

“Blessed are the peacemakers, for they shall be called the children of God.”

-- Matthew 5:9

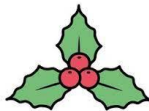
# “THE TRIAL AND ACQUITTAL OF W. E. B. DU BOIS”

By

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## Introduction

On this Christmas Day, I am reminded of Christ's parable in the Gospel of Saint Matthew, where Christ explained one of the fundamental and essential terms of eternal salvation, stating: "*I was in prison and ye came unto me.*"<sup>1</sup>

As a student of Methodism, I learned that during the early 18<sup>th</sup>-century, John Wesley (1703 – 1791) and a group of Oxford students interpreted this admonition quite literally and assumed the task of weekly visits to the local jails as a measure of Christian devotion.

Christ's parable was also later re-emphasized and reinforced through my reading of Johnnie Cochran's *The Journey To Justice* (1996) which recounts numerous instances of gross miscarriages of justice of the wrongfully incarcerated.

But even several years before I had ever heard of Attorney Johnnie Cochran, I knew of the extraordinary life's work of W. E. B. Du Bois (1868 – 1963), who was the first African American to earn the Harvard Ph.D., a founder of the Niagara Movement and, later, an original founder of the National Association for the Advancement of Colored People, a prolific author, a human rights activist, and a Pan-Africanist.

My closest and dearest friends and closest family members who have known me for many years know that Dr. Du Bois has been my inspirational role-model since the late 1980s when I discovered his *The Souls of Black Folk* (1903) while riding a bus from Baltimore to Syracuse, New York over a cold Thanksgiving break. This catapulted me into a spiritual realm of extraordinary ideas and ideals of human struggle and progress and possibility. This led to my undergraduate history thesis on Dr. Du Bois' biography, which was supervised by Dr. Sue Chappelle, who was herself a Harvard graduate and Ph.D. in history from The Johns Hopkins University.

The one lasting impression upon me was the last two decades of Du Bois' long and illustrious career, including his trial and acquittal of federal criminal charges, and his eventual departure from the United States and citizenship in the West African nation of Ghana. As an undergraduate student during the late 1980s, I did not know what to make of Dr. Du Bois' criminal charges.

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<sup>1</sup> Matthew 25:36.

But now, after more than 25 years of service before the American bar as a lawyer, and as a Reformed-Methodist minister of the Gospel of Jesus Christ, I cannot think about W. E. B. Du Bois' life's work, criminal charges, trial, and acquittal without trepidation and general mistrust of both the institutional church—as it is presently constituted—and mistrust of the American legal system—as it systematically downplays the plight of the poor within the court system. In my view, both the institutional church and the court systems of the United States need major institutional reform on both accounts.

Let me thus begin our discussion on this Christmas Day by reminding the reader that the Christ Child who was born and placed in a manger in Bethlehem was a political threat to the established Roman-Judean political order. For this Christ Child, who had been prophesied throughout the Old Testament writings and prophecies would come to inaugurate an eternal kingdom and to establish divine justice in the earth.

That “divine justice” theme appears to have been inaugurated in the patriarch Abraham<sup>2</sup> and continued on through the inauguration of the House of David, through the prophetic hands of the Prophet Samuel, whose own mother Hannah even prophesied the nature of the Christ King and his eternal kingdom as establishing “justice and judgment.”<sup>3</sup> Thus concluded St. Augustine, this duty

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<sup>2</sup> See Genesis 18: 18-19, stating:

Seeing that Abraham shall surely become a great and mighty nation, and all the nations of the earth shall be blessed in him?

For I know him, that he will command his children and his household after him, and they shall keep the way of the Lord, **to do justice and judgment**; that the Lord may bring upon Abraham that which he hath spoken of him.

<sup>3</sup> See 1 Samuel 2: 8-10 (KJV), stating:

8 He raiseth up the poor out of the dust, and lifteth up the beggar from the dunghill, to set them among princes, and to make them inherit the throne of glory: for the pillars of the earth are the Lord's, and he hath set the world upon them.

