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The ACLU and Civil Liberties in Puerto Rico

Pablo Navarro-Rivera

This essay is a revised and expanded version of “La huelga del 48 y la campaña del silencio,” a chapter in Professor Navarro's book Universidad de Puerto Rico: De control político a crisis permanente 1903-1952, Río Piedras: Ediciones Huracán, 2000. The translation to English was done by Andy Klatt and Pablo Navarro-Rivera.

The April 1948 University of Puerto Rico student strike was a definitive event in 20th-century Puerto Rico, as well as a momentous event in the evolution of a university founded by the United States 45 years earlier, five years after wresting the island from Spain in 1898. In addition to student arrests, “preventive” suspensions, the firing of professors, and other government actions, the university administration prohibited political activities at the university at this time. The administration also initiated a series of measures that culminated with the complete elimination of student involvement in university governance at the University of Puerto Rico and the dismantling of the Student Council.

Background to a University Strike

In 1948, University of Puerto Rico (UPR) rector Jaime Benítez strongly opposed an investigation by the American Civil Liberties Union (ACLU) into the university's possible violation of civil rights and liberties during a student strike. In order to avert any such investigation, he organized a broad campaign involving some of the most prominent names in United States (U.S.) legal, political and academic life. In this essay I will examine the rector's campaign and the results of his efforts to avoid an investigation. The April 1948 university strike was a definitive event in 20th-century Puerto Rico, as well as a momentous event in the evolution of a university founded by the United States 45 years earlier, five years after wresting the island from Spain in 1898. Since early in its history, there had been a number of student protests at the University of Puerto Rico (Benner, 1965; Navarro Rivera, 2000; Picó, 1974; Rodríguez, 1996). Among the precipitating factors of this strike were Puerto Rico's status as an occupied nation and the impact that such occupation had on the UPR. The 1948 strike, the most significant student protest since the founding of the University in 1903, would expose the tensions resulting from the colonial rule of Puerto Rico and, more specifically, it exposed the tensions between colonialism and higher education in this Caribbean island.

Although the Student General Council did not call the strike until April 14, 1948, the events leading to such protest began on December 15, 1947, when independence leader Pedro Albizu Campos returned to Puerto Rico after serving seven years of a 14

year sentence for allegedly conspiring to overthrow the U. S. government. Charging Albizu and other members of the Nationalist Party was, according to historian Maldonado Denis (1973) part of an effort by the U. S. government to destroy the increasingly popular independence movement.

In its report “Civil Liberties in American Colonies,” the ACLU makes a similar charge.(1)

Upon Albizu’s return a group of university students replaced the customary United States flag, the official flag of the Island since the U.S. invasion, on UPR’s Franklin D. Roosevelt Tower with the Puerto Rican flag, known as the monoestrellada (the singlestarred flag). In addition, they hung a banner from the tower’s parapet that said “University Students Welcome Maestro Albizu Campos” and painted “Viva Albizu Campos” on several walls around the campus.(2)

These events took the university administration by surprise. At about 6:30 a.m., the university employee responsible for raising the U.S. flag found that its pole was already occupied with the monoestrellada, and immediately informed the UPR chief of police, Carlos A. Patterne. After a brief struggle with student José Gil de Lamadrid, Patterne lowered the Puerto Rican flag and raised that of the United States.

According to Patterne, it was hard for him to have to lower the Puerto Rican flag: “With tears in my eyes, I explained my situation to Mr. Gil de Lamadrid and the pain it caused me to find myself obliged to lower the flag.”(3) Patterne added that “Personally, I have never been and I never will be opposed to the freedom of Puerto Rico (4)

Later that morning, university Rector Benítez reported the following:

A group of students involved in this whole incident came to my house to talk to me. I reproached them for their conduct and strongly admonished them concerning their responsibilities in that regard. I emphatically denied them permission to lower the American flag from the tower. I offered to return the monoestrellada to them. University staff was informed of both of these things. Minutes later, a group of students led by Mr. Jorge Luis Landíng requested the monoestrellada from Mr. Patterne. Mr. Patterne was accompanied to the third floor of the tower by Mr. Landíng and Mr. Roberto Martínez Flores, and the flag was returned to them there. (5)

Benítez continued:

In contravention of my orders, and taking advantage of the university authorities' inability to impede them, Jorge Luis Landing and his group ascended to the top floor of the tower, lowered the American flag, and raised the monoestrellada. (6)

Informed of these events, Benítez requested the intervention of what was then known as the Insular Police of Puerto Rico. By twenty minutes after noon, the Puerto Rican flag had again been removed and the United States flag was flying in its place. The rector immediately suspended student leaders Jorge Luis Landing, Juan Mari Bras, and José Gil de Lamadrid, the alleged perpetrators of the incident, and recommended their expulsion.

Benítez justified his response in this way:

The university administration has clearly established its exceptional tolerance in the face of all nature of attacks, and its firm intention to defend the University of Puerto Rico as an open institution where all ideas and all points of view may have the opportunity to be freely presented, discussed, criticized, and defended.

On the anniversary of the Grito de Lares(7), I authorized the flying of the monoestrellada on the University flagpole, and later defended Mrs. Margot Arce de Vázquez when she was attacked for her participation in that act. I have publicly accepted full official responsibility for that authorization, which was made in keeping with university regulations and with the democratic procedures that we are all required to observe.

It is precisely because we wish the university to grow closer each day to its ideals as a center for intellectual training that we can not allow a group of students to try to transform it into a training center for fascist tactics. (8)

On December 17, 1947, Rector Jaime Benítez assigned Félix Luis Alegría to investigate the incident.(9) Alegría summoned the suspended students to appear at a hearing on December 22. Although the students announced through their attorneys that they would not attend, the hearing was held, and it formed the basis for Alegría's report and recommendations, submitted to the rector on the next day, December 23. After detailing his findings, which were consistent with the scenario described by Benítez in his December 15 statements, Alegría recommended "the immediate and definitive expulsion from the University of Puerto Rico of Jorge Luis Landing, Juan Mari Bras and José Gil de Lamadrid."(10) On January 5, Rector Benítez accepted this recommendation and formally expelled these three students.¹¹ Also on January 5, he expelled Antonio Gregory Schmidt and Pelegrín García for their alleged participation in the same incident.(12)

Many at the university considered these measures to be excessive. After all, Benítez had faced a similar incident on March 21, 1947 and his response had been quite different:

On the morning of Friday, March 21, a group of students raised the Puerto Rican flag on the pole in front of the Pedreira Building to commemorate the 10th anniversary of the Ponce massacre. I ordered that it be allowed to remain there and that the American flag be raised on Franklin D. Roosevelt Tower at the central building of the university. Both of my instructions were intended to encourage continued respect on the university campus for the symbols and laws of Puerto Rico.(13)

After raising the Puerto Rican flag, a number of students and professors gathered in front of the Pedreira Building, about which Benítez had this to say:

That same morning, a group of students and professors organized a meeting, without requesting permission and in violation of university regulations, around the flagpole outside the Pedreira Building. About two to three hundred people attended, and the tone of the meeting was intolerant and hostile. Attendance at classes was normal.(14)

In the same document, the rector made the following observations:

There is a noble and constructive way to pay homage to the victims of intolerance, of persecution and of violence. They are honored when we reject intolerance, persecution and violence as weapons in promoting our own ideals. Their sacrifices are also honored by employing our human generosity and intelligence in promoting understanding, justice, and well-being. The victims of Ponce deserve to be honored in that way, as do the millions of souls sacrificed in the bloody events that have dismayed and impoverished humankind in recent years...

In the name of the most fervent patriotism, Italian and German universities lost their focus on learning and intellectual work, becoming instead centers of political agitation and intolerance... The University of Puerto Rico is a learning institution with maximum tolerance for ideas, all ideas, committed to providing its students, all its students, and to its professors, all its professors, the opportunity to work together each day in composure, with high standards of coexistence, to seek an understanding and analysis of the problems of our life and culture...

This administration has overlooked repeated violations of university regulations on the part of certain students and certain professors. I respectfully urge those professors and students to desist from such unnecessary violations of the institutional order.(15)

From the documents that I have been able to examine, it is not clear why Benítez did not take disciplinary measures in March 1947, but expelled several students in December 1947 for similar actions. We do know that Puerto Rico was experiencing a profound social crisis that year. It had become clear that the model of colonial government imposed by the United States had failed and that the demands for change could no longer be ignored. Pro-independence forces had achieved an unprecedented level of support and the U.S. government was seeking a new kind of formal arrangement for the Island. To address this situation, the United States determined that Puerto Ricans would be able for the first time since the military occupation of 1898 to elect the Governor of the island in the elections scheduled for November 1948. The U.S. also accepted that Spanish become the language of instruction, after 53 years of having imposed English as the language of teaching and learning (Navarro Rivera, 1999; Negrón de Montilla; Torres). Adding to this turmoil, there was a growing opposition to Puerto Ricans being required to serve in the armed forces of the country that had subjected the Island to colonial rule. The affairs of this Caribbean island called the attention of the United Nations, who began to monitor the status of Puerto Rico.

