

# The Institution of Blacklisting

by Richard M. Elman

"The jerry-built institution of blacklisting," The Fund for the Republic concluded in 1954, "is now part and parcel of life on Madison Avenue." By 1956 popular radio entertainer John

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## *Fear on Trial*

by John Henry Faulk  
(Simon & Schuster; \$6.50)

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Henry Faulk could be added to the list of the damned as an act of revenge; he had dared to challenge the leadership of his trade union, AFTRA, then a well-entrenched part of the blacklist apparatus. By 1958 Faulk, who had been heard regularly on the CBS network, was unemployable, a forgotten figure, penniless, doubting that he would ever have the opportunity or the confidence to perform again. But four years later he won a highly publicized multi-million-dollar libel judgment against his blacklisters, AWARE, INC. *Fear on Trial* is his personal memoir of those six painful years when he fell from grace through no fault of his own and was subsequently vindicated in an American court of law, but it is also an effort to make that vindication seem significant to the public life of this country. Mr. Faulk is not

a professional writer. He reveals as much about what was done to him through inadvertence as he does through deliberate revelations. It is not a pretty picture: friends and business associates hailing him one day and deserting him the next; people believing lies because believing was less troublesome than demanding the truth. His book should be read because it testifies to the calumnies that were committed in the name of freedom by practically an entire society; it testifies also to the shabby compromises which the Cold War forced on the liberal consensus.

Unfortunately, John Henry Faulk does not always seem aware of the net losses which were revealed by his stunning courtroom victory. Approvingly he quotes his attorney Louis Nizer's opening remarks to the jury:

"What we have brought for the first time so far as I know, is an issue before this court, whether an American court of justice is going to approve the kind of blacklisting that went on in this case for all artists, and which . . . Faulk makes a test of in his own case, and we're going to bring other evidence to you as to

how this operated on famous artists."

Totally undismayed by his attorney's rhetoric, Mr. Faulk thinks to himself, while waiting for his verdict, of the "long, long road I had come along from South Austin, Texas, to this courtroom in New York where a decision was being made that could possibly make history." And he concludes this sad little book on a curious note of optimism:

"It would be gratifying indeed to think that if my lawsuit served no other purpose, it demonstrated that one does not *have* to keep silent when the vigilantes come running."

Indeed it would be gratifying if one could believe that the Faulk case was "a landmark in the return to sanity and the reaffirmation of the rights of the individual in America," as his publishers boast, but the record when set down by Mr. Faulk, largely from the transcripts of Mr. Nizer's courtroom behavior, do not prove out on that ac-

count. Was the issue of blacklisting tested? What was rejected beyond the libel *per se*? Mr. Faulk was patently not a Communist. In the context of his legal dispute with AWARE, Louis Nizer was able to demonstrate that some of our chief vigilantes were also scoundrels and liars. But Mr. Faulk had to go to elaborate lengths to establish his patriotism and good citizenship; and he also had to sit back and hear his attorney contend that Vincent Hartnett just did not have the proper governmental certifications to declare private citizens *non-persons*.

If that is all that could be legally encompassed by a libel case, why such immense rectitude? Beyond the fact that John Henry Faulk needs to feel that the absurdity he was put through had a meaning, there is also the fact that he could not help but share in a moral confusion about some of the issues raised by blacklisting. Does he believe blacklisting to be permissible under certain circumstances? Was his fight in AFTRA against every aspect of

the blacklist? Though he and Mr. Nizer are to be congratulated for persevering in the face of apathy and hypocrisy on the part of nearly the entire entertainment industry, the truth is that, thanks to Nizer's winning adroitness, the jury never once came to grips with the issue of conspiracy to deprive a man of his livelihood. They granted Mr. Faulk better than a million dollars in damages because he had been inaccurately labeled a Communist sympathizer, but it was left inferential that if you wanted to blacklist somebody for his political views you would simply have to make certain—upon penalty of libel—that he or she could be verified a Communist.