9 He will keep the feet of his saints, and the wicked shall be silent in darkness; for by strength shall no man prevail.

10 The adversaries of the Lord shall be broken to pieces; out of heaven shall he thunder upon them: the Lord shall judge the ends of the earth; and he shall give strength unto his king, and exalt the horn of his anointed.

But using a slightly different translation of the Bible, Augustine of Hippo's *The City of God* (New York, N.Y.: The Modern Library, 1950), pp. 572-573, quotes these same verses as stating:

to do “justice and judgment” was a universal commandment given to all mankind and made the precondition of both earthly peace in this lifetime, as well as eternal salvation in the world to come.<sup>4</sup>

Since my 2015 publication *Jesus Master of Law*,<sup>5</sup> I have therefore concluded that the principal function of the Christian Church is to do justice and judgment.

And I have devoted a considerable portion of my law practice and charitable legal work to The Methodist Law Centre<sup>6</sup> and to helping the poor, the incarcerated, and the disadvantaged to navigate their way through the often-tortuous legal system, mostly in litigation involving the deprivation of federal civil and constitutional rights arising under the Civil Rights Acts of 1866, 1871, and 1964. Moved by the examples set by great clergymen such as John Wesley

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He raiseth up the poor out of the dust, and lifteth up the beggar from the dunghill, that He may set him among the mighty of [His] people, and maketh them inherit the throne of glory; giving the vow to him that voweth, and He hath blessed the years of the just: for man is not mighty in strength. The Lord shall make His adversary weak: the Lord is holy. Let not the prudent glory in his prudence; and let not the mighty glory in his might; and let not the rich glory in his riches: but let him that glorieth glory in this, to understand and know the Lord, and **to do judgment and justice in the midst of the earth**. The Lord hath ascended into the heavens, and hath thundered: He shall judge the ends of the earth, for He is righteous: and He giveth strength to our kings, and shall exalt the horn of His Christ.

<sup>4</sup> St. Augustine, *The City of God*, supra, pp. 577-578, stating:

Now, he does judgment and justice who live aright. But he live aright who yields obedience to God when He commands. ‘The end of the commandment,’ that is, to which the commandment has reference, ‘is charity out of a pure heart, and a good conscience, and faith unfeigned.’ Moreover, this ‘**charity**,’ as the Apostle John testifies, ‘is of God.’ Therefore to do **justice and judgment** is of God.

But what is ‘in the midst of the earth?’...Therefore, ‘in the midst of the earth,’ that is, while our soul is shut up in this earthly body, **judgment and justice** are to be done, which shall be profitable for us hereafter, when ‘every one shall receive according to that he hat done in the body, whether good or bad.’

In the same way we may suitably understand what we read in the psalm, ‘But God, our King before the worlds, hath wrought salvation in the midst of the earth;’ so that the Lord Jesus may be understood to be our God who is before the worlds, because by Him the worlds were made, working our salvation in the midst of the earth, for the Word was made flesh and dwelt in an earthly body.

<sup>5</sup> Roderick Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL: Xlibris Pub., 2015).

<sup>6</sup> See [www.methodistlawcentre.com](http://www.methodistlawcentre.com)

(1703 – 1791) and Martin Luther King, Jr. (1929 – 1968), I have sought since 2019 to merge the Christian mission of the institutional church with the ethical obligation, mission, and standards of the American bar and bench.

This natural presupposition regarding the merger of “secular American law with the Christian religion” has been treated with bewilderment, disdain, and even outright rejection by both the clergy and the lawyers who are not accustomed to seeing Christ playing an active and influential role in the rule of law and the administration of courtroom justice.

For instance, recently, in a federal civil rights case, an opposing attorney filed a “motion in limine” in which he asked a federal court to judge to disallow me—the plaintiff’s counsel—from making any reference to the fact that I am “Of Counsel to the Methodist Law Centre,” or of my “Christian religion,” or of the fact that his client is “indigent and experiencing personal hardships during his incarceration in the state prison system.” Obviously, this attorney was fearful of the influence which the Christian religion might have upon the jury.

Nevertheless, I am still certain that the American courtroom, where the plight of poor and helpless is most needed, is where Christian ministers should perform one of the most fundamental and important objectives of Church—namely, justice and judgment.