This was the situation that Nationalist Party leader Pedro Albizu Campos found upon his return to Puerto Rico on December 15, 1947. His years as a political prisoner of the United States had not diminished his political influence in Puerto Rico. Being one of the most significant institutions in Puerto Rico, the UPR could not escape being at the center of such social unrest. From its founding in 1903, it was not only a key educational organization but it was also a political entity crucial for the colonial enterprise initiated in 1898. As one of the colonial educational institutions charged with the acculturation of its students in the ways of the new ruler, it evolved as well as a place where the colonization efforts would be resisted. Such context must have been considered by one of the leading political figures in the 1940's, Jaime Benítez, Chancellor of the University since 1942, when faced with the events of late 1947 and the early part of 1948. Expelling student leaders, all supporters of independence for Puerto Rico, suggests that this might have been part of the response of the government to the social crisis engulfing the Island.

In a January 14, 1948 letter to Benítez, UPR Student Council President Juan Noriega Maldonado expressed the council's opposition to the expulsion of Gil de Lamadrid, Landing, and Mari Bras. Noriega Maldonado's letter read in part:

I have named Student Council Vice President Mr. José M. Tejada to head a committee that will formally present you with a petition signed by 5,119 students that the compañeros expelled at your orders be reinstated, considering that your order was unjust and anti-democratic (16)

The rector rejected the students' petition, and the crisis of the flag was seemingly resolved. Several weeks later a more troublesome crisis arose, one that would have serious consequences. The rector turned down a request by the Student Council to hold a meeting in the UPR theater (17) on April 9, 1948. The main reason for denying the students permission to use the Eleanor Roosevelt University Theater was that the featured speaker was to be Pedro Albizu Campos, who would discuss the political situation on the island and the oversight of such status by the United Nations.

In December 1947, Benítez had stated that "The university administration has clearly established its exceptional tolerance in the face of all nature of attacks and its firm intention to defend the University of Puerto Rico as an open forum where all ideas and all points of view may have the opportunity to be freely presented, discussed, criticized, and defended." However, in denying the use of the theater to the Student Council in April 1948, the rector's office stated that: "Mr. Albizu Campos has repeatedly, in the past and in the present, expressed himself in unacceptable terms that damage the prestige of the University. In addition, his speeches have been characterized by repeated and impassioned incitement to violence and direct action, an attitude and tactics that are fundamentally irreconcilable with the spirit and purpose of this Institution." (18)

A Strike is Called

The Student Council repudiated the decision of the rector and called a university strike for April 14, 1948. As a result, over 60 students were suspended and the administration recommended that the contracts of several professors not be renewed. In addition, police and military forces called to the campus by the University administration responded to the protests with much violence. According to a confidential document written by José Gueits, the interim dean of students, almost all the student suspensions were "preventive." (19) The administration justified the suspensions on the basis of news reports and photographs, the attendance and statements of students at meetings and assemblies on and off campus, their votes to strike and letters and pamphlets. (20) The Puerto Rican police also conducted surveillance on student leaders, in particular when they visited Albizu Campos in his room at the Hotel Normandie in the capital city of San Juan. (21) For example, in a report prepared in the rector's office on May 6, Salvador Roig, the chief of the Insular Police of Puerto Rico, informed the governor as follows:

Last night at 8:45 pm, student José Gil de la Madrid left the Hotel Normandie, where Albizu Campos is staying, accompanied by three women and a young man resembling Pelegrín García. It is not known whether they had been conversing with Mr. Albizu Campos. (22)

Although most professors generally supported the rector's handling of the situation at the university, a group of 32 professors protested the manner in which it had been decided not to renew the contracts of professors José Emilio González, Eladio Rodríguez Otero, Roberto Beascochea, and José Ferrer Canales. In a letter sent to the Superior Educational Council on July 16, 1948, this group of professors criticized the action of the administration for the following reasons:

1. *Because based on the information available to us, there has been no impartial and objective investigation of the participation of the referenced professors;*
2. *Because they have been given no opportunity to defend themselves;*
3. *Because the University Board has furnished no evidence that these university professors are encouraging this movement;*
4. *Because the Superior Council has established no general regulations for the University, nor has the University Board established a procedure for the selection of teaching personnel as required by Article 14 of the University Law.* (24)

In addition, the signers made the following charge:

We respectfully call the attention of the Superior Educational Council to the seriousness of the action taken by the University Board and the dangerous precedent that it sets with regard to the rights and responsibilities of university professors. This action violates the principle of academic freedom and the civil and political rights guaranteed in Section 15 of the University Law, which states: "Academic freedom and the full exercise of civil and political rights are hereby guaranteed to all members of the teaching, technical, and administrative staff of the University of Puerto Rico." (25)

In a confidential report dated April 13, 1948 to the chief of the Insular Police, Salvador Roig, then Commander of the Internal Security Squadron, Astol Calero, informed Roig of the activities of both students and faculty against the decision of the UPR administration to deny the Student Council request to have Pedro Albizu Campos speak at the University. Calero also reported on statements made by students and faculty against forced military service by Puerto Ricans in the armed forces of the United States. The surveillance of the police in the UPR was admittedly extensive and it resulted in detailed reports on the content of speeches by members of the University community such as Professor José Ferrer Canales and José Emilio González, whose contracts were not renewed that year. While university authorities described these professors as instigators and a threat to the academic mission of the institution, Calero, in his report to Roig, indicated that Ferrer Canales speech was devoted to peace. In his address, according to Calero, González referred to Chancellor

Benítez as a dictator and someone who was trying to intimidate students, as well as attempting to scare them away from their struggle for the independence of Puerto Rico. Calero ended his reference to González by stating that in his speech, González affirmed that it was important that efforts in favor of independence continue so the institution can some day truly become the University of Puerto Rico. (26)

The Campaign of Silence

In addition to the arrests, the “preventive” suspensions, the firing of professors, and other government actions, the university administration prohibited political activities at the university at this time. Also, the administration initiated a series of measures that culminated with the complete elimination of student involvement in university governance at UPR and the dismantling of the Student Council. Meanwhile, the Puerto Rican Legislature passed on May 20, 1948 three bills that drastically limited civil and political rights on the island. All of these measures led members of the Cruzada Universitaria (University Crusade), an organization representing striking students, to call on the American Civil Liberties Union (ACLU) to investigate possible violations of civil rights and liberties at the University of Puerto Rico.

A letter written on May 14, 1948 to Clarence Pickett from the American Friends Service Committee, UPR students Edward C. Stannard and Luis F. Valentín, of Cruzada Universitaria, stated their grievances and the need for an ACLU investigation:

As a Friend [Stannard was a Quaker member of the American Friends Service Committee] and also as a student at the University of P.R. I am writing to thee. Mr. Luis F. Valentin and I are officially delegated to work on the documentation and presenting of our Civil Rights Case before the American Civil Liberties Union.

Rector Jaime Benitez has expelled students because they protested the injustice of the abuses of administration power in the University and professors as well. Benitez refused to recognize any petition from a bonafide assembly of majority students. His answer has been closing of University, threats, intimidation, use of police force, use of revolvers, blackjacks and tear gas bomb to coerce the students to return to school on his terms.

The undue use of violence by the police against peaceful demonstration of strikers is an outrage along with the violation of rights of assembly, of speech, of thought, belief and to picket of the students.(27)

On May 12, 1948, ACLU General Counsel Arthur Garfield Hays wrote a letter to the rector that included the following:

Our attention has been called to your recent refusal to permit Mr. Don Pedro Albizu Campos to address the Student Council of the University on campus grounds. May we inquire as to the basis upon which this obvious violation of academic freedom was taken?

In refusing the student body to hear Mr. Campos, the students have been deprived of their right to hear. We believe that your action, if taken as reported, furthermore constitutes a dangerous precedent which may be used to limit expression of other unpopular views at another time.(28)

Three days later, on May 15, Jaime Benítez responded to Hays:

I am perplexed by your assumption that we had committed “an obvious violation of academic freedom” when we denied the use of the University Theatre to Mr. Albizu Campos.

