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Foreign yet domestic liberties: the imperial imaginary of the ACLU and the U.S. colonial empire, 1920-1941

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Chapter 6: The ACLU, Colonial State Actor Relations, and the Philippine Commonwealth, 1930-1941

Introduction

With the formation of the *Partido Komunista sa Pilipinas* (PKP) in August 26, 1930, colonial authorities in the Philippines became increasingly concerned about the rise of communism throughout the islands.⁶³³ Rising tensions culminated in 1931 with the funeral of leading PKP figure Antonio Ora, which attracted unprecedented levels of public support for communism. A procession of approximately ten to thirty thousand people passed through the streets of Manila, many of whom waved red flags. This was followed by provocative speeches by PKP leaders Crisanto Evangelista and Jacinto Manahan.⁶³⁴ The response by colonial authorities was swift. Governor-General of the Philippines, Dwight Davis, declared that all the “Red leaders” would be prosecuted. Arrests ensued, including of Evangelista and Manahan, and charges under the Sedition Act followed.⁶³⁵

Within months of these charges the ACLU decided to provide legal defense aid to PKP members charged under act. What drew the ACLU to

⁶³³ Anne L. Foster, “Secret Police Cooperation and the Roots of Anti-Communism in Interwar Southeast Asia,” *The Journal of American-East Asian Relations* 4, no. 4, (Winter 1995): 333-341; James A. Richardson, “The Genesis of the Philippine Communist Party,” PhD Diss., University of London (1984): 225-228.

⁶³⁴ Norman Lorimer, “Philippine Communism – An historical overview,” *Journal of Contemporary Asia* 7, no. 4, (January 1, 1977): 468.

⁶³⁵ *Ibid.*, 228-229.

involve themselves in these cases? How did this involvement relate to other issues, such as independence, emanating from the Philippines over the course of the 1930s? What role did the imperial imaginary of the ACLU play in their engagement with the Philippines during this period? And, finally, what were the consequences of the ACLU's interest and involvement by the time of American entry in the Second World War?

As discussed in Chapter 4, by the mid-1920s the ACLU had settled upon the position regarding Philippine independence that they would defend the right of advocacy for independence, but not actually advocate for it themselves. As this chapter demonstrates, during the early years of the decade, the ACLU did not reappraise their approach to the issue of Philippine independence. Regarding the question as to why the ACLU chose to support the PKP defendants, this chapter demonstrates that they did so not merely to gain relief for the defendants in question, but because the cases represented a potential opportunity to challenge the constitutionality of the Sedition Act itself, and, by implication, the doctrine of incorporation. This was an effort then (similar to their litigation support of the Ripley case, as discussed in Chapter 3) in line with the metropolitan-rooted universalist orientation of their civil liberties commitments.

To provide support for the PKP defendants, the ACLU came to rely almost exclusively upon the services of a series of temporarily based, white American missionaries as their local representatives due to the vast distance of the island archipelago from their base in New York, as well as their lack of on the ground allies and contacts there. However, given this

unrepresentative and *de facto* racially exclusive basis, this reliance failed to compensate for much for their ignorance of local contexts. It is further argued that their imperial imaginary inhibited their awareness of the significant limitations and inherent biases that such an arrangement would likely to result in. In doing so, the ACLU effectively cut themselves off from potentially gaining essential local Filipino contacts and allies.

When their eventual efforts to challenge the law in the Supreme Court confronted great difficulties, the ACLU took the appointment to the governor-generalship of the Philippines of a former civil liberties ally as reason to cease pursuing a litigation challenge of the Sedition Act. This, if anything, became even more problematic for the ACLU, not only from a representational standpoint, but from a foundationally civil libertarian one. For by now coming to rely almost exclusively upon the governor-general for aid, redress, and/or information, the ACLU enabled a conflict of interest for themselves in terms of their potential to provide a check on colonial state power. This chapter argues that their inability to recognize this as a likely issue was a product of their imperial imaginary which was increasingly susceptible to amiable and collaborative relations with seemingly allied colonial state actors.

In the meantime, while momentum had been building in Congress for extending independence to the Philippines over the course early 1930s, the ACLU did little more than come to express indirect and generalized support. However, upon the establishment of the Philippine Commonwealth in 1935, which initiated a substantially more autonomous and Filipino governed

polity - one formed with the explicit intent to transition the Philippines into a foreign, sovereign independent state - the ACLU struggled to develop a consistent approach. For the remainder of the decade, the ACLU's interest and involvement in the islands became even more fleeting, sporadic, and inconsistent. As this chapter demonstrates, what did emerge was a deep tension in their statements and conduct; a tension that hinged upon their desire, on the one hand, to support the Commonwealth's autonomy and eventual realization of independence, and, on the other, an ongoing commitment to their metropolitan derived civil liberties concerns (i.e., free speech, press, and assembly) that intermittently compelled the ACLU to seek to restrict the legislative and administrative autonomy of the Philippine Commonwealth.

In great contrast to their stance in the informal imperial sphere toward Haiti (as discussed in Chapter 4), this chapter demonstrates that they were more inclined to prioritize their customary civil liberties commitments over their nominal support for full sovereign independence for the Philippines. It is argued that this can in large part be traced to their imperial imaginary, which inhibited them from recognizing that ongoing and incautious pursuit of their civil liberties commitments in the Commonwealth might come into tension, if not outright conflict, with support for independence. Consequently, by periodically following through on their metropolitan based impulses, the ACLU came to provide inconvenient reminders of just how ultimately circumscribed, contingent, and fragile the goal of full Philippine

independence was and thereby reinforced the ongoing colonial position of the Commonwealth.

The PKP Sedition Act Cases

How did the ACLU address the Philippines during the 1930s? As discussed in Chapter 4, by the mid-1920s, the ACLU had settled upon the position regarding Philippine independence that they would defend the right of advocacy for independence, but not actually advocate for it themselves. As the new decade opened, the ACLU retained this essentially passive position toward the issue. This is somewhat striking given that at this very time there were indications from Congress that momentum was forming behind Philippine independence.⁶³⁶ As Congress debated the terms of what would eventually become the Smoot-Hawley Tariff of 1930, some prominent Senators attempted to (albeit unsuccessfully) attach Philippine independence amendments to the tariff legislation.⁶³⁷ The onset of the Great Depression also saw a discernable rise in anti-immigration sentiment directed against Filipino migrants in the west coast U.S. states, as well as increasing pressure from metropolitan-based beet and cane sugar producers to restrict the access of Philippines-based sugar producers to U.S. markets. Both elements came to increasingly view Philippine independence as a plausible means

⁶³⁶ Frank H. Golay, *Face of Empire: United States-Philippine Relations, 1898-1946* (Madison, University of Wisconsin-Madison, 1998): 280-282, 293.

⁶³⁷ Golay, *Face of Empire*, 280-282.

towards their ends and duly began to apply further pressure upon Congress.⁶³⁸

Rather than engage with the evident momentum forming behind Philippine independence, it was instead the indictment of several prominent Filipino communists under the Philippine Sedition Act in the spring of 1931 that piqued ACLU interest.⁶³⁹ These indictments occurred in the context of the rising tensions between the authorities and Filipino communists following the formation of the *Partido Komunista sa Pilipinas* (PKP) in August 26, 1930.⁶⁴⁰ According to Colleen Woods, while there had been plenty of anti-colonialist formations and constituencies within the Philippines, Filipino communists were deemed especially concerning as “their critique situated the United States of America as part of the oppressive world-wide system of white colonial rule over non-white peoples.”⁶⁴¹ Yet it was to take two events in January 1931 to provoke a severe response by colonial authorities.⁶⁴² The first was a brief agrarian uprising in the town of Tayug in Central Luzon, which left six participants and five Philippine Constabulary officers dead. While the PKP itself had not been involved in the rising, rumors nonetheless

⁶³⁸ Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004): 116-119; Hopkins., *American Empire*, 626.

⁶³⁹ “Memorandum of the Philippine Sedition Cases,” 26 June 1931, ACLU Papers (Digitized Microfilm), vol. 501, 213. The Sedition Act was rooted in the repressive legislation of the early years of US colonial regime in the Philippines and had been carried over in the 1916 Jones Act. See: McCoy, *Policing America’s Empire*, 99; Golay, *Face of empire*, 77.

⁶⁴⁰ Foster, “Secret police cooperation and the roots of Anti-Communism in Interwar Southeast Asia,” 333-341; Richardson, “The Genesis of the Philippine Communist Party,” 225-228. The PKP itself was largely formed from within the ranks of the *Partido Obrero* (formed in 1924), following the latter’s break with the Philippines’ largest labor federation, the *Congreso Obrero de Filipinas* over the issues of organized labor strategy, communism, and anti-imperialism. See: Lorimer, “Philippine Communism – An historical overview,” 468.

⁶⁴¹ Colleen Woods, “Seditious Crimes and Rebellious Conspiracies: Anti-communism and US empire in the Philippines,” *Journal of Contemporary History* 53, no. 1, (2018), 62.

⁶⁴² Richardson, “The Genesis of the Philippine Communist Party,” 228.

spread implicating them.⁶⁴³ The second episode was the funeral of leading PKP figure Antonio Ora. As discussed in the chapter introduction, following a procession of somewhere between ten to thirty thousand people, PKP leaders Crisanto Evangelista and Jacinto Manahan gave fiery, provocative speeches.⁶⁴⁴ Colonial authorities were prompt and severe in their response. Several arrests, which included Evangelista and Manahan, and charges under the Sedition Act ensued over the following weeks.⁶⁴⁵

The ACLU appear to have become aware of the sedition charges against the Filipino Communists by the late spring.⁶⁴⁶ They followed this up by reaching out to a contact they had in the Philippines: Professor Harold Fey, a missionary and lecturer at Union Theological Seminary in Manila.⁶⁴⁷ Shortly thereafter, the ACLU got in touch with the local defense attorneys of the PKP defendants, and over the course of the summer determined that they would support the defendants with an initial contribution of \$500 in legal defense aid, designating Harold Fey as their local correspondent.⁶⁴⁸ They then went ahead and publicized their condemnation of the conviction of Filipino Communists under the sedition law.⁶⁴⁹

⁶⁴³ Ibid.