And my feelings about the role of the Christian Church and the role of the American bar and bench are still very much influenced by the trial and acquittal of the great W. E. B. Du Bois.

### **“The Trial and the Acquittal”**

During the 1950s, W.E.B Du Bois and several officers of the Peace Information Center were indicted on federal espionage charges. These charges contended that they were spies and agents of the Soviet Union or other foreign nation. By this point in Dr. Du Bois’ long career as an academic and civil rights advocate, he was an avid socialist, had become friendly towards the Russians and the Chinese, and had even blamed global capitalistic monopolists for the previous two world wars and the present Cold War.<sup>7</sup>

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<sup>7</sup> Andrew Lanham, “When W.E.B. Du Bois was Un-American,” *Boston Review* (January 13, 2017), stating:

February 1951 was a busy month for W. E. B. Du Bois, who turned eighty-three and threw himself a huge birthday party to raise funds for African decolonization. He also married his second wife, the leftist writer Shirley Graham, in what the *Baltimore Afro-American* newspaper called the wedding of the year. And he

Dr. Du Bois was also a Pan-Africanist who had tied the plight of American blacks, Africans, and people of color in Latin America and Asia to the solution of world capitalistic dominance and oppression.<sup>8</sup> As a world-renowned scholar, the first African American to hold the Ph.D. from Harvard, a founder of the NAACP, and prolific author, Dr. Du Bois was a well-known and well-established scholar and international public figure by the time when the United States Department of Justice brought the formal charges against him and four others, under the 1938 Foreign Agents Registration Act (amended in 1942).

This federal criminal statute criminalized any American citizen's taking orders from, and speaking on behalf, a foreign government, without registering as an "agent" of that foreign government with the United States Department of State. The failure to do so could result in a \$10,000.00 fine and 5 years imprisonment.<sup>9</sup>

Thus, on November 8, 1951, the 83-year old W.E.B. Du Bois appeared in a federal courtroom in Washington, D.C. "as an indicted criminal."<sup>10</sup> Together with "four other American citizens of unblemished character," Du Bois was

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was indicted, arrested, and arraigned in federal court as an agent of the Soviet Union because he had circulated a petition protesting nuclear weapons.

The Justice Department saw Du Bois's petition as a threat to national security. They thought it was communist propaganda meant to encourage American pacifism in the face of Soviet aggression. They put Du Bois on trial in order to brand him as "un-American," to use the language of Joe McCarthy's House Un-American Activities Committee. Du Bois was not in fact a Soviet agent. He was an American citizen using his First Amendment rights to protest nuclear weapons on his own behalf. A federal judge acquitted him because prosecutors failed to present any evidence.

Nevertheless, the trial and the publicity around it ruined his career. He was left scrambling to earn enough money just to buy groceries. And the trial hardly ended the state persecution. In 1952 the State Department illegally revoked Du Bois's passport to stop him from traveling to a peace conference in Canada (and, implicitly, to prevent him from moving to a friendlier country where he was not blacklisted). The Supreme Court restored passport rights for suspected communists in 1958, and three years later Du Bois used his regained freedom of travel to become an expat in newly postcolonial Ghana. But while he was there, the State Department refused to renew his passport, effectively annulling his United States citizenship. The American civil rights icon became a Ghanaian citizen and died there in 1963.

<sup>8</sup> See, e.g., Andrew Lanham, "When W.E.B. Du Bois was Un-American," *supra*, stating, "[t]he greatest and almost the only cause of war,' Du Bois argued, is Europe's 'colonial' aggression and 'imperial' expansion.' If antiwar activists wanted to stop war, they would have to fight the colonial exploitation of native labor and natural resources. This made the peace movement a potentially unparalleled weapon against global racism."

<sup>9</sup> NOTE: \$10,000 in 1942 has the same purchasing power as \$184,564.42 today. Source: Carbon Collective Inflation Calculator.

<sup>10</sup> W.E.B. Du Bois, "The Trial," *Writings* (New York, N.Y.: The Library of America, 1986), p. 1071.