I have always been a staunch defender of civil liberties and particularly of academic freedom. Thurman Arnold, Robert Maynard Hutchins, and Robert Morss Lovett, members of your National Committee, are acquainted with my work and my attitudes. Mr. Lovett particularly, was a visiting professor here for three years, appointed by me the day after Congress succeeded in eliminating his position at the Virgin Islands. G. A. Borgese, Milton Mayer, Fernando de los Ríos, Max Rheinstein, and José Giral have been our guests. Over fifty professors, refugees from the dictatorships of Franco, Mussolini, Hitler, Trujillo, have enjoyed our hospitality while we have profited from their wisdom. They know my work. All of them can testify as to the quality of my liberalism. All of them would be shocked by the tone of your communication.

But academic freedom does not include the right of students to dictate who shall be the guests of the University administration, especially if the proposed guest has shown a complete disregard for truth and for democratic process. For two months previously to the request, Mr. Albizu Campos had spoken over the radio at least ten times. After that, he has spoken at least twice. There is no question that Mr. Albizu has been heard and can be heard on all subjects by anyone throughout Puerto Rico, University students included. But the University Theatre is not the public square. The question is whether we are under an obligation, academic, moral, civic or otherwise, to turn over to Mr. Albizu our Theatre upon request.

I do not know of any liberal university in the world where the proper authorities are denied at least some discretion on such matters. Certainly the record of the potential speaker is a fact to be taken into account. (29)Benítez took the opportunity to tell Hays the following about Albizu Campos:

Upon his return to Puerto Rico on December 15th, Albizu Campos was greeted at the pier by his black-shirted army. It was symbolic of what was to follow. That same day Albizu Campos began his gospel of hatred, violence and direct action. He has publicly advised the University students to arm themselves and to take the law in their own hands. He has repudiated the ballot box and all other democratic methods of settling disputes. He has threatened to stop Muñoz Marín and Celestino Iriarte—two outstanding party leaders— if they dare mention democracy. He has urged his followers to deal violently with the opponents and, in some instances, to shoot them. He has claimed, upon the basis of supposed confidential information, that Puerto Rico is to be used by the United States as target practice for atomic bombs.(30)

The rector had the following criticism of the Puerto Rican press:

I have heard all the above myself. I regret to say that none of our leading papers has written a single editorial condemning Albizu's terroristic gospel. The University of Puerto Rico is committed to entirely different principles. I refuse to become a party to the indoctrination of our youths by Puerto Rico's outstanding leader of terrorism.(31)

Finally, Benítez defended his actions:

My decision was not popular. It was not meant to be. I have been subjected to a great deal of abuse which I knew in advance would happen. But I knew that if in 1930 the president of a German university had refused the use of the university theater to Adolph Hitler, democrats throughout the world would feel now that such a decision was a courageous one, and better still, a decision in favor not against academic freedom.

Puerto Rico is a small and forgotten community. I am proud to say that the academic principles which were not upheld in pre-Nazi Germany, are upheld here and now. (32)

In further support of his actions, the rector forwarded Hays a report on the strike prepared by Thomas S. Hayes, not mentioning that as director of the UPR library, Hayes was his subordinate. On the very next day, Benítez wrote a letter to Washington D.C. lawyer Abe Fortas:

*Please note exchange of letters with Arthur Garfield Hays on the subject of Albizu. Don Miguel Guerra Mondragón used to be the representative of the Civil Liberties Union in Puerto Rico. After his death, the representation was turned over to his law partner, Guillermo Ayuso Cintrón, nephew and hingeman [the word used by Benítez in his letter to University of Chicago Chancellor Robert Maynard Hutchins was "henchman"] of Ayuso Valdivieso, owner and director of *El Imparcial*. *El Imparcial* has been running the most gruesome stories on the matter. Tom Hayes describes some of them in the enclosed release.*

I understand pressure is being brought for a Civil Liberties investigation with the dice loaded. That would create an enormous amount of confusion especially since the newspaper situation is still very bad. You will see that Garfield Hays' letter does not observe even the rudimentary niceties.

Please brief Thurman Arnold on the matter. I await eagerly your reactions and suggestions. I have also written to Lovett and to Hutchins. Please advice [sic] and help. (33)

This letter was the beginning of an extraordinary campaign by Jaime Benítez to avoid an ACLU investigation. The campaign would be coordinated in the United States by renowned attorney and future U.S. Supreme Court Justice Abe Fortas, who was then counsel to the Office of Puerto Rico in Washington. On May 16, Benítez wrote to Chancellor Hutchins of the University of Chicago, whom he had mentioned in his letter to Fortas. In his letter to Hutchins, Benítez indicated that although things seemed to be returning to normal, one never could know what the “communist-nationalists,” referring to the participants in the student movement, would do. He concluded his letter to Hutchins with a request that the latter keep former UPR Chancellor and Governor of Puerto Rico Rexford Guy Tugwell informed about the university situation. (34) Also on May 16, the rector wrote to Robert Morss Lovett, from the University of Chicago and who had served on the national board of directors of the ACLU, asking him to contact his friends in the ACLU. (35) As soon as Lovett learned about the possibility that the ACLU might travel to Puerto Rico to investigate the student allegations of civil rights and liberties violations by the UPR administration, he wrote a letter to the ACLU supporting the way Benítez had handled the strike. In this letter, however, Lovett did not disclose his close connection to Benítez. Such connection included a three year appointment as a visiting professor and, at the time of his letter to the ACLU, Lovett had accepted a teaching appointment by Benítez for the summer of 1948. After Lovett's letter his UPR contract was extended for an additional six months. (36) In the letter referred to here to attorney Curry, whose legal practice included offices in Puerto Rico, ACLU Staff Counsel Forster expressed his concern about such a close connection.

On May 17, Benítez sent the same documents to Milton Mayer, Professor Max Rheinstein, and Professor G. A. Borgese, all of the University of Chicago, to Lewis Dexter of New York's Hobart College, to Lindsay Rogers of Columbia University, to Fernando de los Ríos, and to Reverend Joseph Barth. Two days later, ACLU Executive Director Roger Baldwin sent Benítez a cable requesting information on UPR practices with regard to campus political activities and inquiring what evidence he had that Albizu would incite violence. Finally, Baldwin asked Benítez why, in the light of any such evidence, Puerto Rican authorities hadn't taken any action on the matter. (37)

Benítez responded to Baldwin by saying that the Eleanor Roosevelt University Theater was never used for political activities and that students were free to participate in such activities off the university campus. No student, he added, was suspended for protesting his decision to deny the use of the Eleanor Roosevelt University Theater to the Student Council. They were suspended, he said, for violating the disciplinary code of the institution, including through the acts of forced entry into his office and interrupting classes and final exams. Finally, he pointed out that Puerto Rican law only punished violence after it was actually committed.³⁸ In response to the Chancellor's May 15 letter Hays stated on May 19:

In the light of your statement, I am having the matter referred to the Union's Academic Freedom Committee. There, the entire matter will undoubtedly have complete and sympathetic study. Upon the issuance of their report, you will hear directly from the office.(39)

Arthur Garfield Hays, on May 25, addressed in greater detail the matters raised by Benítez in his May 15 letter:

I can well understand the difficulties of the situation, yet I feel there is a good deal to be said on the side of the students. If I were a student in the University, I should feel it an insult if I were denied the right by the University to hear anybody on any subject. In other words, we have not only to consider the right of a man to speak, but the right of the students to hear.

You state that Albizu Campos preaches evil doctrines, doctrines with which you and I both disagree, and that he directly incites to violence. Inciting violence is and should be banned by law. One who incites to violence should be charged with that particular crime. To deny a man the right to speak because of other speeches or because he represents doctrines to which we object—in other words to censor him in advance—seems to me to violate free speech. Of course, the question remains as to the right of students to demand that University premises be permitted for any speech of any kind. If, however, University premises are ordinarily used for public purposes, it seems to me the principle above stated should apply. Yet of course I realize that the premises of the University must be subject to the control of the University.

All of this leads the Civil Liberties Union to believe that it might be well to set up a Commission of Inquiry to hear evidence on the facts and to make a report and we are thinking of doing that, with hearings to take place some time in July. (40)

Hays continued:

This issue of so-called University freedom has evidently given rise to a number of collateral issues of civil liberties through the suspension and arrest of students, interference with picketing, and other actions which would probably come within the sphere of our interest. It would not appear, however, that these civil liberties issues could be handled apart from the broader questions of policy in the use of University property for political meetings or speeches. Because of our responsibilities in responding to any request such as has been made to us by some of the parties involved, we feel we have an obligation at least to explore the situation and to render any useful service. We would not like to intrude, however, unless our intervention would be acceptable and helpful on all sides. (41)

Jaime Benítez opposed any investigation by the ACLU and instructed Fortas to do everything possible to avoid one. In addition to asking a number of sympathizers to oppose the opening of an investigation, Benítez asked them either directly or through Fortas to express their opposition to Baldwin and Hays. The rector also wrote to Lindsay¹⁶ Rogers, who was appointed to the UPR board of directors, the Superior Educational Council of Puerto Rico, after the University Law of 1942 was passed in May of that year:

I tried to inquire over the phone from you if you thought it advisable to invite somebody from the American Association of University Professors to come down with Bowles and possible [sic] with you to gather first hand information on this problem.