⁶⁴⁴ Ibid.

⁶⁴⁵ Ibid., 228-229.

⁶⁴⁶ Roger Baldwin to Harold Fey, 1 May 1931, ACLU Papers (Digitized Microfilm), vol. 501, 229.

⁶⁴⁷ Ibid.

⁶⁴⁸ Vincente Sotto to ACLU, 17 June 1931, ACLU Papers (Digitized Microfilm), vol. 501, 213; Roger Baldwin to Vincente Sotto (Undated cut off document), ACLU Papers (Digitized Microfilm), vol. 501, 222; Roger Baldwin to Harold Fey (Undated, likely date around 13 August 1931), ACLU Papers (Digitized Microfilm), vol. 501, 223.

⁶⁴⁹ ACLU News Release, 7 October 1931, ACLU Papers (Digitized Microfilm), vol. 501, 237.

What drew the ACLU to involve themselves in these cases? The civil liberties grounds for their providing legal defense aid were straightforward – as they highlighted in their press release, the Philippines was the only place within “United States jurisdiction where the Communist Party is treated as an illegal conspiracy.”⁶⁵⁰ They also stressed that the unique severity of the law within the U.S. empire as being part of the basis of their involvement.⁶⁵¹ Yet it appears that the ACLU had more in mind than solely this. As Baldwin privately emphasized to Harold Fey, “[M]ere defense of cases is not our prime object,” rather, the main aim was to “use the defense to help stop the prosecutions, to make clear our principles of freedom of agitation anywhere within American jurisdiction and particularly if the opportunity offers to test out in the higher courts the points of constitutionality or of procedure involved in the cases.”⁶⁵² At the outset then, the ACLU’s interest in these cases stemmed more from opportunity they offered toward challenging a highly punitive and repressive piece of legislation – through constitutional change if possible – rather than gaining relief for the defendants as such. A successful overturning of the Sedition Act would then not only be in line with their commitment to civil liberties as an essential means by which peaceable change could be pursued but would also have entailed a successful challenge of the doctrine of incorporation. Such an effort and goal then resembled the strategic litigation effort during the Samuel Ripley case in 1926 regarding Samoa. For (as was discussed in Chapter 3) with their legal

⁶⁵⁰ *Ibid.*

⁶⁵¹ *Ibid.*

⁶⁵² Roger Baldwin to Harold Fey (Undated), ACLU Papers (Digitized Microfilm), vol. 501, 223.

defense aid in the Ripley case, they sought (albeit unsuccessfully) a constitutional challenge of the doctrine of incorporation.

The ACLU's decision to support these cases was also likely encouraged by the fact that this was the same year in which the Supreme Court (as discussed in the Preface to Part II) had robustly expanded the scope of First Amendment in *Stromberg v. California* and *Near v. Minnesota*, which combined to now make the freedom of speech and press clauses as binding upon the states as they had been upon the federal government itself.⁶⁵³ Civil liberties scholarship has viewed these decisions as important milestones in the ACLU's increasing turn toward the courts, as well as to their overall broader accommodation with U.S. state institutions.⁶⁵⁴ It is quite plausible that these two watershed decisions – both of which had resulted in the overturning of restrictive state legislation through a partial extension of the Bill of the Rights – encouraged the ACLU to see whether they might have similar success in the colonial sphere. This would potentially make such civil liberties protections universally binding upon the colonies and metropolitan states of the US empire. Thus, this effort intimated an imperial imaginary inextricably rooted in their metropolitan basis. Furthermore, by prioritizing a potential challenge of the Sedition Act, the ACLU conveyed an imaginary animated less by Philippine independence and more fixated with their

⁶⁵³ It was with these two decisions that substance was given to what until then had been merely the promise of the 1925 *Gitlow v. New York* decision. The latter had asserted that the First Amendment was now binding upon the states through the due process protection clause of the Fourteenth Amendment. See: Murphy, *The Meaning of Freedom of Speech*, 269; Walker, *In Defense of American Liberties*, 90-92.

⁶⁵⁴ Murphy, *The Meaning of Freedom of Speech*, 245-246.

metropolitan-based civil liberties concerns – especially striking as they were doing so at the very time when support independence was increasingly rising within Congress.⁶⁵⁵

To engage with the sedition cases the ACLU came to rely upon temporarily Philippine-based missionaries like Harold Fey as, not only as their intermediaries with the PKP defendants and their local legal representatives, but also as effectively their sole points of contact in the Philippines as a whole. This was plainly an ad-hoc means on their part to work around the difficulties that the vast distance between the Philippines and their base in New York presented them in the way keeping abreast of developments with the cases. However, this highly narrow profile of representation largely served to further limit the extent of the ACLU contacts and reach within the Philippines. And despite the evident limitations of this, the ACLU did not make any serious efforts to acquire firmly-based local, Filipino actors and/or organizations as allies or contacts, such as they had attained in Caribbean based U.S. colonies. Such a circumstance as this was not only unlikely to greatly compensate for their ignorance of local contexts,

⁶⁵⁵ In fact, there is even an argument that challenging the doctrine of incorporation might even run counter to Philippine independence itself. As scholar Christina Duffy Burnett has highlighted, part of the motivation behind the *Insular Cases* themselves had been to settle the question of whether the United States could secure the so-called ‘deannexation’ of territory (a relevant question given the Civil War was living memory to many of the justices). As Burnett emphasized: “The doctrine of incorporation made the dissolution of domestic territory not only conceivable, but constitutional. It did so by crafting a constitutional theory of territorial deannexation.” Therefore, dismantling the doctrine of incorporation carried the additional implication of plausibly threatening the constitutionality of granting independence to a U.S. territory. See Christina D. Burnett, “The Constitution and Deconstitution of the United States,” in *The Louisiana Purchase and American Expansion, 1803-1898*, ed. Sanford Levinson and Bartholomew H. Sparrow (Lanham: Rowman & Littlefield Publishers, 2005): 181-183.

given the very narrow profile of the missionaries in question (invariably white American males), this left the ACLU at risk of racially inflected omissions and/or more overtly prejudicial outcomes in their engagement with the Philippines. It is likely that their imperial imaginary inhibited them from even perceiving of the value of addressing the inherent limitations and/or risks of depending upon such narrow and unrepresentative actors as their only points of contact with respect to the Philippines.

An early example of how this arrangement came to reinforce non-Filipino representation and perspectives with the ACLU occurred when their first such correspondent, Harold Fey, was instructed by Baldwin to dispense with the ACLU's legal defense aid as he best thought fit.⁶⁵⁶ Fey replied by advising caution about transference any of the funds to the defense attorney Vincente Sotto, in part, due to the postponement of trials themselves, but also because he did not trust the attorney, as he had been informed that Sotto had been 'using the Communists for his own ends.'⁶⁵⁷ The ACLU proceeded to follow Fey's advice in refusing to transfer aid to Sotto.⁶⁵⁸ And while Sotto does appear to have been less than trustworthy (communications by Sotto to the ACLU consistently see the latter trying to extract unagreed

⁶⁵⁶ Roger Baldwin to Harold Fey (Undated, likely some date around 13 August 1931), ACLU Papers (Digitized Microfilm), vol. 501, 223.

⁶⁵⁷ Telegram from Harold Fey to Roger Baldwin, 15 July 1931, ACLU Papers Microfilm, vol. 501, 220.

⁶⁵⁸ Roger Baldwin to Vincente Sotto (Undated), ACLU Papers (Digitized Microfilm), vol. 501, 222.

upon financial compensation), they were doing so at this point solely upon the word of a temporarily based, white American.⁶⁵⁹

The limitation of this arrangement was further demonstrated in October when Fey informed the ACLU that he was leaving the Philippines and that they would need to secure a new locally based correspondent.⁶⁶⁰ It is striking that the ACLU at this point did not themselves proactively seek to broaden the social base of their contacts among the Filipino peoples themselves. Instead, Fey helped them locate as a replacement a fellow missionary named Willard Palmer and thereby further remained dependent upon the voluntary services of temporarily situated American missionaries.⁶⁶¹ While Baldwin did make the offhand suggestion that Palmer himself might try and form a small committee in the Philippines to help facilitate the expression of “disinterested middle-class opinion on issues which need other than partisan sponsorship,” he effectively passed the responsibility for this onto Palmer to extend the reach of their contacts and allies within the islands.⁶⁶² And while such a committee would likely have been of aid to the ACLU, the very narrow profile for it proposed by Baldwin meant that it was very unlikely to expand much in the way of scope their contacts. Nor, for that matter, did he make a point of calling for the enlistment from among the Filipino people themselves, thereby retaining the

⁶⁵⁹ Vincente Sotto to Harold Fey, 26 August 1931, ACLU Papers (Digitized Microfilm), vol. 501, 223; Vincente Sotto to Harold Fey, 17 September 1931, ACLU Papers (Digitized Microfilm), vol. 501, 225; Vincente Sotto to Roger Baldwin, 5 September 1931, ACLU Papers (Digitized Microfilm), vol. 501, 234-235.