“accused of a felony and liable to be sentenced... to five years of imprisonment, a fine of \$10,000 and loss of my civil and political rights as a citizen....”<sup>11</sup>

### **“The Plight of the Poor in the American Justice System”**

Dr. Du Bois, of course, maintained his innocence. Yet Du Bois’ high moral character, distinguished career as scholar and activist, and innocence *were not sufficient*, standing alone, to protect his good reputation or to keep him out of prison.

Like most African American litigants who face any type of legal procedure or process, Dr. Du Bois faced the problem of finding a lawyer who was not unwilling to challenge or to fight against the powerful federal government; and he also faced the perennial problem of affording a lawyer who would be willing to fight for the cause of an unliked, unpopular litigant.

“They scared off lawyers,” wrote Du Bois, “one widely known attorney listened to our offer, and then told us he was dining with the Attorney-General. He finally refused his services.”<sup>12</sup>

Noting that the evidence brought against him was based “on so flimsy a basis,”<sup>13</sup> Dr. Du Bois noted that the real tragedy— and horror within the American court system —was the “trouble and large expense” that these frivolous federal charges imposed upon him.

“Personally,” wrote Dr. Du Bois, “I had no funds for such a case. I am retired from work, with a pension too small for normal expenses of living. My wife’s work and income were seriously curtailed by her complete immersion in this case. We have no rich friends. None of the defendants were able personally to finance this case.”<sup>14</sup>

In terms of legal fees, publicity, office expense, salaries and travel expenditures, Dr. Du Bois calculated the total cost of the case, in 1951 dollars, to be \$40,215.00 (or about \$489,837.88 in today’s valuation (2023)).

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<sup>11</sup>Ibid.

<sup>12</sup> Ibid, p, 1077.

<sup>13</sup> Ibid., p. 1078.

<sup>14</sup> W.E.B. Du Bois, “The Acquittal,” *Writings*, supra, p. 1103.

“Had it not been for the almost miraculous rise of American friends, we would have gone to jail by default,” wrote Du Bois.<sup>15</sup> “What turns me cold in all this experience is the certainty that thousands of innocent victims are in jail today because they had neither money, experience nor friends to help them.”<sup>16</sup>

But for Dr. Du Bois’ international and celebrity status, he is certain that he would have been convicted and gone to prison.

“From the beginning of the trial the courtroom was continuously crowded,” wrote Du Bois. “The coverage by Negro newspapers attested the nation-wide demand for news and sympathy for the accused.... There is no doubt that increasing apprehension of repercussion of the possible results of this trial on the Negro vote played a great part in its result.”<sup>17</sup>

“The eyes of the world,” wrote Dr. Du Bois, “were on our trial despite the desperate effort of press and radio to suppress the facts and cloud the real issues; the courage and money of friends and of strangers who dared stand for a principle freed me; but God only knows how many who were as innocent as I and my colleagues are today in hell. They daily stagger out of prison doors embittered, vengeful, hopeless, ruined.”<sup>18</sup>

Unfortunately, Americans overlook the plight of the unknown, the forgotten, the poor, but they love entertainment—sensationalism— and the big trial lawyers and the big, sensational cases, the likes of Johnnie Cochran and the O. J. Simpson trial. But the vast majority of innocent victims who are equally deserving of our time and attention go unnoticed.

And this, Dr. Du Bois noted, was a major dysfunction of civil rights groups such as the NAACP, and a real tragedy within the American legal system.<sup>19</sup> “We protect and defend sensational cases where Negroes are involved,” Dr. Du Bois

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<sup>15</sup> Ibid.

<sup>16</sup> Ibid., p. 1106.

<sup>17</sup> Ibid., p. 1107.

<sup>18</sup> Ibid., p. 1106.