Please call Frank Bowles and discuss this matter with him so that when he come [sic] I may have the benefit of your recommendation.

Please excuse me for not writing at length. I am pressed for time very badly. (42)

Benítez was interested in bringing a delegation of professors from the United States to Puerto Rico to investigate the situation at the university “objectively,” while opposing the ACLU investigation, which he alleged to be prejudiced against him. According to Lewis Dexter, of Hobart and William Smith Colleges, Hays was connected to a group that saw Albizu Campos as a kind of “Christ of the Caribbean,” (43) making him part of the communist-nationalist conspiracy threatening Puerto Rico and its University.

Benítez appealed to his old allies Rogers and Bowles for help in organizing an “objective” investigation. Frank Bowles stands out as the representative of the Middle States Association of Colleges and Schools, who in 1946 had recommended that the University of Puerto Rico be accredited, coinciding with his acceptance of an offer to serve as assistant to Jaime Benítez (Navarro-Rivera, op. cit.). In May 1948, Bowles also published a letter in the Puerto Rican press, written in the name of the Middle States

Association of Colleges and Schools, supporting Benítez's handling of the university crisis.

The effect of the campaign to avoid an ACLU investigation was already noticeable in the last sentence of Hays's letter of May 25. It had not been the practice of the ACLU to condition an investigation of possible civil rights and liberties violations on the acceptance of the investigation by the party accused of such violations. Fortas and other supporters of Jaime Benítez in the United States had spoken and written to Roger Baldwin, the leader and founder of ACLU, to say that it would be unwise to open an investigation of the UPR. Fortas wrote to Benítez on May 19, telling him that "I am sending you a copy of my letter to Arthur Garfield Hays. I will also talk with him and with Forster and Roger Baldwin. I do not think that you need have cause for concern about the ACLU." (44)

Fortas had written to Hays:

My good friend, Chancellor Jaime Benítez of the University of Puerto Rico, has sent me a copy of your letter of May 12 in which you comment upon the refusal by the University of Puerto Rico to permit Don Pedro Albizu Campos to address the Student Council of the University on campus grounds. I am counsel for the Office of Puerto Rico in Washington, but I write this letter to you not in my professional capacity, but as a friend of Benítez and an associate of the American Civil Liberties Union. I have been intimately associated with Puerto Rican affairs since 1942 when I became Under Secretary of the Interior. Puerto Rican matters were under my immediate supervision, and I have continued my interest and association since my resignation as Under Secretary.(44)

Fortas told Hays that the ACLU was not well informed about the situation in Puerto Rico, and offered to provide them with objective information. He indicated that since 1940, the Government of Puerto Rico had achieved a democratic and economic transformation unprecedented in the world. With regard to the situation confronted by Benítez, he said that:

He has had to cope with a problem which is extremely difficult to comprehend outside of Puerto Rico. Puerto Rican students, after all, have a cultural background of political activity of a sort with which we are unfamiliar. The Puerto Rican political leaders—or putative political leaders of fringe factions—have a tradition of using students for political purposes in a way to which we are not accustomed.(46)

Fortas continued:

But even for liberals, there is a limit. Neither academic freedom, nor freedom of speech and assembly, justify the deliberate and knowing tolerance of situations which are certain to lead to violence, and thereby to result in greater suppression. (47)

Given this context, said Fortas, Benítez had to deny the use of the theater to the Student Council. According to Fortas, the Puerto Rican newspapers represented the extreme right, and Albizu Campos was being used by them to undermine the exemplary work of the Popular Democratic Party at the university and on the island. Fortas suggested that the ACLU take no action without first examining the situation privately and recommended that the ACLU meet with Benítez during one of his visits to New York. Fortas stated strongly that a public investigation would be harmful to the PPD because it would be exploited by the rightist press.⁴⁸ In this letter Fortas, legal counsel for the government of Puerto Rico in the United States, explicitly states the political importance of preventing an investigation by the ACLU.

While Hays expressed his support for an investigation of the UPR in a May 25 letter to Benítez, Baldwin disagreed at that point. In a May 24 letter to Fortas, Baldwin stated the following:

I have a copy of your letter to Mr. Hays. I think you are right that we were misinformed but chiefly as to the policy of the university. We assumed that Albizu had been denied the right to use the university theater while other politicians were granted its use. It appears from a telegram from Mr. Benítez that the university theater is not used for political meetings and that no discrimination was made. That puts an entirely different light on the case.

I am also somewhat surprised that a man who directly incites to violence as Albizu evidently does, is not subject to some proceeding at law. I gather perhaps the Puerto Rican law is deficient in this respect since two new statutes have just been passed evidently aimed at such advocacies.

I think we will get ourselves straightened out with Mr. Benítez. (49)

Fortas sent Benítez a copy of Baldwin's letter with a note that said "Relax." (50) The next day, Robert M. Hutchins, then Chancellor of the University of Chicago, wrote him to say "I think you are going great. Come and see one who is not." (51)

By May 28, Baldwin had decided not to support the investigation. He wrote to Benítez on that day: "I see it's a pretty tough situation with many aspects, some of which are hardly in our field. We do not want to intervene unless there seems to be some real service to be rendered and we have got to trust your judgment on that." (52) This letter confirmed Fortas's assurances that Baldwin would take Benítez's side. In a

confidential letter to Benítez on the same day, Fortas indicated that “I told Baldwin that I thought that the Civil Liberties Union should announce that after further inquiry it had decided that an investigation would serve no useful purpose.” (53)Fortas added the following:

Baldwin seemed in agreement with me and particularly felt that Civil Liberties Union did not want to become involved in politics. I am confident that Baldwin is beginning to understand the complexities of the situation and that he is on our side.

Baldwin said that he would talk with Hays and would let me know their decision. He wanted to know what I thought of Hays communicating with Travieso if Hays wanted some advice from Puerto Rico. I talked about Cecil Snyder as a member of the Supreme Court who might be in a position to give Hays an objective judgment.

I hope that Hays will not find it necessary to communicate with anybody else, but he may decide that he wants some local advice.(54)

It is of significance that ACLU leaders would consider it appropriate to consult with Travieso, who at that time was the Chief Justice of the United States appointed Supreme Court of Puerto Rico, on the desirability of an investigation of possible civil liberties and civil rights violations at the UPR. Cases arising from the University crisis of 1948 could reach a Supreme Court where justices had pre-judged the merits of such case. Evidence has not been found to determine if the ACLU contacted Travieso. It is, nevertheless, documented that Arthur Hays communicated with Associate Justice A. Cecil Snyder, who had been appointed to the Supreme Court by Franklin Delano Roosevelt in January, 1942.(55) Hays indicates the following to Judge Snyder:

Our aid has been asked by striking students and sympathizers to investigate alleged violation of civil rights which apparently involve far larger political issues. We are doubtful of the utility of such an investigation and would appreciate your confidential advice as to the utility of any such inquiry by outsiders. Will you kindly wire me collect at 170 Fifth Avenue, New York City. With appreciation. (56)

In his reply to Hays, Judge Snyder stated as follows:

I have had no opportunity to reply to your message because of the holiday weekend. Our mutual friend James Davis, Chief of the Territories and Insular Affairs Division of the Department of Interior, happened to be in Puerto Rico this weekend. For reasons which he will explain to you, I requested that Mr. Davis advise you orally of my views on this matter, as he planned to leave for the States day before yesterday. I trust that he has communicated with you by this time.(57)

On June 3, 1948, Hays wrote Baldwin a letter indicating that:

I received a call on Tuesday from Mr. James Davis of the Department of the Interior, who had recently seen Judge Cecil Snyder. Apparently feels some of these cases may come before him, but he intimated that he thought that any public inquiry at the present time would not be helpful.(58)

As documents show, concern about a possible ACLU investigation began to dissipate in the beginning of June. Interest in Puerto Rico in U.S. political and academic circles focused not on the university but on the recent approval, May 20, 1948, of laws limiting civil rights and liberties. UPR students were finishing the semester and the university was preparing for summer sessions. Jaime Benítez's friends in the U.S. academic world were continuing to send him messages of support and he knew that the worst was over. One professor at the University of Chicago who knew that the crisis had weighed on the rector asked him if "the disturbances had diminished his supply of Scotch."(59)

In a long letter to Baldwin on June 2, 1948, Benítez continued to attack the Puerto Rican press, and repeated his reasons for opposing an investigation of the 1948 crisis. Benítez assured Baldwin that nobody's civil liberties had been violated. The rector referred to a March 1, 1948 public lecture on Puerto Rican independence given at UPR by Professor Marcos A. Ramírez. This was precisely the topic that would have been addressed by Pedro Albizu Campos in the Eleanor Roosevelt University Theater at the meeting proposed by the Student Council for April 9 of that year. Benítez indicated that Ramírez's acceptability was due to the fact that he was the most moderate of the independence-minded professors and that his lecture had been a model of discretion.(60)

According to Benítez, no political activities were authorized on UPR property, and no university facilities were available for that purpose. Since no one was permitted to engage in political activities, he claimed, the denial of permission could not be considered discriminatory. This was one of the main reasons given by the ACLU not to investigate what had occurred at the university, but Baldwin overlooked the obvious inconsistency with which the rector governed the use of university facilities.