⁶⁶⁰ Harold Fey to Roger Baldwin, 15 October 1931, ACLU Papers (Digitized Microfilm), vol. 501, 238-239.

⁶⁶¹ *Ibid.*; Roger Baldwin to Willard Palmer, 11 November 1931, ACLU Papers (Digitized Microfilm), vol. 501, 243.

⁶⁶² Roger Baldwin to Willard Palmer, 12 March 1932, ACLU Papers (Digitized Microfilm), vol. 588, 3.

de facto racially exclusionary basis of their representation within the islands. And most certainly this did nothing to extend their points of contact outside of Manila and its surrounding area within the island of Luzon.⁶⁶³

The fact that this issue was not felt to be of great relevance or importance was plainly the sort of omission stemming from an imperial imaginary so rooted in their distant metropolitan basis. Additionally, (as the contrasting example of Chapter 7 will show) without the feedback, perspectives, and/or cooperation of firmly locally based allies, such a situation was one in which their imperial imaginary would significantly lack in the valuable countervailing influences of those thoroughly based and rooted in the colonial sphere. In the end, the ACLU's near negligible cooperation with Palmer did not last long, for they again had to secure a new representative to replace him the following year and did so, again, through the recommendation of their old correspondent, Fey, by enlisting another missionary.⁶⁶⁴ Something of a feedback loop had been established then, with replacements – who were invariably white missionaries – being recommended from within the community of missionaries itself.⁶⁶⁵

All told, by the time of Fey's departure, the ACLU had transferred \$500 in legal defense aid to the PKP defendants via Fey.⁶⁶⁶ Eventual verdicts of the

⁶⁶³ Relatedly, at no point did the ACLU express concern with or cognizance of conditions and/or developments within the Visayan archipelago, Mindanao, or the Sulu Islands.

⁶⁶⁴ Harold Fey to Roger Baldwin, 10 February 1933, ACLU Papers (Digitized Microfilm), vol. 617, 126.

⁶⁶⁵ Harold Fey to Roger Baldwin, 15 October 1931, ACLU Papers (Digitized Microfilm), vol. 501, 238-239; Harold Fey to Roger Baldwin, 10 February 1933, ACLU Papers (Digitized Microfilm), vol. 617, 126.

⁶⁶⁶ These funds were later to be a source of controversy with a civil suit being filed by Sotto against his client Crisanto Evangelista, on the grounds that the latter had illegitimately appropriated the funds to himself. The ACLU determined that Sotto had misrepresented the facts for his own gain, thereby seemingly vindicating their

PKP defendants were handed down on September 1931, with twenty five of the thirty-two being found guilty; of which, five were given four to sixteen month prison sentences and the remaining twenty given six month to two year prison terms, to be followed by supervised internal exile within Luzon for eight years and a day.⁶⁶⁷ From that point, as Baldwin explained to their new correspondent Willard Palmer, the ACLU's chief concern then remained the appeal of the sedition cases because they thought "that the law and the convictions can both be upset in the higher courts."⁶⁶⁸ Hence, Baldwin's interest in the cases very much remained fixed upon the opportunity they provided to fulfill their commitment to civil liberties in colonial sphere by challenging the doctrine of incorporation.

By July 1932, the sedition cases reached the Philippines' Supreme Court. Determining that they had no real chance of having their convictions overturned there, the Communist appellants refused legal representation and PKP leader, Crisanto Evangelista, instead lectured the presiding judges on the nature of empire and Communist doctrine.⁶⁶⁹ When their convictions were upheld, this left the U.S. Supreme Court as the last avenue of appeal. As this brought the cases more directly within U.S. federal court jurisdiction, this presented the ACLU with the opportunity to involve themselves more

initial distrust of the attorney. See: Harold Fey, "Statement of disbursements," 5 September 1931, ACLU Papers (Digitized Microfilm), vol. 617, 143; Harold Fey to Lucille Milner, 21 June 1933, ACLU Papers (Digitized Microfilm), vol. 617, 142.

⁶⁶⁷ Richardson, "The Genesis of the Philippine Communist Party," 231-232.

⁶⁶⁸ Roger Baldwin to Willard Palmer, 11 November 1931, ACLU Papers (Digitized Microfilm), vol. 501, 243.

⁶⁶⁹ Richardson, "The Genesis of the Philippine Communist Party," 232.

proactively and tangibly in the appeal effort, and they accordingly proceeded to organize the appeal.⁶⁷⁰

Alongside this opportunity, though, came an additional set of challenges and complications. These included a delay of five to six weeks for them to receive mail from the Philippines and the need to translate the record from Spanish – especially challenging given the pending deadline for the petition for writ of certiorari.⁶⁷¹ Most significant of all, though, was that the material and record forwarded onto them from the PKP defendants’ defense counsel proved “fragmentary” and “incomplete”.⁶⁷² The principal problem of which stemmed from the fact that the relevant constitutional issues had not been raised during the earlier trial proceedings – essential if they wanted to raise these issues before the Supreme Court.⁶⁷³ The weight of these complications combined to convince the ACLU that additional effort to bring the cases before the Supreme Court was likely now futile.⁶⁷⁴

There was, however, one additional development that proved critical in this decision: President Roosevelt’s appointment Frank Murphy as governor-general of the Philippines. As ACLU secretary Lucille Milner made clear, the appointment of Murphy proved to be a key consideration in their eventual decision to abandon their Supreme Court appeal effort.⁶⁷⁵ The ACLU had a

⁶⁷⁰ Lucille Milner to Walter Gellhorn, 8 April 1933, ACLU Papers (Digitized Microfilm), vol. 617, 61; Lucille Milner to Walter Gellhorn, 10 April 1933, ACLU Papers (Digitized Microfilm), vol. 617, 62.

⁶⁷¹ Lucille Milner to Walter Gellhorn, 8 April 1933, ACLU Papers (Digitized Microfilm), vol. 617, 61; Lucille Milner to Walter Gellhorn, 10 April 1933, ACLU Papers (Digitized Microfilm), vol. 617, 62.

⁶⁷² H. Thomas Austern to Lucille Milner, 4 April 1933, ACLU Papers (Digitized Microfilm), vol. 617, 72.

⁶⁷³ *Ibid.*

⁶⁷⁴ Lucille Milner to H. Thomas Austern, 10 May 1933, ACLU Papers (Digitized Microfilm), vol. 617, 73.

⁶⁷⁵ *Ibid.*

shared history with Murphy that went back to his time as mayor of Detroit, in which capacity he had acquired a reputation as a committed civil libertarian.⁶⁷⁶ Therefore, alongside the aforementioned difficulties that greatly constrained the ACLU's ability to bring an appeal to the highest court of appeal – the distance between the ACLU and the Philippines; their lack of robust, consistent, and reliable contacts; the apparently poor quality of legal representation – the appointment of a recognized ally to head the colonial executive proved critical in influencing the ACLU's decision to redirect their energies and approach.

By doing so, this also meant that the ACLU had abandoned hope that these cases might provide an opportunity to challenge the constitutionality of the Sedition Act. So much like their appeal effort with respect to the eastern Samoan Islands, this failure to reach the Supreme Court meant that the ACLU did not get the opportunity to challenge the doctrine of incorporation via the kind of litigation they were contemporaneously pioneering within the U.S. metropole.

Of additional relevance was the fact that a key determinant in ending their appeal effort was the appointment of a potentially sympathetic ally as governor-general. This demonstrated how their broader accommodation with state actors and institutions took on something of a distinct character within colonial sphere that contrasted with this development in the metropolitan. For instead of increasingly prioritizing litigation efforts (i.e., as they were

⁶⁷⁶ Walker, *In Defense of American Liberties*, 97; Fine, *Frank Murphy*, 84.

doing within the metropolitan states) in the colonies, the ACLU's reconciliation with state institutions in the colonial sphere translated into a greater reliance on working through seemingly allied colonial state actors. Indeed, the arrival of a former civil libertarian ally as governor-general proved irresistible for them to work with; resulting in a dynamic that (as will be seen in the following section) proved to have a great deal of influence upon their imperial imaginary and their resulting conduct toward the Philippines.

The Tenure of Governor-General Frank Murphy

By the end of 1932, real momentum was forming behind Philippine independence in Congress. This was evident from the results of the so-called OsRox mission, wherein Filipino representatives Sergio Osmena and Manuel Roxa went to Washington D.C. to lobby for independence.⁶⁷⁷ There then followed the passage in Congress of the Hare-Hawes-Cutting Act in December 1932, which committed the United States to granting the Philippines independence in 10 years.⁶⁷⁸ Yet the bill also required ratification by the Philippine Senate. Manuel Quezon, President of the Senate, having become concerned that the bulk of credit for securing independence was likely to go to fellow *Nacionalista* party members Osmena and Roxa, brought all the pressure he could muster to see that the act was not ratified by the

⁶⁷⁷ Francia, *A History of the Philippines*, 171.

⁶⁷⁸ Karnow, *In Our Image*, 253-254.

upper chamber.⁶⁷⁹ Complicated political maneuvering notwithstanding, it had become clear that it was only a matter of time before American legislative commitment to Philippine independence would be secured.

Given these developments, did the ACLU return the question of Philippine independence? Did the ACLU alter their approach or priorities at this point? For the ACLU, again, these developments did not mark the occasion for proactive support for Philippine independence, nor even make it an overriding concern of theirs. It is notable that (as discussed in the previous section) instead, it was pursuit of their more metropolitan oriented civil liberties concerns (most evidently here in the guise of the Sedition Act) that animated them regarding the Philippines, not the possibility that independence might now be imminent.