<sup>19</sup> Ibid. Although the NAACP is not explicitly mentioned in Du Bois’ commentary in on his criminal trial in 1951, he had previously severed his ties to the NAACP in 1934, citing similar concerns. See, e.g., W. E. B. Du Bois, *Writings*, supra, pp. 1252 – 1263.



concluded. “But the great mass of arrested or accused black folk have no defense.”<sup>20</sup>

As a consequence, Dr. Du Bois noted that a sort of racketeering had emerged within the criminal justice system (and possibly even the civil justice system as well), whereby only those persons which means, money, and influence are able to get substantive justice. “There is,” Dr. Du Bois concluded, “desperate need of nation-wide organizations to oppose this national racket of railroading to jails and chain-gangs the poor, friendless and black.”<sup>21</sup>

### **“Ostracism and Isolation of the Accused during Trial”**

The criminal charges that were brought against Dr. Du Bois were a very sobering experience for him (and, quite honestly, for all of his supporters)—for it separated the wheat from the tares, and this separation was not always along racial lines. “[O]f course this unjustified effort,” wrote Dr. Du Bois, “was to prevent American citizens of any sort from daring to think or talk against the determination of Big Business to reduce Asia to colonial subserviency to American industry; to reweld the chains on Africa; to consolidate United States control of the Caribbean and South America; and above all to crush Socialism in the Soviet Union and China. That was the object of the case.”<sup>22</sup>

And under these conditions, most of the African American elites ostracized Dr. Du Bois—an experience which many African Americans of all walks of life—no matter how well known or obscure they may be—whenever they take a controversial but high-moral stand against racism and discrimination at any level, or whenever they have been falsely accused of a crime.

Before and during the trial, Dr. Du Bois discovered his true friends to be “that smaller part of the Negro intelligentsia... Negro masses... whites who have risen above race prejudice not by philanthropy but by brotherly and sympathetic sharing of the Negro’s burden and identification with it as part of their own.”<sup>23</sup>

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<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid., p. 1104.

<sup>23</sup> Ibid., p. 1109.

But to Dr. Du Bois' surprise, "curiously enough," he discovered that "a large and powerful portion of the educated and well-to-do Negroes" refused to support him during this ordeal.<sup>24</sup> "The very loosening of outer racial discriminatory pressures has not, as I had once believed, left Negroes free... to lead America into a new heaven and new earth,"<sup>25</sup> Dr. Du Bois concluded.

"Of the fifty presidents of Negro colleges, every one of which I had known and visited—and often many times as speaker and adviser—of these only one, Charles Johnson of Fisk University, publicly professed belief in my integrity before the trial; and only one congratulated me after the acquittal," wrote Dr. Du Bois.

"Colored public school teachers sat in almost complete silence. All this shows not necessarily lack of sympathy for me in my persecution, but the wide fear and intimidation of the Negro people of America, afraid for jobs, appointments, business opportunities, and even of personal safety."<sup>26</sup>

Here we find the prophetic relevance of Christ's injunction: "I was in prison and ye came unto me."<sup>27</sup>

If the Christian Church does not come to the aid of persons who find themselves ostracized and alone, as I am sure hundreds, if not thousands of innocently-convicted prisoners or wrongfully-accused persons are, even on this Christmas Day, then who will perform this noble labor?<sup>28</sup>

### **"Challenges of Impaneling an Unbiased Jury"**

Now the jury system of the American court system had long been inimical to African American criminal defendants, and W. E. B. Du Bois, who had studied this system, had no reason to believe that the jury system had been rectified,

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<sup>24</sup> Ibid., p. 1108. Du Bois noted that his own undergraduate fraternity, Alpha Phi Alpha, was even split in its support, and several African Methodist bishops expressed their support.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid., p. 1107.

<sup>27</sup> Matthew 25:36.

<sup>28</sup> Matthew 9: 37-38, "Then saith he unto his disciples, The harvest truly is plenteous, but the labourers are few; Pray ye therefore the Lord of the harvest, that he will send forth labourers into his harvest."

even within a federal court sitting in Washington, D.C. Thus commenting on the general dysfunctional nature of the American jury system, Du Bois wrote:

The jury system in the United States has fallen on evil days. The old English concept of a man's guilt being decided by presentation of the facts before twelve of his fellow citizens too often fails. Juries are selected in devious ways and by secret manipulation. Most Negroes are sent to jail by persons who hate or despise them. Many ordinary workers are found guilty by well-to-do 'blue-ribbon' people who have no conception of the problems that face the poor. Juries are too often filled with professional jurors selected and chosen by the prosecution and expected to convict.<sup>29</sup>