At the same time that Benítez was asking Baldwin not to investigate the events of recent weeks, he informed him that he had invited Frank Bowles to investigate the events and to submit a set of relevant recommendations. Benítez referred to Bowles as the leader of the Middle States Association and Director of Admissions at Columbia University. In this case as in the case of UPR Librarian Thomas Hayes, whose 27-page report on the UPR crisis was widely circulated as "objective" material, the rector made no reference to the fact that Bowles, as previously stated, had engaged with Benítez in

practices that had at the very least the appearance of being corrupt. When Benítez sent Baldwin the transcript of a radio message concerning the alleged lies about the UPR propagated by the newspaper *El Imparcial*, he again failed to inform Baldwin that Antonio J. Colorado, the author of the eight-page document, actually worked for him. (61)

Silence Prevails

The ACLU's decision not to investigate the UPR was extraordinary. The rationale for such decision appears in a June 7th, 1948 letter by the ACLU to the UPR students who requested the investigation and Chancellor Jaime Benítez. (62) In the letter to the students and to Benítez informing them that they had decided against an investigation of the possible violation of civil liberties at the UPR, the ACLU stated that "On May 23, 1948, three students of the University of Puerto Rico [Edward Stannard, Julio A. Flores and Rafael Viera Medina(63), representing student groups, came to New York to enlist the services of the American Civil Liberties Union in making an inquiry into alleged violations of the rights of students by the University administration and the police." In such letter, the ACLU added that:

They maintained that only an investigation by an outside impartial agency would resolve the long-standing conflict between the students and the University authorities over the political rights of the student body. The immediate occasion for their complaint was the refusal by the Chancellor of the University to permit a political meeting in the University theatre to be addressed by Dr. Pedro Albizu Campos on "The Status of Puerto Rico Under the United Nations". It was alleged by them that the action taken was discriminatory in the light of University policy which had permitted meetings of students to be addressed by politicians. The University's action appeared to be dictated by opposition to Dr. Albizu's alleged incitements to violence and the fear of consequent disorder. The American Civil Liberties Union has never failed to protest when any one, whatever his views, was denied the right of free expression. From our point-of-view, there is involved not only the right of the speaker to speak but the right of the students to hear. We think it is poor service to the students of any university to refuse to allow them to hear any expressions of opinion, anywhere and at any time. The only possible exception is where general university policy does not permit any political meetings on the campus.

If the speaker proposed has previously made inciting speeches, this should not affect permission. If the speech made at a university is an incitement to violence or violation of law, then the speaker should be so charged. Under no circumstances is it proper to refuse any individual the right to speak merely because it is claimed that on other occasions he has incited to violence or violation of law instead of expressing opinions. This has been the settled view of the Civil Liberties Union for many years.

In said letter, written by ACLU General Counsel Arthur Garfield Hays, ACLU Director Roger Baldwin and ACLU Staff Counsel Clifford Forster, it is also mentioned that “It appeared from the evidence offered that there have been a series of clear violations of civil liberties which might justify our intervention. We therefore pursued the inquiry by correspondence and interviews with many persons familiar with the controversy in Puerto Rico.” The authors add that:

Our conclusion from all the available evidence is that the violations of civil liberties are incidental to a political conflict between Puerto Rico parties in which students have become involved, and that this controversy will continue to produce violations of civil liberties, particularly during the period of tense political feeling before the election of the governor in November.

The Civil Liberties Union has no interest in politics in Puerto Rico or elsewhere. It does not wish to become involved in a political controversy. It would appear impossible to separate the issues of civil liberties from this controversy.

Furthermore, it has become evident to us in the course of our inquiries that it is impossible to secure a panel of impartial Puerto Ricans who could sit with representatives of the Civil Liberties Union from the United States to hear the evidence concerning the violations of civil liberties and to render a decision from an objective point of view.

The ACLU letter makes no reference to a May 31, 1948 report by the ACLU representative in Puerto Rico, Attorney Rafael Arjona Siaca, in which he supports the inquiry requested by the UPR students.⁽⁶⁴⁾ In Arjona’s report to Forster he indicates that:

After full consideration of all factors involved in the matter to which your messages refer, based upon information from adequate authorities and after full discussion with a considerable number of trustworthy citizens, I have come to the following conclusions:

No specific policy existed previously in the University of Puerto Rico which would have been violated by the concession of the University Theater for a lecture to the students by Dr. Pedro Albizu Campos, about “The Case of Puerto Rico before the United Nations”, which appears to have been the subject of the proposed lecture.

The University authorities had very recently granted the facilities of the University to be used by the local President of the Communist Party, and by other lecturers.

There is no evidence that Dr. Albizu would have departed from his announced subject to engage in stimulating the student body to use violence of any sort for political purposes, or that he would preach said use of violence for said purposes.

The denial was the immediate cause of a student movement of protest against a series of successive administrative acts which students felt nullified their rights and which culminated with such denial.

It appears that during the incidents that followed, (the closing and the reopening of the University and the continuation of the protest movement), in a considerable number of cases the civil liberties and democratic rights of the students in protest were not only denied but practically destroyed by the use of physical force, in many cases by the clubbing of the students and of bystanders, by the Insular police to which the regulation of life in the University campus was practically entrusted.

When daily papers published information that meetings of an association of chauffeurs and of another association of workers, would probably be called to consider how the prevention of the civil liberties and democratic rights of students, officially and by the use of force, would endanger the exercise of their own civil liberties and democratic rights, the National Guard, which is the Insular Government's military arm, was immediately mobilized; the Insular Legislature was called for an extraordinary session to, among other purposes, supply funds for the expenses of the mobilization; and at said session, House Bills numbers 23, 24 and 25 were duly approved, after the Governor's call to the extraordinary session was amended by a special message received past midnight in the last day of said session when the Bills—government Bills—were already drawn and practically acted upon; said bills being, generally, considered as an intent to coerce the population by the threats of official persecution, and as endangering, thus, the right to free speech, of meeting and of petition for the redress of grievances. I will send translated copies of said bill during the week.

It is my personal opinion and the opinion of all persons whom I have consulted, that an impartial and serious investigation of the violation of the civil liberties and rights which has recently taken place on account of the University incident is desirable and that furthermore, it should be done under the auspices of an association of the importance and prestige of the American Civil Liberties Union.

Inasmuch as that investigation should be carried on without an atmosphere of strife and struggle between both parties, it is my impression that the students are willing to cease in all the activities of their protest during the investigation and that correspondingly the Police forces would be withdrawn from the campus and its vicinity. The investigation by the American Civil Liberties Union would undoubtedly be of great value in the present circumstances not only because it will probably facilitate a fair solution of the conflict

and will prevent future mass deprivation of civil liberties and democratic rights of the people, now apparently and ominously impending.

The only responses to Arjona's report that I have found came from ACLU Staff Counsel Clifford Forster, June 3, and from Roger Baldwin, June 7. In his letter Forster wrote that Arjona's report "gives us an interesting account of the issues in the students' strike at the University". He added that "We are now considering the advisability of our sending a commission to Puerto Rico. As soon as there is any definite word, I will be glad to let you know." (65) Baldwin, on June 7 replies to Arjona stating "Thank you very much indeed for your helpful letter but we regret to have to come to the conclusion indicated in the enclosed, which seems inescapable at the moment." (66)

It is not clear how much consideration the ACLU gave Arjona's report, nor is it clear the standing enjoyed by him in ACLU matters. Letters in the ACLU Archives establish that during that time the ACLU was searching for a new representative in Puerto Rico and also exploring the establishment of an affiliate there.

