed in the importance of reforming North Carolina from the inside. If the civil rights movement had moved to his hometown, who better than Smith to tackle the problem of race relations?

However, Smith’s involvement with the Greensboro sit-in met challenges from the city he so loved. A majority of the white Greensboro establishment opposed desegregation attempts for various reasons. Some believed desegregation was a subversive “Communist plot,” a connection between dreaded Communism and civil rights that segregationists had used for decades to stonewall integration.<sup>201</sup> Others believed integration infringed on white property rights and resented liberals for trying to change the status quo.<sup>202</sup> Many whites disliked the disruption of business caused by the sit-in demonstrators and feared shopping in downtown Greensboro.<sup>203</sup> Still others, like a county commissioner Smith remembered, sympathized with the black cause, but believed whites had already provided enough. The commissioner said, “I just can’t understand those students from A&T. After all we’ve done to give them new uniforms for

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<sup>199</sup> Korstad and Leloudis, *To Right These Wrongs...*, 68.

<sup>200</sup> Smith to Coates, Sept. 21, 1973, Folder 603, McNeill Smith Papers, Southern Historical Collection.

<sup>201</sup> Chafe, *Civilities and Civil Rights*, 138-139; For more information on the connection between Communism and white supremacy, see Jeff Woods’s *Black Struggle Red Scare: Segregation and Anti-Communism in the South, 1948-1968*, 5.

<sup>202</sup> Chafe, *Civilities and Civil Rights*, 138.

<sup>203</sup> Smith, Interview by Mebane, 158.

the band and help them get new buildings, why would they want to upset things and upset everybody?”<sup>204</sup> Most of Greensboro, in fact, opposed Smith’s desegregation attempts.<sup>205</sup> Smith himself once refused to allow his black secretary to use the same bathroom as a white woman, and he reacted first to the sit-ins by believing integration did not represent a civil right.<sup>206</sup>

Despite these challenges, in May 1960 Smith stepped in as negotiator between the management at Woolworth’s Department Store and the leaders of the black protests, coming to “play perhaps the most interesting behind-the-scenes role of any white during the demonstrations,” according to Southern historian William Chafe.<sup>207</sup> As his friend Mazie Levenson later observed, Smith saw the importance of the Greensboro sit-in long before others, and he presided over meetings with black student leader Jesse Jackson and President of A&T State University, Dr. Warmoth Gibbs.<sup>208</sup> Smith also spoke with the white establishment, too. After a pause in the sit-in demonstrations, Smith reached out to Woolworth’s, urging the store to moderately integrate, and his negotiating points mirrored much of the existing liberal white response to the demonstrations.<sup>209</sup> During the exchanges between both sides, Smith tried to emphasize what he believed to be the progressive nature of Greensboro, along with the need to keep the solution local. In one telegram to the Customer Services at Woolworth’s, he wrote,

Personal contact needs to be maintained with present local leaders who in this instance are not being directed by outside forces... There are many forces in Greensboro that have long been working for improved human relations in our community. Much has been

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<sup>204</sup> Smith, Interview by Costello, 26.

<sup>205</sup> Chafe, *Civilities and Civil Rights*, 138.

<sup>206</sup> Smith, Interview by Costello, 20-21, 25.

<sup>207</sup> Chafe, *Civilities and Civil Rights...*, 135.

<sup>208</sup> Mazie Levenson to McNeill Smith’s Wife Louise and Children, August 28, 2011, Courtesy of Eleanor Smith and the Smith family.

<sup>209</sup> Chafe, *Civilities and Civil Rights*, 87.

done; much more needs to be done; but it takes specific occasions like this one to give us here in Greensboro a chance to practice what has been preached.<sup>210</sup>

In this telegram, Smith noticeably underscored the importance of white store owners communicating with *local* leaders of the black sit-in demonstrations without “being directed by outside forces.” In this sense, Smith appealed to whites who feared the federal government interfering with integration attempts. Anticipating this concern, Smith cleverly manipulated his rhetoric to reach the ears of the white store owners. Believing, as he always had, that “there [was] a tradition in [North Carolina] to work on civil rights generally,” Smith firmly concluded his exchange with Woolworth’s by urging management, “nothing is solved till it is solved right.”<sup>211</sup> Much like with the Civil Rights Commission, Smith used these negotiations as a vehicle to further his own belief that North Carolina reform on civil rights should be initiated by North Carolinians. By engaging only local leaders, a tactic that other Southern organizations would later praise, Smith helped keep the “sit-in problem...insulated from the storms of state politics” and indeed national embroilments.<sup>212</sup>

At least from a white perspective, the sit-in demonstrations in Greensboro seemed to move the city on a more progressive path. By October of 1960, Greensboro and dozens of other Southern cities had created “biracial committees” to satisfy the “oft-expressed desire for better communication between the races.”<sup>213</sup> Whites believed that “from the cities which have led in solving the lunch counter problem, a new spirit of cooperation and biracial respect has been

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<sup>210</sup> McNeill Smith to Customer Service at Woolworth’s Greensboro Store, telegram, undated, courtesy of Eleanor Smith and the Smith family.