And specifically, Du Bois and his legal team were especially concerned about the challenge of selecting an unbiased jury. Even in 1951, the jury pool was largely African American in the city of Washington, D.C., but the problem was the plain fact that most of them were civil servants who were employed by the federal government. And, for this reason, Du Bois and his legal team were concerned that even black jurors could not be intimidated or imposed upon by the federal government:

In our case there came another angle-- the colored juror.... There is a considerable proportion of Negroes in government employ: in the post office, as teachers in the public schools, as civil servants in dozens of branches. All such employees in Washington... are in fear of attack by witch hunts and loyalty tests.... Suppose, now, a Negro government employee is given jury service in a case where he knows that the government is out for conviction and where the case appeals to current popular hysteria. In our case the government had allowed the distinct impression to prevail that it had unanswerable evidence in hand to prove our direct connection with Communist movements abroad against the United States. Suppose, then, a Negro with a government job and a home and family is drawn for this jury: no matter what the facts show, how will he vote? How will he dare to vote?<sup>30</sup>

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<sup>29</sup> W.E.B. Du Bois, "The Acquittal," *Writings*, supra, p. 1107.

<sup>30</sup>Ibid., pp. 1072 – 1073.

One solution to the problem of impaneling African American jurors who might be fearful of granting an acquittal due to a fear of reprisal from the federal government was to exclude all government employees from serving on the jury.

But the downside to excluding all government employees was that practically no African Americans would be impaneled on the jury.

Dr. Du Bois himself tacitly admitted that he did not trust white jurors, stating, “[o]ne woman admitted that she was formerly a member of the KKK and was excused. No one on the panel admitted that he had at any time advocated segregation of the races, or racial discrimination in housing, transportation, employment, recreation, education; or in the use of places of public accommodation in the District of Columbia. Looking at the persons, this seemed to me hardly believable.”<sup>31</sup>

Dr. Du Bois also observed that “[a]ll Jews on the panel were barred,” but does not state the reasons.<sup>32</sup> But he seemed to suggest that the federal government feared Jews who sympathized with the cause of American blacks, and thus refused to impanel any Jewish jurors for the trial.

Finally, Dr. Du Bois informed his lawyers to “[a]ccept government employees!” thus resulting in a jury of 8 blacks and 4 whites being impaneled. To which his lead trial counsel, Eric Dickerson, agreed and said, “[n]o eight American Negroes will ever agree to convict you!’ ... ‘If they do, I’ll never defend another!”<sup>33</sup>

As the trial proceeded, however, it became evident that the federal government did not have enough evidence to prove its case, and, for the reasons, as stated below, the judge disposed of the case without submitting it to the jury.

### **“Assignment of the Federal Judge and the Acquittal”**

Another challenge that Dr. Du Bois and his legal team faced, as do most black civil rights litigants, is the arbitrary assignment—through lottery—of the

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<sup>31</sup> Ibid., p. 1072.

<sup>32</sup> Ibid., p. 1106.

<sup>33</sup> Ibid., p. 1073.

federal judge to the case. As Du Bois himself described this challenge, “[n]ext in importance came the problem of the judge who would preside.”<sup>34</sup>

The first judge assigned to the case, Judge Holtzoff,<sup>35</sup> “made a bad impression” upon Dr. Du Bois from the start, and he almost cancelled Du Bois’ bond which would have ordered the bailiffs to take Dr. Du Bois into custody and jailed for an “unintentional mistake,” which, in retrospect, Dr. Du Bois believed was “an attempt to frame us by some smart newspaper men.”<sup>36</sup>

Had Judge Holtzoff remained as judge, the ultimate results of the trial may have taken far different turn than it did. But the case was re-assigned to Judge James McGuire, who Dr. Du Bois would later describe as “[a] devout Catholic judge”<sup>37</sup> and “a great jurist, who in this case held the scales of justice absolutely level.”<sup>38</sup> Dr. Du Bois’ description seems absolutely justifiable, given that Judge McGuire refused to permit the federal prosecutor to confuse the jury, to let in prejudicial evidence, or to mislead the jury with false narrative about the defendant’s connection to the Soviet Union when none actually existed.