It is not clear either how much consideration was given to the recommendation of Antonio Ayuso Valdivieso, director of the newspaper *El Imparcial*, who supported the investigation by the ACLU. In a letter to Baldwin dated June 8, 1948, Ayuso Valdivieso informs the director of the ACLU that "I was certainly delighted to hear from you regarding the possibility of renewing the Civil Liberties Union in San Juan." Ayuso Valdivieso adds that:

Muñoz Marín has railroaded through both houses of the Legislative Assembly and without public hearings, several laws of a repressive nature, which have provoked the protest of both dailies, "El Imparcial" and "El Mundo" and of 43 civic, professional and cultural societies, among them all political parties excepting the Popular Democratic Party, controlled and dominated by Muñoz Marín.

The once popular leader has become a dictator, so hated and despised by everybody that his home is guarded day and night by more than 25 armed men who accompany him wherever he goes. He says among his friends that the FBI has told him there is a conspiracy to kill him and that is why he has railroaded those sedition bills which take away from the people the right to jury trial.

The presence here of our mutual friend Arthur Garfield Hays, will do a lot of good to our people and will bring faith to them as he is well liked and trusted. (67)

In any case, it seems that the ACLU was leaning against an inquiry even before receiving Arjona's statement. Although the ACLU confronted Benítez with the allegations of civil liberties violations shortly after the strike began on May 12, the

Chancellor responded with a very effective campaign to prevent such an investigation. In a May 21 letter to Hays, Forster informed him that “You are undoubtedly being flooded with letters from many people like Abe Fortas about the university situation in Puerto Rico.” Forster added that:

I am referring the whole matter to the Academic Freedom Committee. Meanwhile although I have Mr. Arjona Siaca our P.R. representative to make an investigation of the situation, I have just instructed him to “hold all communications confidential” and not to make any statements “until facts established by the national ACLU.”

This then is the situation as of this moment. I do not know what we can do at the moment. I fear that any statement made by us may explode a very tense matter.

In addition to Arjona Siaca and Ayuso Valdivieso, other individuals and organizations requested an ACLU investigation. One that presented the ACLU with extensive documentation in support of an investigation was The American League for Puerto Rico’s Independence. Its Executive Secretary, Ruth M. Reynolds, traveled to Puerto Rico during this period to investigate the ensuing crisis. Reynolds would send frequent and extensive reports to the ACLU which, in her view, established the need for an investigation by the civil liberties organization. Upon learning that no investigation would take place, and the reasons given for such decision, Reynolds wrote Hays a letter on June 14 indicating:

I was shocked to learn of the American Civil Liberties Union’s reversal on its decision to conduct an investigation in Puerto Rico this summer in connection with the student strike in the University. It is particularly regrettable since, after the request of the Civil Liberties Union, the students had abandoned all but a skeleton strike program, confident that the Union would fulfill its part of the agreement. I am also exceedingly sorry that this action was taken after consultation with government spokesmen, without giving other interested persons and groups an opportunity to refute their statements.(69)

On June 18, Hays replied to Reynold’s letter stating:

I have your very strong, well written and appealing letter about the Puerto Rican situation.

You have, however, made certain errors. The American Civil Liberties Union never reversed a decision about conducting an investigation. When the young men were here, I stated that I would be willing to go to Puerto Rico in connection with such an investigation, if the American Civil Liberties Union decided it was a wise move. Apparently this was taken as an indication that we had reached a decision in the matter.

Your letter intimates that we changed our attitude – although as stated we did not change our attitude – because of influence exercised upon us by hearing other people than the students.

If I was doubtful before about whether it would be wise to conduct an investigation, that doubt was resolved by your letter. You make it perfectly clear that at the bottom of this whole matter is a seething political situation in Puerto Rico.(70)

The claim by Hays of a “seething political situation in Puerto” is quite surprising. Hays was very familiar with the affairs of Puerto Rico and surely knew that the University strike, if anything, exacerbated a longtime social crisis. In 1937 he investigated an incident during a march called by the Nationalist Party in the southern Puerto Rican city of Ponce that resulted in 21 deaths. Hays investigation found the colonial government headed by then Governor Blanton Winship responsible for what would be known as the Ponce Massacre.

As the General Counsel of the ACLU, Hays was aware of the U.S. invasion of 1898 and the colonial rule imposed after the occupation and how such events contributed to such a “seething political situation”. The ACLU established a committee to oversee U.S. colonies, Puerto Rico being one of them. What was somewhat typical of the ACLU of the 30’s and 40’s, it found important to promote greater autonomy and civil liberties for the colonies but did not consider the U.S. expansion by military force as an event with civil liberties implications.

Reynolds spent several years in Puerto Rico researching what Hays called the “seething political situation” of the Island. She was accused of violating P.R. Law 53, one of the sedition laws approved in 1948, found guilty and imprisoned for almost two years. Her research, *Campus in Bondage*, was published in 1989, almost forty years after its completion, and remains the most comprehensive documentation to date of the University crisis of 1948.

By the time of Hay’s letter to Reynolds, the leaders of the ACLU had already accepted the version of events presented to them by Benítez and Fortas. Referring to The American League for Puerto Rico’s Independence in a July 6 letter to Fortas, ACLU staff counsel Forster stated that such organization “seems to be rather an extremist group dominated in large part by what I gather are psychopaths.”(71) Although Forster attempts to dismiss the claims of civil liberties violations by the UPR administration by labeling some supporters of an investigation as “psychopaths,” the fact is that Forster himself found that it was wrong for Benítez to deny the Student General Council the use of the UPR theater to hear a speech by Albizu Campos, which is what the students claimed all along.

Benítez and Fortas maneuvered this effort so skillfully that within days the ACLU was on the defensive and shying away from an inquiry. The University policy regarding the use of the theater, and campus facilities, for political events, was a key factor for the ACLU. In a (date?)²⁰, 1948 telegraph to Roger Baldwin, Benítez affirmed that “University theatre is never used for political meetings.”⁽⁷²⁾ Baldwin accepted the Chancellor’s explanation without asking for any evidence.

Although the ACLU held to its position that it was improper for the Student General Council to be denied the use of the UPR theater, the initial support for an investigation was defeated by a political campaign that successfully appealed to the anti-communist and anti-nationalist sentiments that prevailed at the time within the ACLU. This was clearly reflected in a letter from Fortas to Hays on June 4, 1948:

I pointed out to Roger that the Albizu Campos affair is deeply and inextricably tied in with the political struggle in Puerto Rico. Although there are indications that Albizu and the Communists are working closely together, Albizu’s cause has been expounded by the right-wing press of Puerto Rico, including El Imparcial and El Mundo.⁽⁷³⁾

In the same letter, Fortas stressed the political implications of the case: “I do not see how any civil liberties investigation could escape entanglement in this extremely complicated political struggle,”⁽⁷⁴⁾ and added that “The very fact that the Civil Liberties Union would announce an investigation would do great harm to the cause of democracy in Puerto Rico.”⁽⁷⁵⁾ The defense of civil liberties was explicitly sidetracked by the political need to obscure the practices of the United States government and the Popular Democratic Party in Puerto Rico and at the UPR.

We know that at the end of the 1940s, Puerto Rico was experiencing a serious political crisis stemming from the failed model of colonial government imposed on the island in 1898. The lack of participation by the Puerto Rican people in the government of their own country, the worsening economy, the language problem, and the ongoing university crisis combined to present the United States with an unsustainable situation. Under these negative circumstances, the United States federal and colonial governments could not permit anything to aggravate the obviously disintegrating colonial structure. Thus the return of Albizu Campos to the island in December 1947 and his subsequent invitation by the Student Council to speak on the Puerto Rican national political situation represented a problem that the rulers of the country wished to avoid. That was why Albizu Campos was denied a platform at the UPR. The right to free expression, academic freedom, and the right of UPR students to hear the nationalist leader were deemed to be of secondary importance.

Having implicitly adopted this position, Benítez and Fortas were faced with the task of avoiding an ACLU investigation. They both knew that there was sufficient basis for an

investigation of UPR actions taken since April 14. They also knew that such an investigation would not be politically convenient for either the United States or for the Popular Democratic Party, particularly only a few months from a general election that would allow Puerto Ricans to elect their governor for the first time since the military invasion of 1898. Fortas organized a defense of Benítez and his actions that was really a defense of the Puerto Rican status quo. Although Fortas said that he defended Benítez out of friendship, it seems clear that there was much more at play.

The correspondence that has been examined for this essay certainly demonstrates that Benítez and Fortas did develop a friendship in the 1940s, to such an extent that on more than one occasion Benítez asked Fortas to buy him clothing in the United States.

However, certain of Benítez's communications to Fortas suggest that in addition to friendship, they had an attorney-client relationship. On May 17, 1948, for example, Benítez sent Fortas a cable with the following request: "Please take up immediately matters covered in my letter of May sixteenth." (77) After leaving the Department of the Interior, Fortas became General Counsel to the government of Puerto Rico in the United States. It was in this capacity that Fortas handled a number of matters of much importance for the Government of Puerto Rico. It would also seem that Benítez had the authority to secure the professional services of Puerto Rico's legal counsel and lobbyist.