How did this come to be accepted as a victory for freedom? One should recall that our dwindling number of domestic Communists (and even past Communists who have refused to make a public recantation) are not accorded the decencies which are commonly allowed other citizens of the Republic. Even liberals must now accept the fact

that they have answered the threat of totalitarianism with a tyranny of their own assent. When the libel against Mr. Faulk was first being perpetrated, he went at the suggestion of his business manager to his cynical employers at CBS and agreed to write an affidavit for their salesmen to distribute, attesting to his anti-Communism. "There has been on file for the past five years in the offices of CBS," he wrote, "my signed statement, along with those of all other CBS employees, that I was not then, nor at any time a member of the Communist Party, nor of any Communist front, nor of any of the long list of organizations whose names were imprinted on the CBS form. I repeat now, and under oath, that I am not now nor have I ever been a member of the Communist Party."

If John Henry Faulk had not agreed to sign such an oath (which was instituted by CBS to head off McCarthyite attacks), he would have been fired on the spot. If he had not been willing to attest to his loyalty over and over again, there would have been no Charles Collingwood, or Edward R. Murrow, or even a Louis Nizer to take up his cause. No jury in this country, probably even today, would agree that systematic "adverse discrimination" for political beliefs in any industry was an actionable tort. Obviously aware of this, Mr. Nizer did not confine himself to the issue of blacklisting. He did what he could do for his client; he won back his good name and his right to earn a living. But this was only possible because Faulk had himself participated in the ritualism of the fifties. By attesting to his patriotism, his numerous brotherhood awards, his wartime services, his childhood ideals, he

won the ordinary rights of a citizen.

The Faulk case did demonstrate that to call somebody a Communist can be libelous. Think of the future implications of that decision. Meantime, because this has become the liberal consensus on Communism, blacklisting continues. Mr. Faulk did not sue CBS which had, after all, fired him without cause. They, on the other hand, could claim they had a right to fire him if they could show they were losing business. As Mr. Faulk's business manager pointed out: ". . . There isn't a single one of them that wouldn't fire you if a decision is made to do so." But once CBS and Mr. Faulk and nearly every-

body else in broadcasting, including the FCC, assented to the proposition that a proscribed political belief or association was legitimate grounds for job discrimination, the vigilantes had *carte blanche* to dig up all the crypto-Communists, frontiers and subversives. Nobody could complain against these overzealous citizens (many of whom were merely opportunists) if you accepted the principle of blacklisting. About all one could object to then were the needless inaccuracies of judgment, the mistaken identities and other excesses which the Faulk case amply demonstrated were happening every day along Madison Avenue.

## The Backwaters of Arabia Deserta

by Elizabeth Monroe

Mr. Thesiger—once of Eton and Oxford—disclaims that he is a professional explorer, saying that he is but a plain man fleeing the pace, din and false emphases of modern life. By now, almost the only places in which he can do so are either so cold or else so fetid that they call for special stamina and equipment—oxygen cylinders, Sno-cats, or helicopters. But these, too, would

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*The Marsh Arabs*  
by Wilfred Thesiger  
(Dutton; \$6.50)

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not be to his taste. So he sought and found a spot where he could live among a people of his choosing, carrying only a rifle, a shotgun, a bag stuffed with blankets and spare clothes, and two tin boxes "one filled with medicine and the other with books, films, cartridges and odds and ends." These last included the camera that takes his book's superb photographs, which alone make it cheap at its price.

He may not be a specialist, but he is a practicing medicine man. When he first went into the marshes, no marshman could understand why he had come. Not for a moment could anyone imagine that Thesiger was so mad as to be paying for himself, and all mistrusted him until he won acceptance through willingness to wield a surgical

knife. Though he is not a qualified doctor, he is bold enough, after years of interest in and observation of surgical operations, to circumcise, amputate, and even to take out an eye.

To the inventory of his material and technical equipment must be added his good colloquial Arabic. Thanks to it, his reader can eavesdrop on the ordinary talk of a likeable people, whose wit is part of their attraction. Naturally, they use it to greater effect in their own tongue than in Western languages, and here one gets the full savor of their comment on the facts of life, as well as of their quarrels, repartee and philosophy. There is something in the book for almost every reader who likes the wilds—the sociologist, the botanist, the hunter, the farmer, the boat-enthusiast. Even an architect or a musician will glean some unusual information from the description of the long reed guest houses called mudhifs, tawny-gold and as elegant as cathedrals, in which the marsh sheikhs entertain an honored guest.

Mr. Thesiger has produced a worthy addition to the good literature evoked by Arabia from predecessors such as Niebuhr and Palgrave, Doughty and Lawrence, and he has the advantage of them all in that his work is wholly free from the mannerisms that date or otherwise cumber their books:

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Northfield, Minnesota

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