<sup>211</sup> McNeill Smith, Interview by Mebane, 180; Smith to Woolworth’s, Undated Telegram, Courtesy of Smith Family.

<sup>212</sup> “Problem Solving Through Race Relations Committees,” Southern Regional Council, October 25, 1960, Folder 662, McNeill Smith Papers, Southern Historical Collection.

<sup>213</sup> Ibid.

released.”<sup>214</sup> After a meeting with Greensboro’s mayor, Smith elicited the mayor’s public call for desegregation and an end to arrests of demonstrators.<sup>215</sup> Despite the positive steps, Greensboro’s interaction with civil rights continued for several more years, after Jesse Jackson and other black leaders protested the segregation of public accommodations in 1963.<sup>216</sup> Eventually, the efforts by Smith, Jackson, and civil rights leaders across the country culminated in the passage of the Civil Rights Act of 1964, which prohibited segregation in public areas. McNeill Smith took a little pride in his hometown, “I expect, in all candor, if it hadn’t been for the sit-ins and the demonstrations of 1960 and 1963, in which Greensboro was a leader—we would still be talking about getting rid of separate bathrooms, separate toilets.”<sup>217</sup>

In the end, the road to more racial equality proved bumpy and winding for North Carolinians. The end of the 1960s saw more demonstrations in the state, especially over racial discrimination in housing and schools.<sup>218</sup> However, the sit-ins represented a new chapter in the civil rights movement, pushing the struggle to use “new weapons and a different language.”<sup>219</sup> McNeill Smith helped write that new language of localism and moderation, liberally navigating, as he often did, the conservative landscape of North Carolina. White leaders like Smith uniquely advanced Southern civil rights by encouraging actors to find local solutions to local problems. In this way, Smith assuaged the fears of Woolworth’s white owners that an outside force, like the federal government, might be forced to intervene. By holding white owners accountable while reassuring them that a practical and purely *local* solution could be reached, Smith gained a listening ear from white segregationists. At the same time, Smith’s steadfast commitment to

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<sup>214</sup> “Problem Solving...,” Oct. 25, 1960, Folder 662, McNeill Smith Papers, Southern Historical Collection.

<sup>215</sup> Chafe, *Civilities and Civil Rights*, 135.

<sup>216</sup> McNeill Smith, Interview by Mebane, 158.

<sup>217</sup> McNeill Smith, Interview by Costello, 7.

<sup>218</sup> Chafe, *Civilities and Civil Rights*, 161, 165.

<sup>219</sup> *Ibid.*, 101.

black civil rights, and his negotiation with black leaders, gave him credibility among the black community as well. Much like his states' rights rhetoric with the State Advisory Board, Smith negotiated the Greensboro sit-in by appealing to both sides.

## **Conclusion**

Many years after the Greensboro sit-in, McNeill Smith learned of some heartbreaking news: the North Carolina State archival copies of the lengthy report he wrote with the help of the State Advisory Committee, "Equal Protection of the Laws in North Carolina," had been thrown away. In what critics of the Commission on Civil Rights might have dubbed a fitting end, the state archives allegedly discarded the reports because they were paperback books.<sup>220</sup> "It later became fashionable to minimize the importance of these early steps in the civil rights cause," theorized a friend of Smith's.<sup>221</sup> For those who always believed the Commission on Civil Rights and the State Advisory Boards operated as toothless political gestures, the discarding of the reports might have symbolized the overall inefficacy of the group's work in the end. After all, neither McNeill Smith nor any of his contemporaries had any power to make real change in the state of North Carolina. Their sole mission involved observing and reporting.

The lack of enforcement for the State Advisory Board and the eventual discarding of its findings represent some of the very real limitations placed on white Southern civil rights advocates in the early 1960s. While Smith certainly supported the spirit of the Board, in practice he could do little more than report on the discrimination he witnessed. In the end, even that crowning report, once described as the "best of all the state reports," failed to move state

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<sup>220</sup> Eleanor Smith, email message to author, September 18, 2014.

<sup>221</sup> Edwin Yoder, "Mac Smith took Citizenship Seriously," January 22, 2011, *News and Record*, Courtesy of Eleanor Smith and the Smith Family.



politicians in the way Smith hoped.<sup>222</sup> In addition to a lack of administrative authority, Smith also found himself constrained by the white attitudes of his hometown. During the Greensboro sit-ins, most of white Greensboro outright opposed desegregation attempts or could not comprehend the need for integration. Smith himself only gradually came to see integration as a civil right. Thus, Southern liberals like Smith confronted limits from both without and within, facing a community tolerant of discrimination and their own prejudices.

