

Shall We Defend  
Free Speech for Nazis  
in America?

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AMERICAN CIVIL LIBERTIES UNION

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## Shall We Defend Free Speech for Nazis in America?

SOME of our members have sharply criticized the Union for championing the right of German-American Nazis to hold meetings and to conduct their propaganda. These critics, moved by their own feelings, have excepted the Nazis from their general tolerance of all other propaganda, arguing that the Nazis in Germany suppress all civil liberties, and would do so here if they had the chance; that they represent a regime so brutal that it forfeits all tolerance; and that they promote race and religious conflict.

These critics did not raise their voices for suppression of the Fascist propagandists of Mussolini. They did not object to our occasional defense of the right of the Ku Klux Klan to hold meetings and parade. Yet in principle those reactionaries advocated the same doctrines as the Nazis. Few of our critics take a frankly class position on the exercise of free speech, as do the Communists,—denying to reactionaries the rights they seek for themselves. Emotions of hate and intolerance alone lead them to outlaw the Nazis.

But if the Union yielded to such critics, and condoned the denial of rights to Nazi propagandists, in what position would it be to champion the rights of others? Shall we choose to defend only progressive or radical causes? And if we do, how best can we defend them? Is it not clear that free speech as a practical tactic, not only as an abstract principle, demands defense of the rights of *all* who are attacked in order to obtain the rights of *any*? In other words, the best tactics for defending the rights of Communists, for example, are to defend the rights of Nazis? If we did not, in what logical position would we be before the courts or the authorities in pleading for freedom of agitation for *any* group?

It was on precisely such a basis that our attorneys, both Jews, urged on the Mayor of New York the use of city property for a meeting of the persecutors of Jews, the Nazis; and that our general counsel, Arthur Garfield Hays, a Jew, aided the attorney for the Friends of New Germany (Nazi) in court proceedings to break down a lawless prohibition of their meetings in New Jersey. Just

so, some years ago, the Union protested denial of rights to the Ku Klux Klan by the Catholic mayor of Boston on the ground that if he could stop the Klan, he could lawlessly stop others he disliked—the Communists, birth control advocates, and pacifists. And he did. Our protest began when his lawless suppression began. We do not choose our clients. Lawless authorities denying their rights choose them for us.

To those who advocate suppressing propaganda they hate, we ask—where do you draw the line? They can answer only in the terms of revolutionists—at our political enemies. But experience shows that “political enemies” is a broad term, and has covered the breaking up even of working class meetings by rival working class organizations. It illustrates the danger, and the impracticability of making any distinctions in defending rights sought by all.

To those who urge suppression of meetings that may incite riot or violence, the complete answer is that nobody can tell in advance what meetings may do so. Where there is reasonable ground for apprehension, the police can ordinarily prevent disorder.

To those who would suppress meetings where race or religious hatred is likely to be stirred up, the answer is simple,—that there is no general agreement on what constitutes race or religious prejudice. Once the bars are so let down, the field is open for all-comers to charge such prejudice against any propagandists, — Communists, Socialists, atheists,—even against Jews attacking the Nazis. On that ground the Union has opposed the anti-Nazi bills introduced in the New York and New Jersey legislatures punishing propaganda which “stirs up race or religious hatred” or “domestic strife”. No laws can be written to outlaw Nazi propaganda without striking at freedom of speech in general.

Further, we point out the inevitable effect of making martyrs by persecution. Persecute the Nazis, drive them underground, imitate their methods in Germany—and attract to them hundreds of sympathizers with the persecuted who would otherwise be indifferent. The best way to combat their propaganda is in the open where it can be fought by counter-propaganda, protest demonstrations, picketing—and all the devices of attack which do not involve denying their rights to meet and speak.



But against their interference with the rights of others, the Union will fight, precisely as it fights any such interference. Against drilling with arms, as testified to before a Congressional committee, the Union will also fight—even for the enactment of laws, if necessary, to prohibit arms in the hands of political organizations. In the Klan's hey-day the Union championed the bills unmasking them in public parades, while supporting their right to meet—in hoods and gowns—on private property. Masking identity in public parades for purposes of intimidation is quite different from indulging in secret rites, masked where no outsiders need look on.

If and when Nazi meetings result in breaches of the peace, their organizers can be prosecuted under the criminal law. If their speakers libel individuals by reason of race or religion, recourse to the criminal libel statutes is open as a remedy. Short of that, and of overt acts of interference with others' rights their freedom to carry on their agitation should be unrestricted.

The Union makes no special issue of defense for Nazis. Instances of denial of their rights are few. The time we put on it is slight. We defend Nazis' rights upon the same principle which governs our defense of others. But to those of our friends who would not apply that principle to Nazis we point out that practical tactics for getting the rights of others demands defense even of Nazis' rights.



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