Something of this sense of contrasting priorities can be observed within their entry on the Philippines in their 1933 pamphlet on the American colonies.⁶⁸⁰ This pamphlet did represent something of an alteration of their position regarding Philippine independence, moving to a position of indirect support for which. They now called for the carrying out the pledges of the 1916 Jones Act that had nominally committed the U.S. to extending independence to the Filipino people.⁶⁸¹ The momentum emerging from Congress toward Philippine independence had presumably brought the ACLU to at least adjust their position on the issue to indirect support. The

⁶⁷⁹ Kramer, *The Blood of Government*, 424.

⁶⁸⁰ "Civil Liberties in American Colonies: A Survey of Interference with Civil Rights of Natives; and of the Forms of Control; with Proposed Remedies," March 1933, ACLU Records and Publications. Reel 91, 10-15.

⁶⁸¹ *Ibid.*, 15.

actual contents Philippines section of the pamphlet, however, betrayed more of a preoccupation with the ongoing persecution of Filipino Communists and the Sedition Act, calling for the repeal or overturning of the latter, and highlighted their own efforts towards such an end.⁶⁸² Hence, while the pamphlet definitely represented a recalibration of their public position on Philippine independence, given the overall tenor and substance of the entries, this could hardly be said to represent the ACLU having adopted the same sort of assertive and unequivocal anti-imperialist stance that they had contemporaneously embraced regarding Haiti.

Instead, in terms of conduct, they continued to focus upon addressing the Sedition Act so as to secure the civil liberties grounds upon which peaceable change could be pursued, as well as their related but distinct hope to secure relief for the PKP defendants. What did change, though, was how they sought to do so now that the route of a constitutional challenge had been foreclosed. As alluded to in the previous section, it was to be the New Deal era appointment of Frank Murphy to the General-Governorship of the Philippines that marked a reorientation on their part.⁶⁸³ Similar to what occurred over the same period in the U.S. Virgin Islands then (as demonstrated in the previous chapter), such a development saw the ACLU

⁶⁸² *Ibid.*, 13-15.

⁶⁸³ Lucille Milner to H. Thomas Austern, 10 May 1933, ACLU Papers (Digitized Microfilm), vol. 617, 73.

adopting more amiable and collaborative relations with a colonial state actor in the Philippines – a development that correspondingly left their imperial imaginary susceptible to the influence of the latter.

Indeed, after hearing of the appointment, Baldwin immediately reached out to Murphy before he departed to arrange a meeting where they could discuss the ACLU's outstanding areas of concern in the islands, particularly those "involving freedom of speech and press."⁶⁸⁴ Regarding the sedition cases, as they had abandoned their court appeal efforts, Baldwin now sought to convince the new Governor-General to extend executive clemency to those convicted.⁶⁸⁵ Baldwin also tried to convince Murphy to see what he could do about addressing the Sedition Act itself.⁶⁸⁶ As a rationale for doing so, Baldwin offered the argumentation that "the prestige of the United States in Colonial administration would be greatly enhanced by showing tolerance towards such left-wing groups which are so sternly repressed in British and French possessions."⁶⁸⁷ And while Baldwin qualified that he was merely offering this argument out of expediency – stressing that he personally disliked "such patriotic argument" but did so only because it made for "awfully good politics in international affairs" – he was presenting an argument thoroughly couched in American imperial exceptionalist logic and terms.⁶⁸⁸ Therefore, Baldwin's advocacy here, which effectively identified

⁶⁸⁴ Roger Baldwin to Governor-General Frank Murphy, 10 April 1933, ACLU Papers (Digitized Microfilm), vol. 675A, 119.

⁶⁸⁵ Lucille Milner to Cipriano Navarro, 25 May 1933, ACLU Papers (Digitized Microfilm), vol. 617, 137; Roger Baldwin to Governor-General Frank Murphy, 19 July 1933, ACLU Papers (Digitized Microfilm), vol. 675A, 144.

⁶⁸⁶ *Ibid.*

⁶⁸⁷ *Ibid.*

⁶⁸⁸ *Ibid.*

a civil liberties concern of theirs with American imperialist calculations, was a demonstration (as was similarly evident at the time regarding the U.S. Virgin Islands), of the increasing extent to which Baldwin's imperial imaginary was internalizing extant aspects of American imperialist perspectives and discourses. In making such an argument - which essentially sold civil liberties as offering little more than a device to legitimate the American colonial project due its alleged superiority to alternative forms of empire - Baldwin undermined the very notion of civil liberties protections providing an effective means by which peaceable change could be attained in the colonial sphere. Instead, within the very terms of the rationale Baldwin himself provided, they were more likely to merely legitimate the persistence of American colonial rule over the Philippines.

In the meantime, back in Washington there was additional movement toward Philippine independence, with a breakthrough finally occurring in early 1934 with the passage of the Tydings-McDuffie Act on March 24. Essentially containing the same provisions as the previous Hare-Hawes-Cutting bill, the act set out a ten-year transition period and empowered the Philippines legislature to call a constitutional convention to establish the Commonwealth of the Philippines.⁶⁸⁹ The Commonwealth itself was to remain under U.S. supervision, with its autonomy restricted in critical ways. For example, to be maintained were U.S. military installations, a presidential veto power over specific forms of Philippines legislation, control of foreign

⁶⁸⁹ Kramer, *The Blood of Government*, 424.

policy, and, potentially most relevant to the ACLU, the U.S. Supreme Court's prerogative of judicial review over the Commonwealth's courts.⁶⁹⁰ The Philippines Commonwealth was to also lose some of the seemingly more beneficial features of their former association with the United States in terms of now being subject to a highly restrictive immigration quota and a new trade tariff regime that, unsurprisingly, overwhelmingly favored U.S. metropolitan based interests.⁶⁹¹

Following this development, of which the ACLU again played no proactive part in, Roger Baldwin reached back out to Murphy in the late spring to check in with some outstanding concerns. In the communication, he advocated for the repeal or amendment of the Sedition Act as well as the same for another provision that empowered the Director of Posts to bar publications from the mails.⁶⁹² But no headway was gained with these concerns. It is further notable that at this point the ACLU had largely moved on from relying on correspondents that were white American missionaries to Governor-General Murphy. And while the issues of the greatly unrepresentative and temporary character of the former have been highlighted, they did at the very least did represent non-state actors whose disposition toward the colonial government could, hypothetically, be regarded as impartial, whereas the latter was not only a colonial state actor, but, as governor-general, occupied the position of chief executive authority

⁶⁹⁰ *Ibid.*, 424-425.

⁶⁹¹ Francia, *A History of the Philippines*, 172-173.

⁶⁹² Roger Baldwin to Governor-General Frank Murphy, 10 May 1934, ACLU Papers (Digitized Microfilm), vol. 758, 64.

within the colony. This represented a near unavoidable conflict of interest with the ACLU's commitment to providing a check to abuses of colonial state power – especially in the context of their aforementioned lack of firmly situated, locally based Filipino allies and/or contacts.

Two episodes exemplified this. First occurred in the fall of 1934, when the ACLU got word of a strike by Filipino cigar workers in Manila that had turned violent. They were informed that, of the cigarmakers that took part, 19 had been wounded, 5 killed, and 22 of the leaders arrested.⁶⁹³ Governor-General Murphy was even accused of having ordered the militia to shoot down the strikers.⁶⁹⁴ The ACLU duly contacted Governor-General Murphy for an explanation.⁶⁹⁵ Murphy responded that he had greatly regretted the occurrence of the incidence and forwarded them copies of reports on it. Murphy also claimed that he had already appointed a fact-finding committee, made up of members of both parties of the dispute, to look into employer worker relations before the incident, which had apparently been successful since in getting work to resume “pending a settlement of the points of difference.”⁶⁹⁶ In response, Baldwin and the ACLU were uncritical in expressing their satisfaction with Murphy's account of his handling of the

⁶⁹³ Maximo Manzon to ACLU, 25 September 1934, ACLU Papers (Digitized Microfilm), vol. 758, 58.

⁶⁹⁴ *Ibid.*

⁶⁹⁵ Radiogram from ACLU to Governor-General Frank Murphy, 28 September 1934, ACLU Papers (Digitized Microfilm), vol. 758, 59.

⁶⁹⁶ Governor-General Frank Murphy to Roger Baldwin, 2 October 1934, ACLU Papers (Digitized Microfilm), vol. 758, 59.

incident.⁶⁹⁷ They appear to have done so on no more of a basis than the word of the governor-general.

The second incident was the suppression of the Philippine-based Sakdalista opposition party. In May 1935, a violent uprising, possibly involving as many as sixty thousand partisans, had occurred throughout at least fifteen towns and villages throughout Laguna, Cavite, and Bulacan Provinces and was eventually violently suppressed by the Philippine Constabulary – ending with the loss of 59 lives.⁶⁹⁸ Rejecting the substance of the Tydings-McDuffie Independence Act, and demanding complete and unequivocal Philippine independence, for two days Sakdalista partisans seized colonial government buildings and obstructed communication and travel.⁶⁹⁹ As this incident was the largest uprising since the Philippine War itself, it garnered a great deal of coverage in the American press.⁷⁰⁰ This motivated the ACLU to inquire about it with Frank Murphy.⁷⁰¹ In reply, the governor-general asserted that there had been no such suppression, that he had already pardoned 74 participants – but not their leaders, whom he

⁶⁹⁷ Roger Baldwin to Governor-General Frank Murphy, 6 November 1934, ACLU Papers (Digitized Microfilm), vol. 758, 60.

⁶⁹⁸ Golay, *Face of Empire*, 340; Francia, *A History of the Philippines*, 174; Immerwahr, *How to Hide an Empire*, 166.