Rector Benítez was one of the key figures in the PPD who worked with Fortas in 1946 on a case involving Puerto Rican workers exploited by employers in Chicago as a result of abusive contracts arranged through the Puerto Rico Department of Labor. (78) In 1951, Fortas was recruited by Benítez to represent José Ferrer before the Dies Committee, also known as the House Un-American Activities Committee, shortly after winning the Oscar for his leading role in *Cyrano de Bergerac*.

The inescapable fact is that Jaime Benítez, with the help of Abe Fortas and others in the United States, was able to prevent an investigation of the 1948 crisis at the University of Puerto Rico. In denying the Student General Council the opportunity to invite Albizu Campos to speak at the UPR, political control of the university took precedence over civil liberties. The rector scored an additional political victory by avoiding an ACLU investigation of the case based on its merits. Although it was officially argued that the UPR was a learning institution where politics had no place, it has been extensively documented that the rector used the university, including his university office and residence, as a key center for partisan maneuvering on behalf of the Popular Democratic Party. (79) All indications are that as Benítez's own representative Abe Fortas indicated, it was prevailing political circumstances in

Puerto Rico that impelled the rector to bar Albizu Campos from campus, though it was necessary to violate the civil rights and liberties of the university community to do so. The very arguments outlined by Hays in his correspondence and quoted in the present monograph justified the need to investigate what had occurred. On the very same day that the ACLU made public its decision not to investigate the events at the University of Puerto Rico its Staff Counsel, Clifford Forster, wrote Abe Fortas a letter indicating: *My own impression of the situation is that Benitez decided to fight on the wrong issues. While I have no doubt that relations between the students or at least the independentists and the chancellor were bound to deteriorate to the vanishing point, I think that Benitez should not have decided to bar Albizu from the campus.* (80)

Faced with a set of complaints originating at the University of Puerto Rico, the ACLU supposedly based a decision not to investigate the matter on the word of the party alleged to have committed civil liberties violations and determined without visiting the university or the island that the case was more political than legal. Indeed the students called the ACLU's attention to the political tensions in Puerto Rico, which extended, in their view, to the University. But it was Fortas who requested the ACLU not to investigate the alleged violations of civil liberties at the UPR to protect the political interests in Puerto Rico of the U.S. government and the Popular Democratic Party.

The ACLU also alleged that it was not possible to find "impartial" Puerto Ricans to serve on a investigative panel. This was clearly a pretext, particularly when Fortas and other ACLU friends in Puerto Rico like attorney James Curry had recommended names of people they felt could serve civil liberties with distinction. In his attempts to revive the ACLU in Puerto Rico, Baldwin asked several people in Puerto Rico for their advice. One of the people he wrote to was Rafael Pérez Marchand, an attorney from Ponce, Puerto Rico. In a letter dated May 19, 1948 Baldwin asked Pérez Marchand:

Will you advise us whether there is any chance of such a revival and under what leadership? It should be in hands representative of all the groups interested in any aspect of civil liberties except of course with anti-democratic objectives such as the Communists and reactionaries. (81)

Pérez Marchand wrote Baldwin a letter on June 4, 1948 recommending possible members for an ACLU affiliate in Puerto Rico none of whom, according to Pérez Marchand, were "Communists or reactionaries". Those recommended were Rafael Arjona Siaca, Félix Ochoteco, Bolivar Pagán, Antonio Ayuso Valdivieso, Francisco M. Susoni, Margot Arce de Vázquez and María Rivera de Alvarado. (82)

One of the ACLU advisors in Puerto Rico, James Curry, was asked by ACLU Staff Counsel Clifford Forster to comment on the recommendations made by Pérez Marchand. Curry replied that:

I am personally acquainted with the first five of the seven persons named on the list. All of them are good people but bitter political enemies of Muñoz Marín and his organization.

I still expect to see you in the next few days in New York. I would like to talk the matter over with you personally at that time. Meanwhile, I suggest that I not be quoted. (83)

In a confidential letter to Forster, Abe Fortas also objected to the first five names on the list, adding that he would not object to Arce de Vázquez and did not know Rivera de Alvarado. He proceeds to recommend Raúl Serrano Geyls, Jorge Luis Córdova, Abraham Díaz González, Leslie Highley and Nilita Vientós Gastón.

Fortas concludes:

In summary, I believe that it would be a serious mistake for the Civil Liberties Union to select the group of persons whom you list in your letter of June 22. The suggestions that I have made perhaps include a preponderance of persons of conservative political and economic views. But in any event, I don't believe that my list includes anyone who is a clear and known enemy of the democratic conception of civil liberties.

By the way, Cliff, where do you fellows get your information about Puerto Rico? (84)

By this time it seems somewhat clear that the effort to prevent an investigation of possible violations of civil liberties at the University of Puerto Rico in 1948 was part of a greater effort to protect the status quo of the Island. In this urgent effort to defend “democracy” in this U.S. colony, the ACLU became a witness, an enabler and, ultimately, a partner.

This was certainly a regrettable chapter in ACLU history. (85) A chapter that was reflective of the internal tensions within the organization during this period and which included its timid response to McCarthyism and its refusal to involve itself in the Rosenberg case, claiming that no civil liberties issues were involved. (86) As it did during the McCarthy years, in Puerto Rico the ACLU “shrank from controversy”. (87)

End Notes

(1) See *Puerto Rico: Mito y realidad* by Manuel Maldonado Denis. Also see both the 1933 and 1939 pamphlets “Civil Liberties in American Colonies”, ACLU Archives, Box 1884, Folder 8, Seely G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(2) Press statements by the rector of the University of Puerto Rico, December 15, 1947. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(3) Statements by Carlos A. Patterne on the December 15, 1947 flag incident. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(4) Ibid.

(5) Press statements by the Rector of the University of Puerto Rico, December 15, 1947. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(6) Ibid.

(7) The Grito de Lares was an uprising that took place in the Puerto Rican town of Lares on September 23, 1868 aimed at gaining independence from Spain and to end slavery in Puerto Rico. This uprising was defeated by Spanish forces.

(8) Ibid.

(9) Report and recommendations on the hearing with regard to the suspension of Juan Mari Bras, José Gil de la Madrid and Jorge Luis Landing. December 23, 1947 Memorandum to Jaime Benítez, UPR rector, from Félix Luis Alegría, UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(10) Ibid.

(11) Disciplinary action in the Cases of Jorge Luis Landing, Juan Mari Bras, and José Gil de la Madrid
January 5, 1948 statement by Jaime Benítez, UPR rector, UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(12) Disciplinary action in the Cases of Antonio Gregory Schmidt and Pelegrín García. January 5, 1948
statement by UPR Rector Jaime Benítez, UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(13) Circular to University Administrators, Faculty, and Students (Circular No. 511). March 24, 1947. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(14) Ibid.

(15) Ibid.

(16) Letter to UPR Rector Jaime Benítez, from UPR Student General Council President Juan Noriega Maldonado, January 14, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(17) The theater of the UPR was built in the late 1930's as part of the Federal Theater Project.

(18) Letter to UPR Student Council President Juan Noriega Maldonado, from Gustavo Agrait, president of the UPR Theater Committee, April 1, 1948. Correspondence of the rector's office, UPR Central Archives, Río Piedras.

(19) Students suspended from the university for violating university discipline in events beginning on April 14, 1948. Communication of José Gueits, Dean of Resident Students, September 27, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(20) These documents are found in the Special Collection on the 1948 Strike (Box 14.1), UPR Central Archives, Río Piedras. There is no indication at the Archives of who assembled the collection or when it was produced.

(21) Surveillance by the government of those considered adversaries evolved into a massive effort to develop dossiers on alleged dissidents or subversives. Thousands of dossiers, known in Puerto Rico as "carpetas", were prepared and used by the

government to persecute and repress those identified as subversives. See Bosque and Colón.

(22) Report to the Governor of Puerto Rico by Salvador Roig, Chief of the Insular Police of Puerto Rico, May 6, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(23) Minutes of University of Puerto Rico Faculty Meeting, April 18, 1948.

(24) Letter to UPR Superior Educational Council of the UPR from professors Alfredo Piñero, Luz Divina Rodríguez, Rafael Soltero Peralta, Rubén del Rosario, Edwin Roig Valdivieso, José M. Rodríguez, Néstor M. Rodríguez, Rupert Vázquez Cruz, Miguel A. Valencia, Mercedes Soltero, Guillermo Zuazaga, Olga M. Baerga, Pablo García Díaz, Milton Pabón, Domingo Marrero, Antonia Sáez, Monelisa Lina Pérez Marchand, Osvaldo Ramírez Torres, Angel Luis Morales, Manuel Siaca Rivera, Manuel García Díaz, Carlos Hernández, Margot Arce de Vázquez, Florencio Pagán Cruz, Augusto A. Rodríguez, Julio García Díaz, Lydia Estremera, María Teresa Babín de Vicente, Carmen Rivera de Alvarado, Francisco Manrique Cabrera, J. E. Soltero, and Marcos A. Ramírez, July 16, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(25) Ibid.