However, given these challenges, McNeill Smith also exemplified how white liberals *successfully* navigated the tricky waters of integration in the early 1960s. During both the time he served as chairman of the State Advisory Committee and as negotiator at the Greensboro sit-in, Smith consistently used states' rights rhetoric. In so doing, Smith soothed opponents by emphasizing the need to keep North Carolina reform local. In areas of integration, Smith promised he could help without the "glaring condemnation" of the federal government. While the State Advisory Board had no authority to make policy changes, Smith's continual guarantee that North Carolinians would take care of the problem might have allowed the Board to compile such a thorough report in the first place. North Carolinians felt reassured that their fellow North Carolinians conducted the investigations, and this comfort probably led to a more honest portrayal of civil rights in North Carolina. As Smith's friend observed, Smith's actions represented the "early steps in the civil rights cause," but they built the foundation for later and more meaningful legislation.<sup>223</sup>

Thus, perhaps more than any other period in McNeill Smith's life, his work with black civil rights provided a glimpse of what it meant to work as a white liberal in the mid-century

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<sup>222</sup> Yoder, "Mac Smith Took..." Courtesy of Eleanor Smith.

<sup>223</sup> Ibid.

South. Inundated with the community's segregationist leanings and left with no means to fix real problems, Smith was certainly limited by his surroundings. However, he worked within those limitations, employing clever and reassuring rhetoric, to advance his liberal cause. In the end, Smith and his white liberal contemporaries succeeded in pushing North Carolina on a path toward more inclusive civil rights for all its citizens, just as he once envisioned. Smith had hopeful plans for the future of North Carolina, "I believe it's going to all end when we have a more open society with people being judged not on the basis of their color and being classified somehow because of their color or their race."<sup>224</sup> While much work remains to be done by activists today, Smith left North Carolina a better place than he found it.

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<sup>224</sup> McNeill Smith, Interview by Costello, 19.

## “And the Heresies are not Dead:” Conclusion

Believing as he did that without activism, people would never stop accusing progressive thinkers of heresy, McNeill Smith continued his crusade in civil rights for the rest of his life.<sup>225</sup> In 1963, he successfully litigated on behalf of students at the University of North Carolina at Chapel Hill for repeal of the infamous “Speaker Ban” law, which prohibited Communists from giving speeches on the university’s campus. In the 1970s, Smith served in both the North Carolina House of Representatives and North Carolina Senate, and in 1978 he ran for a seat in the United States Senate. When new democratic states appeared after the collapse of the Soviet Union in the early 1990s, Smith traveled to Estonia for a year to help write the nation’s constitution. He died in 2011 at the age of ninety-two.<sup>226</sup>

Smith is a little known character in the history of North Carolina politics. To most historians, should they mention him at all, he occupies little more space than a footnote or brief sentence. During the trial of Junius Scales, he was the “local lawyer” to Telford Taylor’s international expertise. He helped bring an end to the racial inequalities in Greensboro, North Carolina, but the place and the sit-in are better known for scenes of struggling black civil rights workers and angry, white segregationists than the behind-the-scenes negotiation conducted by Smith. Even for North Carolina historians, the “quintessential Southern white liberal,” as William Chafe argues, is best embodied by UNC President Frank Porter Graham, not an unknown Greensboro attorney.<sup>227</sup>

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<sup>225</sup> McNeill Smith, Interview by Costello, 26.

<sup>226</sup> “Greensboro Bar Association Memorial Resolution Honor John McNeill Smith, Jr., April 18, 2012,” 1-6, *Neal Robbins*, accessed March 12, 2015, [http://nealrobbins.com/greensboro/wp-content/uploads/2010/04/J\\_McNeill\\_Smith\\_Jr\\_4-18-2012.pdf](http://nealrobbins.com/greensboro/wp-content/uploads/2010/04/J_McNeill_Smith_Jr_4-18-2012.pdf).

<sup>227</sup> Chafe, *Civilities and Civil Rights*, 5.