⁶⁹⁹ The name party's name itself had originated in the opposition newspaper, *Sakdal* – meaning 'to accuse. See: Richardson, "The Genesis of the Philippine Communist Party," 236; Daniel Immerwahr, "Philippine Independence in U.S History: A Car, Not a Train," *Pacific Historical Review* 91, no. 2 (2022): 230.

⁷⁰⁰ Immerwahr, "Philippine Independence in U.S history," 230; Samuel Weinman, "Behind the Sakdalista Uprising," 29 May 1935, *The Nation*, 29 May 1935, 625.

⁷⁰¹ Roger Baldwin to Governor-General Frank Murphy, 18 July 1935, ACLU Papers (Digitized Microfilm) vol. 862, 36.

claimed had incited the violence – and that the controversy had been greatly exaggerated.⁷⁰²

Baldwin responded satisfied, stating that he was “delighted to know that the facts are far more favorable to the government than I had supposed them to be even with you as the executive.”⁷⁰³ Therefore, once again, Baldwin demonstrated his propensity to be easily influenced by seemingly allied and sympathetic government officials. This was even more problematic as, by accepting the governor-general’s account, the ACLU were essentially providing a *de facto* vindication of it. And this was despite reporting that severe restrictions on free speech, assembly, and press had been key background contexts to the rising itself and that Governor-General Murphy himself had a great deal of responsibility for what occurred.⁷⁰⁴ There had then been substantial grounds for the ACLU to have taken a much more critical and focused interest into what occurred. However, given their lack of cultivation of firmly situated, non-state allies and contacts from within the Philippines, they had left themselves without any reliable counterpoints to Murphy’s response. As will be shown in Chapter 7, this was to contrast greatly with later events in Puerto Rico, where the ACLU did not hesitate to condemn colonial state abuses, even in spite of there being allied colonial state actors situated in key positions there as well. The key differential being

⁷⁰² Governor-General Frank Murphy to Roger Baldwin, 6 September 1935, ACLU Papers (Digitized Microfilm), vol. 862, 41.

⁷⁰³ Roger Baldwin to Governor-Governor Frank Murphy, 11 October 1935, ACLU Papers (Digitized Microfilm), vol. 862, 43.

⁷⁰⁴ Samuel Weinman, “Behind the Sakdalista Uprising,” 29 May 1935, *The Nation*, 29 May 1935, 625.

the presence of a relatively more robust set of locally based Puerto Rican allies and contacts who proved to be key in influencing the ACLU to take more direct action in seeking to provide a check to abuses by colonial state power.

Indeed, the Baldwin himself inadvertently acknowledged the compromised relationship that had emerged between the ACLU and the governor-general when he rebuked the Philippine-based lawyer Vincente Sotto for misrepresenting himself as the ACLU's representative in the islands.⁷⁰⁵ Baldwin emphasized that Sotto was not their representative, but merely a cooperating attorney. He proceeded on to explain that the ACLU “felt that anyone who would speak for us on occasion ought to be freed from partisan connections” and not “involved in politics.”⁷⁰⁶ Yet, as has been shown, the ACLU had hardly been consistent in their apparent commitment to nonpartisanship. And, indeed, recognizing their own contradictory conduct in this matter, Baldwin further qualified to Sotto that “[F]ailing that at the moment we must work through others” and acknowledged the fact that the organization had proceeded to “work directly through” Governor-General Frank Murphy, as they already had a past relationship with him.⁷⁰⁷ Baldwin himself had then inadvertently called attention to the deeply compromised nature of the relationship between the ACLU and the governor-general. He also conveyed the impression that the ACLU's civil

⁷⁰⁵ Vincente Sotto to Lucille Milner, 8 June 1935, ACLU Papers (Digitized Microfilm), vol. 862, 31.

⁷⁰⁶ Roger Baldwin to Vincente Sotto, 18 July 1935, ACLU Papers (Digitized Microfilm), vol. 862, 36.

⁷⁰⁷ *Ibid.*

liberties mandate was essentially one and the same as the interests of the most prominent colonial state actor in the Philippines at the time. This further provided evidence of an imperial imaginary that increasingly did not perceive of the unavoidable conflict of interest this relationship presented in the way of them providing a check on abuses of colonial state power.

As their relationship with Governor-General Murphy was vividly revealing, the ACLU's imperial imaginary was proving to be both a cause and consequence of their increased interactions with colonial state actors. That is, their increasing inability to see a conflict of interest in their cooperative relationships with colonial state actors, on the one hand, and their coming to increasingly, albeit intermittently, identify with the means, perspectives, and discourses of such actors, on the other, were becoming mutually reinforcing developments. That the influence of colonial state actors upon the imperial imaginary of the ACLU was increasingly discernable on the eve of the establishment of the Commonwealth of the Philippines leant an additional measure of uncertainty as to how the Union would approach the newly emergent polity. This was especially so given that complicated questions regarding Philippine governmental autonomy and independence would inevitably rise more to the fore now.

Commonwealth of the Philippines

In the fall of 1935, following the six months it had taken to draft a new constitution during the Constitutional Convention, took place the inauguration of the Commonwealth of the Philippines on November 15,

1935.⁷⁰⁸ Yet, as Leia Castañeda Anastacio has pointed out, continuity rather than change characterized the resulting governmental dispensation; especially as seen in the maintenance of a strong executive in the guise of the presidency that replaced the office of the governor-generalship.⁷⁰⁹ Following victory in the elections set out by the new constitution, Manuel Quezon took office as President of the Commonwealth. With the office of the governor-general duly dissolved, Frank Murphy took up the newly created position of U.S. High Commissioner. And while historians Paul Kramer and Daniel Immerwahr have cautioned against viewing the establishment of the Commonwealth as an earnestly committed to act of decolonization on the part of U.S. policy makers, it nonetheless established a newly autonomous and more comprehensively Filipino-governed polity; one that, as Alfred McCoy has pointed out, President “Quezon and his aides administered ... as if it would run full-term and yield a Republic.”⁷¹⁰

With the inauguration of the Commonwealth, how did this effect the ACLU’s interest and involvement in the Philippines? Did its establishment cause them to adjust their priorities, stances, and/or means? Relatedly, did it have any discernable influence upon their imperial imaginary? If any of the above, what were the consequences? While the establishment of the Commonwealth appears to have been regarded by the ACLU as a generally

⁷⁰⁸ Leia Castañeda Anastacio, *The Foundations of the Modern Philippine State: Imperial Rule and the American Constitutional Tradition in the Philippine Islands* (New York: Cambridge University Press, 2016): 249-50.

⁷⁰⁹ Anastacio, *The Foundations of the Modern Philippine State*, 257.

⁷¹⁰ Kramer, *Blood of Government*, 424; Immerwahr, “Philippine Independence in U.S History,” 4; Alfred W. McCoy, “Quezon’s Commonwealth: The Emergence of Philippine Authoritarianism.” In *Philippine Colonial Democracy*, ed. Ruby R. Paredes (New Haven: Yale University South East Asia Studies, 1988): 118

positive development, nevertheless, the continued existence of significant aspects of American control, presented the organization with additional challenges in terms of implementing a consistent approach. From this point on, their interest and involvement became more fleeting, with them no longer remaining heavily reliant upon either white American missionaries or their relationship with the former governor-general. What their sporadic interest and involvement did exhibit from this point on, though, was a tension that now hinged upon their nominal support for Philippine independence, on the one hand, and a continued pursuit of their metropolitan derived civil liberties commitments (i.e., freedom of speech, press, and assembly), on the other. The latter impulse periodically drew them to seek to constrain the autonomy of the now largely Filipino governed polity. It is argued that, on the occasions in which they sought the latter, they provided unwelcome reminders of what remained of American control and reinforced the ongoing colonial position of the Philippines within the empire.

It is further argued that the ACLU's imperial imaginary obscured from them the ways in which pursuit of their more universalist oriented, yet metropolitan rooted, civil liberties commitments in the Commonwealth might come into tension, if not outright conflict with their nominal support for full Philippine independence. The ACLU hence sought to keep abreast of, as well as consider and occasionally intervene in, what they deemed to be civil liberties matters of concern to them. In doing so then, their engagement with the Philippine Commonwealth starkly contrasted with their previous

involvement in Haiti. For (as demonstrated in Chapter 4) in that case, the ACLU proved to be more willing to compromise on their more customary civil liberties preoccupations for the sake of the restoration of autonomy to nominally sovereign Haitian state authorities. The explanation for this most likely lies in the distinction of the latter being part of the informal U.S. empire, while the Philippine Commonwealth remained, however now attenuated, within that of the formal sphere. This suggests that the ACLU had more come to internalize the formal and informal distinctions of the U.S. colonial empire by this point.

An early intimation of how the ACLU would engage with the Philippine Commonwealth occurred when, to coincide with the inauguration of the Commonwealth, the ACLU decided to urge their allies to do as they would and send cablegrams to President Manuel Quezon and High Commissioner Murphy, calling upon them to issue amnesties to all of those who had been convicted under the Sedition Act for nonviolent charges.⁷¹¹ Telegrams were accordingly sent onto President Quezon and Commissioner Murphy, signed by Baldwin and ACLU legal counsels Arthur Garfield Hays Jr. and Morris Ernst.⁷¹² The ACLU thereby signaled at the outset of the Commonwealth that, at the very least, they intended to maintain a generalized interest in the civil liberties situation and developments there.

⁷¹¹ ACLU Letter (Signed by Roger Baldwin), 29 October 1935, ACLU Papers (Digitized Microfilm), vol. 862, 45.