(26) Memorandum to the Chief of Police, from Astol Calero Toledo, Commander of the Internal Security Squadron, to Salvador Roig, Chief of the Insular Police of Puerto Rico, April 13, 1948. Bulletins 14 and 20, 1948, Archives of the Luis Muñoz Marín Foundation, section V, Luis Muñoz Marín, Governor, series 23, miscellaneous archives, Nationalist Party subseries, years 1948-50.

(27) Letter to Clarence Picket, Executive Secretary of the American Friends Service Committee, from E.D. Stannard and L. F. Valentín, Cruzada Universitaria. May 14, 1948. ACLU Archives, Seely G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(28) Letter to UPR Rector Jaime Benítez, from ACLU General Counsel Arthur Garfield Hays, May 12, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(29) Letter to ACLU General Counsel Arthur Garfield Hays, from UPR Rector Jaime Benítez, May 15, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(30) Ibid.

(31) Ibid.

(32) Ibid.

(33) Letter to Abe Fortas of Arnold, Fortas & Porter, from UPR rector Jaime Benítez, May 16, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(34) Letter to University of Chicago Chancellor Robert M. Hutchins, from UPR rector Jaime Benítez, May 16, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(35) Letter to Robert M. Lovett, University of Chicago, from UPR Rector Jaime Benítez, May 16, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(36) Letter to Roger Baldwin, Executive Director of the ACLU, from attorney James E. Curry, and Clifford Forster, Staff Counsel of the ACLU, July 24, 1948. ACLU Archives, Seely G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey. Also see letter from Clifford Forster, ACLU Staff Counsel, to James E. Curry, July 27, 1948. ACLU Archives, Seely G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(37) Cable to UPR rector Jaime Benítez from ACLU Executive Director Roger Baldwin, May 19, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(38) Cable to ACLU Executive Director Roger Baldwin, from UPR rector Jaime Benítez, May 20, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(39) Letter to Jaime Benítez, UPR rector, from Arthur Garfield Hays, ACLU General Counsel, , May 19, 1948. ACLU Archives, Box 569, Folder 15, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(40) Letter to UPR rector Jaime Benítez, from ACLU General Counsel Arthur Garfield Hays, May 25, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(41) Ibid.

(42) Letter to Lindsay Rogers, Columbia University Department of Public Law and Government, from UPR rector Jaime Benítez, May 17, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(43) Letter to Isabel Ortíz Espénde, Administrative Assistant to the UPR rector, from Lewis Dexter, Hobart and William Smith Colleges, Geneva, New York, May 19, 1948.

(44) Letter to UPR rector Jaime Benítez from Abe Fortas of Arnold, Fortas & Porter, May 19, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike. At the time of this letter Clifford Forster was Staff Counsel of the ACLU.

(45) Letter to ACLU General Counsel Arthur Garfield Hays from Abe Fortas of Arnold, Fortas & Porter, May 19, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(46) Ibid.

(47) Ibid.

(48) Ibid.

(49) Letter to Abe Fortas from ACLU Executive Director Roger Baldwin, May 24, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(50) Letter to UPR rector Jaime Benítez from Abe Fortas of Arnold, Fortas & Porter, May 26, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(51) Letter to UPR rector Jaime Benítez from Chancellor Robert M. Hutchins of the University of Chicago, May 27, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(52) Letter to UPR rector Jaime Benítez from ACLU Executive Director Roger Baldwin, May 28, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(53) Letter to UPR rector Jaime Benítez from Abe Fortas of Arnold, Fortas & Porter, May 28, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(54) Ibid.

(55) Puerto Rico Reports, Volume 68, January 13, 1948 to June 22, 1948.

(56) Letter to Arthur Garfield Hays, ACLU General Counsel, from A. Cecil Snyder, Associate Justice of the Supreme Court of Puerto Rico, June 1, 1948. ACLU Archives, Box 569, Folder 15, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(57) Ibid.

(58) Letter to Roger N. Baldwin, ACLU Director, from Arthur Garfield Hays, ACLU General Counsel, June 3, 1948. ACLU Archives, Box 569, Folder 15, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(59) Letter to UPR rector Jaime Benítez, from University of Chicago Professor Joseph Schwab, received at the rector's office on June 1, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(60) Letter to ACLU Executive Director Roger Baldwin from UPR rector Jaime Benítez, June 2, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(61) Letter to ACLU Executive Director Roger Baldwin, from Isabel Ortíz Espénde, administrative assistant to the UPR rector, June 9, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(62) Letter to UPR students and Jaime Benítez, rector of the UPR from Arthur Garfield Hays, ACLU General Counsel, Roger N. Baldwin, ACLU Director and Clifford Forster, ACLU Staff Counsel, June 7, 1948, ACLU Archives, Box 569, Folder 15, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(63) *El Imparcial*, May 26, 1948.

(64) Letter to Clifford Forster, ACLU Staff Counsel, from Rafael Arjona Siaca, ACLU representative in Puerto Rico, May 31, 1948. ACLU Archives, Box 569, Folder 15, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(65) Letter to Rafael Arjona Siaca, ACLU representative in Puerto Rico, from Clifford Forster, ACLU Staff Counsel, June 3, 1948. ACLU Archives, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(66) Letter to Rafael Arjona Siaca, ACLU representative in Puerto Rico, from Roger Baldwin, ACLU Director, June 7, 1948. ACLU Archives, Box 569, Folder 15, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(67) Letter to Roger N. Baldwin, ACLU Director, from Antonio Ayuso Valdivieso, Director of *El Imparcial*, June 8, 1948. ACLU Archives, Box 569, Folder 15, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(68) Letter to Arthur Garfield Hays, ACLU General Counsel, from Clifford Forster, ACLU Staff Counsel, May 21, 1948. ACLU Archives, Box 569, Folder 15. Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(69) Letter to Arthur Garfield Hays, ACLU Counsel, from Ruth M. Reynolds, Executive Secretary of The American League for Puerto Rico's Independence, June 14, 1948. ACLU Archives, Box 569, Folder 15. Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(70) Letter to Ruth M. Reynolds, Executive Secretary of The American League for Puerto Rico's Independence, from Arthur Garfield Hays, ACLU Counsel, June 18, 1948. ACLU Archives, Box 569, Folder 15. Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(71) Letter to Abe Fortas, from Clifford Forster, ACLU Staff Counsell, July 6, 1948. ACLU Archives, Box 569, Folder 15. Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(72) Telegram to Roger Baldwin, ACLU Director, from Jaime Benítez, rector of the UPR, May 20, 1948. ACLU Archives, Box 569, Folder 15. Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(73) Letter to ACLU General Counsel Arthur Garfield Hays, from Abe Fortas of Arnold, Fortas & Porter June 4, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(74) *Ibid.*

(75) *Ibid.*

(76) Letter to rector Jaime Benítez and his wife from Abe Fortas of Arnold & Fortas, September 9, 1946. UPR

Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(77) Cable to Abe Fortas of Arnold, Fortas & Porter, from UPR rector Jaime Benítez December 17, 1948. UPR Central Archives, Río Piedras: Special Collection on the 1948 Strike.

(78) Letter to UPR rector Jaime Benítez from Abe Fortas of Arnold & Fortas, December 23, 1946.

(79) Navarro Rivera, Op. cit.

(80) Letter to Abe Fortas, from Clifford Forster, ACLU Staff Counsel, June 7, 1948. ACLU Archives, Box 569, Folder 15, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(81) Letter to R. Pérez Marchand, from Roger N. Baldwin, ACLU Director, May 19, 1948. ACLU Archives, Box 569, Folder 14, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(82) Letter to Roger N. Baldwin, ACLU Director, from Rafael Pérez Marchand, June 4, 1948. ACLU Archives, Box 569, Folder 14, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(83) Letter to Clifford Forster, ACLU Staff Counsel, from James Curry, Law Offices of James Curry, June 24, 1948. ACLU Archives, Box 569, Folder 14, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(84) Letter to Clifford Forster, ACLU Staff Counsel, from Abe Fortas, Arnold, Fortas & Porter, July 1, 1948. ACLU Archives, Box 569, Folder 14, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, New Jersey.

(85) For a history of the ACLU see *In Defense of American Liberties* (1999), by Samuel Walker.

(86) Shrecker, p. 303.

(87) *Ibid*

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