Perhaps historians have focused little on Smith, despite his long record of advocating for civil liberties, because he defies a neat classification. As a liberal anticommunist, he certainly had no affinity for Communist ideology, forming the American Freedom Association to combat the nuclear implications of a global Communist threat. Given his involvement with the organization, one might conclude, in historian Sarah Hart Brown's terms, that McNeill Smith represented a typical "Cold War liberal." These political actors occupied some middle ground between conservatism and radical leftism, afraid to associate with Communism for fear that the Communist witch-hunters might implicate them, too. However, as his defense of Communist Junius Scales in the late 1950s proved, Smith was *not* afraid of a perceived affiliation with Communist thought. To the contrary, McNeill Smith risked his professional reputation to defend a man whose political beliefs proved so unpopular that no other North Carolina attorney would defend him. A respect for constitutionalism and individual rights inspired McNeill Smith's activism, but he was not overly vocal about his liberal beliefs. In fact, Smith often disguised his liberal goals beneath a layer of conservative rhetoric, speaking the same language as his ideological opponents. The National Law Journal once referred to Smith as having "feet in both liberal and conservative camps," without falling "in any line with any party discipline."<sup>228</sup>

Precisely because McNeill Smith defies a certain easy classification is why historians should devote time to his story. Smith's career demonstrated how white, Southern liberals operated in the 1950s and 1960s. These men and women challenged traditional classifications of "liberal" or "conservative," "moderate" or "radical." McNeill Smith's American Freedom Association advocated a leftist, progressive platform—nuclear disarmament—but over and over

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<sup>228</sup> "Greensboro Bar Association Memorial Resolution Honor John McNeill Smith, Jr., April 18, 2012," 6, *Neal Robbins*, accessed March 12, 2015, [http://nealrobbins.com/greensboro/wp-content/uploads/2010/04/J\\_McNeill\\_Smith\\_Jr\\_4-18-2012.pdf](http://nealrobbins.com/greensboro/wp-content/uploads/2010/04/J_McNeill_Smith_Jr_4-18-2012.pdf).

again emphasized patriotic language used by the conservative right. Likewise, during his involvement with the North Carolina State Advisory Board and the Greensboro sit-in, Smith used conservative arguments for states' rights and the importance of localism to push not for segregation, but for civil rights. When he began his letter-writing campaign to free Junius Scales, Smith appealed to a broad range of North Carolinians, in effect organizing a liberal subset of the population intent on releasing an innocent man from prison. Smith and other white liberals never publicized their true intentions forthright, understanding from the experiences of Henry Wallace and Frank Porter Graham that doing so would mean never finding an audience. Instead, they *adapted* to North Carolina's political climate, expertly using rhetoric and tactics allowing them to go undetected by the conservative right.<sup>229</sup> In the 1950s and 1960s, Southern white liberalism received an education.

Using that education, white Southern liberals like McNeill Smith laid the groundwork for a more inclusive, tolerant North Carolina and American South. The American Freedom Association continued holding conferences on international issues and world peace for decades in the Blue Ridge Mountains. Smith's letters pleading with North Carolinians, and especially the original fourteen jurors, to support Junius Scales's release earned Scales a ticket home on Christmas Day, 1962. Moreover, the support by North Carolinians of Scales's commutation, represented by the later drama "Limits of Dissent" in which no audience jury found Scales guilty, indicates the level of acceptance Smith encouraged North Carolina to uphold. Finally, Smith's work with the State Advisory Committee was later cited as an important forerunner to

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<sup>229</sup> For more on how local advocates proved more effective because they personally knew and could exploit the differences in their opponents, please see Chappell's *Inside Agitators*, xxii.

the national Civil Rights Act of 1964 and the Voting Rights Act of 1965.<sup>230</sup> Overall, the modest work of McNeill Smith and other white Southern liberals like him helped put North Carolina on a path to civil rights, a legacy to which the state remains dedicated today.

McNeill Smith shows historians one way in which true political and social change occurs. By advocating for unpopular liberal measures using moderate and even conservative means, Smith never experienced the public and humiliating defeats of his liberal contemporaries Frank Porter Graham and Henry Wallace. Of course, there is a place for radical activists in our society, those so infuriated by the social status quo that they cannot remain silent. These men and women often begin social movements, much like the civil rights movement and black activists during Smith's time. However, equally important are the McNeill Smith activists, men and women committed to a calmer, more moderate approach in which they navigate a middle ground between camps.<sup>231</sup> McNeill Smith's activism and political beliefs defied classification, and this very fact made him successful in pushing North Carolina toward a more equal and inclusive future.

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<sup>230</sup> "Greensboro Bar Association Memorial Resolution Honor John McNeill Smith, Jr., April 18, 2012,"<sup>4</sup>, *Neal Robbins*, accessed March 12, 2015, [http://nealrobbins.com/greensboro/wp-content/uploads/2010/04/J\\_McNeill\\_Smith\\_Jr\\_4-18-2012.pdf](http://nealrobbins.com/greensboro/wp-content/uploads/2010/04/J_McNeill_Smith_Jr_4-18-2012.pdf).

<sup>231</sup> For more on these moderates navigating a middle ground, please see Chappell's *Inside Agitators*.

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