⁷¹² Telegram from ACLU to President Manuel Quezon, 30 October 1935, ACLU Papers (Digitized Microfilm), vol. 862, 46; Telegram from ACLU to High Commissioner Frank Murphy, ACLU Papers (Digitized Microfilm), 30 October 1935, vol. 862, 46.

Shortly thereafter, though, the ACLU were given significant cause for concern due to an early initiative announced by the Quezon administration: a program of compulsory military training. Modeled on the example of the Swiss citizen army, and aiming to train 40,000 Filipino conscripts a year over a ten year period, President Quezon had engaged in this project in consultation with advisor to the Philippine government, Major-General Douglas MacArthur.⁷¹³ It was to be MacArthur's responsibility to train and establish a reserve army capable of functioning as an effective deterrent to any potential invasions.⁷¹⁴ The ACLU's former Philippines-based correspondent, Harold Fey reached out to Baldwin to suggest that the ACLU should look into bringing this to the attention of the public at large, maybe even sending an open letter signed by some prominent figures to the Secretary of War – a suggestion to which Baldwin responded encouragingly.⁷¹⁵ For his part, Fey himself put together an article condemning the initiative in the pages of *The Nation*.⁷¹⁶ The ACLU went further and looked into challenging the very constitutionality of the compulsory military training program itself. In doing so, Baldwin reached out to attorney Kenneth Walser to have him look into seeing whether a constitutional test case could be organized, as “American courts have jurisdiction on constitutional question during the period of transition.”⁷¹⁷ Having done so, though, Walser was to

⁷¹³ Golay, *Face of Empire*, 351.

⁷¹⁴ Alfred W. McCoy, “Quezon's Commonwealth,” 141.

⁷¹⁵ Harold Fey to Roger Baldwin, 4 November 1935, ACLU Papers (Digitized Microfilm), vol. 862, 47; Roger Baldwin to Harold Fey, 8 November 1935, ACLU Papers (Digitized Microfilm), vol. 862, 51.

⁷¹⁶ Harold Fey, “Militarizing the Philippines,” *The Nation*, 10 June 1936, 736-737.

⁷¹⁷ Roger Baldwin to Kenneth Walser, 22 May 1936, ACLU Papers (Digitized Microfilm), vol. 952, 125.

confess to being at a loss as to what could be done to challenge the law in the courts as the U.S. Constitution, alongside the relevant Supreme Court precedents, suggested that the compulsory service law would hold up constitutionally.⁷¹⁸

While this consideration of challenging the compulsory service act came to naught, it nevertheless signaled that the ACLU were not content with solely monitoring developments in the Philippine Commonwealth but might be inclined to continue pursuing legal action there if deemed necessary and feasible. Left unacknowledged, though, was the fact that such an effort of constitutional challenge, however convincingly framed in civil liberties terms, would have entailed limiting the legislative and administrative autonomy of the now Filipino governed Commonwealth. And this impulse conveyed the impression that, as far as the imperial imaginary of the ACLU was concerned, for all their nominal support for independence, the Philippines itself remained a formal colonial possession of the United States. This was in plain contrast with their approach and orientation toward Haiti where, as was shown in Chapter 6, the ACLU were willing to quietly consent to suppression of the press so long as it had been initiated by local Haitian authorities, who were themselves as well, then nominally on the path to comprehensive sovereign independence.

⁷¹⁸ Kenneth Walser to Roger Baldwin, 23 May 1936, ACLU Papers (Digitized Microfilm), vol. 952, 126; Kenneth Walser to Roger Baldwin, 6 July 1936, ACLU Papers (Digitized Microfilm), vol. 952, 132.

Maybe most overtly highlighting their lack of clarity and consistency with respect to the Commonwealth's legislative and administrative autonomy, however, was their position regarding the issue of postal censorship of publications by the burgeoning polity. This was initially broached in September 1936 when Herbert Goldfrank of the American Friends of the Soviet Union reached out to inform them that the Philippines branch of their organization had their monthly publication, "Socialism Today," barred from the mails by the Director of Posts, and requested that they take the "necessary steps" to see that the publication's mailing privileges be restored.⁷¹⁹ Baldwin replied that, since the establishment of the Commonwealth, the organization did not feel justified addressing Filipino government officials regarding issues within their jurisdiction.⁷²⁰ Only where "American authority" existed, Baldwin claimed, would they act, for to do otherwise would be "presumptuous" on their part.⁷²¹ Hence, did it appear that Baldwin had issued a firm and clear statement as to where the ACLU delimited the extent of their civil liberties mandate with respect to the Philippines Commonwealth - that is, where Filipino control had been established, they would defer to their administrative and legislative prerogatives.

But, almost as if to further underline the ACLU's continued uncertainty, lack of consistency, and conflicting impulses with respect to the

⁷¹⁹ Herbert Goldfrank to ACLU, 28 September 1936, ACLU Papers (Digitized Microfilm), vol. 952, 149.

⁷²⁰ Roger Baldwin to Herbert Goldfrank, 1 October 1936, ACLU Papers (Digitized Microfilm), vol. 952, 150.

⁷²¹ *Ibid.*

Philippine Commonwealth, when they were again contacted during the next year about the mail ban on the “Socialism Today,” they responded much more cooperatively and eagerly. This time, they were contacted by the Philippine Socialist Party leader, Pedro Abad Santos, who asked if they could use whatever influence they had with President Quezon to see if they could convince him to have the ban lifted.⁷²² ACLU counsel A.L. Wirin responded that they would look into it and maybe even try to get together a delegation to approach Quezon.⁷²³ In fact, Wirin was even to go so far as to contact ACLU general counsel Morris Ernst about trying to get a potential test case programmed.⁷²⁴ However, upon Santos’ reply that, as a lawyer himself, he neither had any faith in the Philippine courts nor could afford a Supreme Court appeal, Wirin accepted his judgement with disappointment.⁷²⁵ Nonetheless, while not resulting in a tangible effort to challenge the Commonwealth’s exercise of postal censorship, the fact that serious consideration had been given to doing so vividly conveys the very mixed signaling by the ACLU and blurred perception of their imperial imaginary regarding the purported demarcation of their civil liberties mandate toward the Commonwealth.

⁷²² Pedro Abad Santos to ACLU (May 8, 1937), ACLU Microfilm, Volume 1062, p. 74; Ken Fuller, *Forcing the Pace: The Partido Komunista ng Pilipinas: From Foundation to Armed Struggle* (Quezon City: University of the Philippines Press, 2007): 96.

⁷²³ A.L. Wirin to Pedro Abad Santos, 26 May 1937, ACLU Papers (Digitized Microfilm), vol. 1062, 74.

⁷²⁴ A.L. Wirin to Morris Ernst, 27 May 1937, ACLU Papers (Digitized Microfilm), vol. 1062, 75; A.L. Wirin to Conrado Benitez, 16 June 1937, ACLU Papers (Digitized Microfilm), vol. 1062, 75.

⁷²⁵ Pedro Abad Santos to A.L. Wirin, 21 June 1937, ACLU Papers (Digitized Microfilm), vol. 1062, 76; A.L. Wirin to Pedro Abad Santos, 9 July 1937, ACLU Papers (Digitized Microfilm), vol. 1062, 76.

Where the ACLU did feel confident and consistent was with respect to U.S. federal executive based appointments to the Philippine Commonwealth. When question of the nomination for Murphy's former position of High Commissioner of the Philippines arose in early 1937, the ACLU were unhesitant about publicly opposing the nominee, former Governor of Indiana Paul McNutt. In the communications they sent to U.S. Senators, they did so on the grounds that throughout his tenure as governor, McNutt had denied labor rights through martial law and had demonstrated an overall militaristic attitude.⁷²⁶ While their opposition failed to prevent McNutt's appointment, it is notable that they at least did so in this case with a clarity and consistency of approach and purpose that contrasted starkly with how they had otherwise engaged with the issues emanating from the Philippines during Commonwealth period.

Looming War and the Authoritarian Drift of the Quezon Administration

With the Japanese invasion of China in 1937, the threat of war came to unavoidably hover over all Philippine affairs. In response, the Quezon administration sought to keep the Philippines from being drawn into conflict with Japan.⁷²⁷ Recognizing the inadequacy of the MacArthur's defense plan, President Quezon himself decided to engage in discreet diplomacy with

⁷²⁶ Telegram from ACLU (Signed by Harry Ward, Arthur Garfield Hays and Roger Baldwin) to U.S. Senate, 23 February 1937, ACLU Papers (Digitized Microfilm), vol. 1062, 80.

⁷²⁷ Karnow, *In Our Image*, 276; Immerwahr, *How to Hide an Empire*, 162-163.

Japan to manage their relations - little assurance resulted from this effort.⁷²⁸ The Philippines' position was doubly vulnerable as Washington's policy toward Japanese aggression was outside of their control. Complicating matters further was the fact that the rising tensions with Japan were also becoming the grounds upon which U.S. based, unapologetic imperialist advocates were emphasizing the apparent need to retain U.S. rule over the Philippines, possibly even rescind the American commitment to extending independence.⁷²⁹ This emerged not only from familiar imperial apologists and Philippines-based sugar exporters, but was also in large part due to the realization that the Philippines possessed minerals essential for steel production that would be of vital importance for a potentially impending war.⁷³⁰

Alongside his efforts to navigate these tumultuous geopolitical circumstances, it became increasingly evident that President Quezon himself was bristling under his six year term limit as stipulated in the Commonwealth constitution.⁷³¹ As a report in *The Nation* asserted in early 1937, it was evident that Quezon was "erecting the framework of dictatorial power."⁷³² These efforts began to raise concerns, both within the Philippines

⁷²⁸ Golay, *Face of Empire*, 392.

⁷²⁹ Immerwahr, "Philippine Independence in U.S. history," 231; Golay, *Face of Empire*, 370-379.

⁷³⁰ Megan Black, *The Global Interior: Mineral Frontiers and American Power* (Cambridge: Harvard University Press, 2018): 75-76; Golay, *Face of Empire*: 370-379.

⁷³¹ *Ibid.*, 387

⁷³² James S. Allen, "Manuel Quezon - Philippine Dictator," *The Nation*, 20 March 20, 1937, 321.

and the U.S. mainland, as to the direction that Philippine politics was heading in.

Given these developments and increasing geopolitical tensions, how did the ACLU continue to engage with the Philippines? The ACLU's interest toward the Philippine Commonwealth continued to be characterized by an inconsistency of approach and signaling. However, from their perspective, one fortuitous development did arise. In the fall of 1938, a R. Marino Corpus contacted the ACLU to inform them that he was the secretary treasurer of a newly formed group calling themselves the Civil Liberties Union of the Philippines (or C.L.U. of the Philippines).⁷³³ While the organization did not pursue direct affiliation with the ACLU, they did request pamphlets, reports, and additional details from the ACLU to assist them in setting up an organization that had been inspired to some extent by the example of the Union itself.⁷³⁴ They nonetheless did hold out hope for "collaboration in any matter affecting civil liberties" in the future.⁷³⁵ Baldwin responded encouragingly to this Filipino led initiative and provided the relevant requested material.⁷³⁶ Thus had the ACLU seemingly attained just the sort of firmly locally based, allied non-state Philippine actor that had so eluded them up until this point - and no less than in the form of an independently organized civil liberties organization at that.

⁷³³ R. Marino Corpus to ACLU, 25 September 1938, ACLU Papers (Digitized Microfilm), vol. 2053, 18.

⁷³⁴ *Ibid.*

⁷³⁵ *Ibid.*

⁷³⁶ Roger Baldwin to R. Marino Corpus, 28 October 1938, ACLU Papers (Digitized Microfilm), vol. 2053, 18.

How did the relationship between the ACLU and the C.L.U. of the Philippines develop from this initial contact on? The C.L.U. of the Philippines proceeded on to forward updates, documentation, and clippings on potentially relevant issues to the ACLU. Their regular, consistent, and extensive reports and other correspondence made an increasingly favorable impression upon the ACLU. So much so, in fact, that they even managed to eventually convince Baldwin to intervene on behalf of the ACLU on what, at least according to their own stated standards, might otherwise have been regarded as an internal Philippines matter.⁷³⁷

When President Quezon's *Nacionalista* Party had bundled a series of constitutional amendments into one for the purposes of an upcoming plebiscite, this had garnered a good deal of criticism, in particular from the newspaper *The Tribune*, as a cynical and expedient measure by the party to further consolidate their power.⁷³⁸ The *Nacionalista* dominated Philippine Assembly responded by passing a resolution against the *Tribune* and fellow publication the *Vanguardia* (both of whom shared the same ownership), which ended up resulting in public apologies from both newspapers.⁷³⁹

In response to this incident, the C.L.U. of the Philippines publicly condemned not only the Philippines Assembly for threatening the press, but

⁷³⁷ R. Marino Corpus to Roger Baldwin, 4 April 1940, ACLU Papers (Digitized Microfilm), vol. 2250, 104-105.

⁷³⁸ These amendments would have permitted the reelection of the incumbent Philippine President, the reestablishment of a Philippine Senate, an increase in the salaries of members of both houses, and an increase of the total number of elected assemblymen. The package of amendments was subsequently endorsed in the plebiscite held in June. See: R. Marino Corpus to Roger Baldwin, 4 April 1940, ACLU Papers (Digitized Microfilm), vol. 2250, 104-105; Golay, *Face of Empire*, 389, 397.

⁷³⁹ R. Marino Corpus to Roger Baldwin, 4 April 1940, ACLU Papers (Digitized Microfilm), vol. 2250, 104-105

also both newspapers for issuing their apologies.⁷⁴⁰ The C.L.U of the Philippines forwarded on extensive documentation on the matter, including ongoing news coverage, to the ACLU.⁷⁴¹ Their ample documentation on the incident convinced Baldwin to issue a rebuke to the Speaker of the Philippines Assembly. He asserted that the Assembly's resolution represented an illegitimate interference with functioning of the free press.⁷⁴² It is notable that within the letter, entrusted to the C.L.U. of the Philippines to issue, Baldwin implicitly acknowledged that they were effectively contradicting their nominal policy that they did not intervene on matters falling within the jurisdiction of the Filipino state actors. This statement had the further distinction of also representing the first time that the ACLU had so directly and overtly challenged the *Nacionalista* Party in its conduct.

Their willingness to intervene in this matter indicated that now that the ACLU had a firmly Philippine-based contact – one presumably as committed to civil liberties as they were – they were likely more able and willing to intervene in internal Commonwealth matters to provide a check to abuses of state authority. There nonetheless is something of an irony to be observed in the fact that they were now doing so with respect to a Filipino governed polity nominally approaching independence. The contrast between their interactions here and those during the tenure of Governor-General Murphy are stark and unavoidably lend something of an additional racial

⁷⁴⁰ Ibid.

⁷⁴¹ Ibid.

⁷⁴² Roger Baldwin to Speaker of Philippine National Assembly, 13 May 1940, ACLU Papers (Digitized Microfilm), vol. 2250, 107.

inflection, even if inadvertently, to such attempts on their part to check abuses of colonial state authority.

The fact that they were seemingly now more willing to challenge the administrative and legislative autonomy of the *Nacionalista* dominated government served to further underline the dormant tension of their approach to the Commonwealth. As noted, the ACLU had not adeptly threaded the needle between their purported respect for the autonomous development of the Commonwealth on its path to independence, on the one hand, and their efforts to provide a check to abuses of state power in the realm of civil liberties, on the other. Furthermore, in being so inconsistent and uncaring in their approach, there was the risk that their criticisms of Commonwealth governance might provide aid or encouragement to the demands of American imperialist elements they presumably opposed.

As discussed earlier, by this time voices from within the United States had become increasingly vocal in expressing their skepticism, and even outright hostility, to the notion of granting independence to the Philippines, irrespective of the explicit American legislative commitment.⁷⁴³ That the ACLU's positions and engagement with the Philippines might play into the hands of those calling for the continued maintenance of American imperial control over the Philippine Islands might have given pause to their approach, especially given their nominal support for Philippine independence. The fact that the ACLU were not wary of being associated with such elements spoke

⁷⁴³ Immerwahr, "Philippine Independence in U.S History," 8-9.

to the consequences of an imperial imaginary now long conditioned from their previous interventions in the colonial sphere in pursuit of their civil liberties commitments. Additionally, given this broader context, there was an increased possibility that their ensuing communications and conduct with respect to the Philippine Commonwealth might now inadvertently come more to reinforce the colonial status of the islands within the U.S. empire.

The tensions and conflicting impulses of the ACLU toward the Philippine Commonwealth were most exemplified in a series of communications they issued in 1940, all a mere matter of months apart, regarding the administration of President Manuel Quezon. The first of which was in response to those increasingly vocal American voices who questioned and/or opposed extending full independence to the Philippines. In February the ACLU issued a press release asserting their “whole-hearted endorsement” of President Quezon’s pledge that reaffirmed a commitment to the attainment full Philippine independence by 1945. Qualifying that while “[T]he right of a people to determine its own political status” is “not specifically within our charter of civil liberties” it is nonetheless “implied in our whole philosophy and outlook.”⁷⁴⁴ The ACLU still made a late, if by this point unconvincing, gesture of relating their civil liberties conception and mandate with self-determination and independence. They went on to further promise that they would proactively oppose “any movement or attempts to compromise the pledge made to the Philippines” by the United States.⁷⁴⁵ Yet,

⁷⁴⁴ ACLU News Release, 2 February 1940, ACLU Papers (Digitized Microfilm), vol. 2250, 111.

⁷⁴⁵ *Ibid.*

even though this statement represented a robust expression of support for Philippine independence on their part, a good deal of their own advocacy and conduct regarding the Commonwealth could be interpreted as compromising that very “pledge” made to the Philippines. None more so than when they considered legal action that sought to constrain the autonomy the emergent polity.

Accordingly, it took merely a matter of months before they again conveyed the contradictory tensions of their nominal commitment to independence and their continued concern about the civil liberties situation of the islands. This stemmed from the fact that the ACLU had become increasingly concerned about reports of President Quezon’s attempt to gain emergency powers from the Philippine Assembly as a purported precautionary measure in the event of conflict with Japan.⁷⁴⁶ Particularly concerning had been a speech given by Quezon at the University of the Philippines in which he attacked the very notion of having a political opposition and called for restrictions upon personal freedom.⁷⁴⁷

In response to these developments, the ACLU decided to issue a public letter to President Quezon highlighting their worries about what appeared to be the increasingly anti-democratic and authoritarian drift of his

⁷⁴⁶ “Two-party Attack Pushed by Quezon,” Clipping from *New York Times*, 20 July 1940, ACLU Papers (Digitized Microfilm), volume 2250, 112; “Quezon Demands Economic Powers,” Clipping from *New York Times*, 20 July 1940, ACLU Papers (Digitized Microfilm), vol. 2250, 112.

⁷⁴⁷ “Two-party Attack Pushed by Quezon,” Clipping from *New York Times*, 20 July 1940, ACLU Papers (Digitized Microfilm), volume 2250, 112; “Quezon Demands Economic Powers,” Clipping from *New York Times*, 20 July 1940, ACLU Papers (Digitized Microfilm), vol. 2250, 112; McCoy, “Quezon’s Commonwealth,” 147.

administration, and called for a reversal of these tendencies.⁷⁴⁸ Within which they made the assertion that after the many years of “association” with the U.S. there was the reasonable expectation that “the methods of political democracy would have become firmly implanted in Philippine practice,”⁷⁴⁹ This notion of “political democracy” being “implanted” in the Philippines, betrayed something of their imperial imaginary at the time. It implied that the Philippine Commonwealth and its political leadership were somehow failing to meet a kind of colonial political capacity criteria – a capacity criteria, for that matter, which bore a resemblance to that which had arose (as seen in Chapter 5) in the exchanges between Baldwin and U.S. Virgin Islands Governor Lawrence Cramer. Such a potential failure of democratic implantation seemingly called into question the very wisdom of Philippine independence itself. They then proceeded on to conclude with the implicit threat that they hoped that it would not be necessary for them to assist in appeals to U.S. federal court due to an “abrogation of civil liberties” stemming from such “emergency powers.”⁷⁵⁰ The ACLU then once again signaled their willingness to seek to limit, via legal action, the autonomy of the Commonwealth, that is, a polity theoretically in the final stages of its transition to full sovereign independence. This communication was even more notable due its having been directed at the polity’s nominal head of state.

⁷⁴⁸ ACLU (signed by Roger Baldwin, John Haynes Holmes, and E.A. Ross) to President Manuel Quezon, 26 August 1940, ACLU Papers (Digitized Microfilm), vol. 2250, 118.

⁷⁴⁹ Ibid.

⁷⁵⁰ Ibid.

Among the most notable aspects of the ACLU publicly issuing such a threat of legal action (however unlikely of actual implementation or success) to the Commonwealth's leading political figure was that this provided an unwelcome reminder of just how provisional and fragile the autonomy and goal of full independence remained for the Philippine Commonwealth. This is even more striking when noting that, in so doing, they do not seem to have recognized that they might be providing indirect aid to unapologetic imperialists seeking to hinder or deny Philippine independence (i.e., those very same elements that, earlier in the year, the ACLU had asserted that they would oppose). And while the authoritarian drift of Quezon's administration was plainly a concern from a civil liberties standpoint, the fact that they did not solely protest these developments but promised to appeal to the authority of an overriding metropolitan institution - the Supreme Court - betrayed an imperialistic impulse on their part, one that operated through the frame of a metropolitan derived universalistic commitment. This was an impulse, if successfully followed through on, likely to reinforce, in both appearance and substance, the ongoing colonial relationship between the Commonwealth and U.S. metropole. The fact that they did not appear to be aware of such implications emanating from their dispatches only further spoke to the blurred, inconsistent, and even occasionally contradictory perceptions and impulses their imperial imaginary had regarding the Philippine Commonwealth.

Nor did the imperialistic undertone and implications of their dispatches and stances toward the Commonwealth go unnoticed. For in the

very next year, just as war between Japan and the United States appeared imminent, President Quezon made an incendiary speech against those he deemed responsible for constraining his ability to adequately prepare for a potential conflict with Japan – among whom he included the ACLU, as well as unapologetic American imperialists.⁷⁵¹ He asserted that such actors had convinced President Roosevelt to constrain the Commonwealth President's ability to assume the necessary emergency power for the preparation of civilian defense of the Philippines.⁷⁵² Therefore, President Quezon associated the ACLU with explicitly imperialist actors in the apparent restriction of his administration's autonomy. And while it is more than likely that Quezon cynically did so, this did not negate the fact that (as discussed) the ACLU had left themselves open to the charge due to much of the substance, tenor, indelicacy, and overall inconsistency of their dispatches and conduct toward the Philippine Commonwealth.

In response, Baldwin publicly denied that the ACLU had interfered with the defense program, stressing that they had only concerned themselves with the potential suspension of civil and political rights.⁷⁵³ He also asserted that in their previous communications between the organization and the Quezon administration, they had maintained a clear demarcation between what were issues of civil rights/liberties and what

⁷⁵¹ "Quezon Accuses U.S. on Defenses," Clipping from *New York Times*, 29 November 1941, ACLU Papers (Digitized Microfilm), vol. 2346, 59.

⁷⁵² Ibid.

⁷⁵³ "Quezon's Charges Denied by Baldwin," Clipping from *New York Times*, 30 November 1941, ACLU Papers (Digitized Microfilm), vol. 2346, 59.

were executive prerogatives in security matters.⁷⁵⁴ In actual fact, as already discussed in both this and the previous section, the ACLU had not maintained a consistent demarcation between what did and did not fall within their civil liberties mandate. Nor had they settled into a fully consistent line of policy and/or conduct regarding where the jurisdictional and/or conceptual lines of their mandate lay with respect to the Commonwealth.

Such a clarity and consistency of approach would have been critical for them to prevent their more metropolitan oriented civil liberties commitments to checking abuses of state power and supporting Philippine independence from coming into tension, in both appearance and substance, with one another. That they had neglected to do so was most likely a byproduct of an imperial imaginary that had blurred and inconsistent perceptions of the Philippine Commonwealth. Yet however blurred may have been their perception of the Philippine Commonwealth, it is what remained indicatively colonial of the latter's relations with the U.S. metropole that appears to have been most pronounced in the ACLU's imperial imaginary. And in this, the stark contrast of their imaginary and resulting conduct toward contemporaneous Haiti unavoidably comes to mind. For in the case of latter, the ACLU eventually gave way on their more metropolitan derived civil liberties preoccupations to unequivocally endorse full sovereign independence for Haiti. Whereas in the case of the Philippines, the ACLU

⁷⁵⁴ Ibid.

appear to have never fully dispensed with an essentially colonial disposition toward the Commonwealth. This led them to continue to interest themselves in the civil liberties conditions there – even if it meant seeking to restrict the governing autonomy of the now Filipino governed polity. The very ambiguity of the status of the Commonwealth within the ACLU’s imperial imaginary then contributed to a situation in which their impulse to secure civil liberties protections more often tended to trump, if not always in public pronouncements, then certainly in conduct, whatever measure of support for independence they provided. In doing so, the ACLU served most of all to reinforce the ongoing colonial subordination of the Philippines within the U.S. colonial empire.

How the increasing antagonism between the ACLU and the Quezon administration would have developed will remain unknown because on December 7 the long-feared war with Japan began with the invasion of the Philippines and attack on Pearl Harbor. What can be said with more certainty is that by the time of U.S. entry in the Second World War, the ACLU’s purported dual commitments regarding the Philippines, that is, its pursuit of its civil liberties mandate to check abuses of state power, on the one hand, and its support for Philippine independence, on the other, had proven to be more awkward bed fellows than the ACLU had anticipated. And in this, their blurred and unsettled perceptions of the Philippine Commonwealth within their imperial imaginary only served to further exacerbate the tension and contradictions of their resulting conduct.

Conclusion

Chapter 6 demonstrated that, with respect to the Philippines in the early 1930s, the ACLU did not focus upon the issue of Philippine independence but were instead more concerned with a set of cases involving members of the Philippine Communist Party, the PKP, who had been charged under Philippine Sedition Act in 1931. This chapter showed that the ACLU decided to provide legal defense aid less with the purpose of securing relief for the PKP defendants and more out of a desire to challenge the constitutionality of the Sedition Act and, accordingly, the doctrine of incorporation. This chapter argued that in their effort to do so, the ACLU never adequately overcame the difficulties that their great distance from the Philippines presented. To compensate for this, the ACLU came to rely upon the services of temporarily based, white American missionaries. This chapter argued that their imperial imaginary inhibited them from recognizing the inherent limitations and racially prejudicial biases likely to ensue from relying upon so narrow a base of contacts as both their main intermediary with respect to the sedition cases and as their primary source of general updates and information. By coming to rely upon such actors, the ACLU came to reinforce their disconnect with local Filipino actors and were hence left without essential Filipino perspectives and representation.

This chapter further demonstrated and argued that the ACLU only came to exacerbate their lack of representation and/or contacts among the Philippine islands by coming to rely upon Governor-General Frank Murphy as their main contact and interlocutor from 1933. As their appeal effort

faltered, the ACLU decided to abandon the endeavor upon the news of Murphy's appointment. In doing so, this chapter argued that the ACLU came to engage in a working relationship much more problematic in terms of their foundational civil liberties commitments than their former reliance on missionaries. For in coming to rely upon the governor-general as their primary intermediary with the Philippines, the ACLU came to engender a near unavoidable conflict of interest regarding their commitment to civil liberties as a check to abuses of state power. It was the contention of this chapter that this was largely a product of their imperial imaginary that by this time had become much more acclimated to colonial state institutions, actors, and discourses.

This chapter further demonstrated that the inauguration of the Philippine Commonwealth in 1935 presented the ACLU with newfound problems in terms of developing and maintaining a consistent position and approach to which. Chapter 6 argued that this stemmed from the fundamental tension between the ACLU's ostensible support for full Philippine autonomy and independence, on the one hand, and their more metropolitan derived civil liberties commitments, on the other. This was because their latter set of commitments periodically compelled them to seek to restrict the legislative and administrative autonomy of the Commonwealth. This chapter further argued that this latter impulse was largely the product of an imperial imaginary that clouded their perception of the tensions and contradictions otherwise evident in their messaging and conduct toward the Commonwealth. This inhibited them from recognizing

that the ways in which they intermittently pursued their civil liberties mandate toward the Philippine Commonwealth ended up providing inopportune reminders of just how insecure the U.S. commitment to full Philippine independence was. By so doing, the ACLU indirectly reinforced an ongoing colonial conception of the Philippine Commonwealth within the U.S. empire.