The narrow legal question in this criminal trial was whether the federal government could prove that there was a nexus between a foreign principle (e.g., the Soviet Union, etc.) and the defendants, including the Peace Information Center, W. E. B. Du Bois, and four other individual persons.

At the close of the federal government’s case-in-chief, Du Bois’ trial counsel, Mr. Marcantonio,<sup>39</sup> argued in his motion for directed verdict that “I contend, and I believe Your Honor has indicated time and time again, that unless connection has been shown, there is no relationship of agency and principal....”<sup>40</sup>

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<sup>34</sup> Ibid., pp. 1073- 1074.

<sup>35</sup> Ibid. (First name is not mentioned in the article).

<sup>36</sup> Ibid., p. 1074.

<sup>37</sup> Ibid., p. 1106.

<sup>38</sup> Ibid., p. 1074.

<sup>39</sup> Ibid, pp. 1071 – 1109 (Mr. Marcantonio’s first name is not mentioned).

<sup>40</sup> Ibid., p. 1095.

Indeed, earlier in the trial, Judge McGuire had explained to the federal prosecutors that they would not secure a conviction through evidence that was purely coincidental, stating:

I indicated that to Mr. Maddrix; but he says that he cannot (omit this), by virtue of the way his case is set up. Then Mr. Marcantonio very well says that if he expects to show the so-called connection by virtue of the similarity of activity in the nature of propaganda, then that would be, as he very aptly described it, parallelism; and the two could never meet, either in time or eternity. So there has to be a nexus shown; and I am assuming that will be shown. If it isn't shown, the Government doesn't make out a case and that is all.<sup>41</sup>

And, in fact, this ultimately is what all of the evidence presented in the federal government's case amounted to—whether a nexus could be shown between the defendants and a foreign power, and the Judge ultimately determined that no nexus had been shown, stating:

The Government has alleged that the 'Peace Information Center' was the agent of a foreign principal. They proved the existence, in my judgment, of the Peace Information Center. They certainly proved the existence of the World Council for Peace. Mrs. Moos may very well have gone to Prague, may very well have gone to Moscow. There may have been, and I take it as proven, there were individuals who were officers of both; but, applying the test, as laid down here, in a case which, presumably, is the law of the land (because on appeal to the Supreme Court of the United States certiorari was denied in the case)—in this case the Government has failed to support, on the evidence adduced, the allegations laid down in the indictment. So, therefore, the motion, under the circumstances, for a judgment of acquittal will be granted....

The judge's function is exhausted when he determines that the evidence does or does not permit the conclusion of guilt beyond reasonable doubt within a fair operation of a reasonable mind. So, therefore, if the case should go to the jury, I would be permitting the jury to conjecture in a field of conjecture, and, in addition to that, I would have to inform the jury and to instruct them that, if they could resolve the evidence in the case with any reasonable hypothesis looking toward the defendants, then, under circumstances, they are

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<sup>41</sup> Ibid., p. 1080.

obliged to do so, and then, as a consequence, they would have to be so instructed. So the case goes off, in my view, on a conception of the law.

The government maintains one point of view and the defense maintains another. I think that the position of the defense is maintained and supported by the opinion mentioned and that opinion is conclusive in my mind; and that is my ruling.<sup>42</sup>

And so, this is how W. E. B. Du Bois, the great African American civil rights activist and world-renowned scholar, was eventually acquitted of all criminal charges against him in 1951. His journey to justice was, like those of most criminal defendants, a frightening and gut-wrenching one. It culminated in a just judgment, but it came at harmful and tragic social, psychological, and financial costs. Personally, I suspect that Dr. Du Bois' ultimate decision to leave the United States in 1961, and to become a citizen of the nation of Ghana in West Africa, was largely a result of how he was treated by his fellow Americans throughout this criminal process and procedure.

### **Conclusion**

Therefore, on this Christmas Day, as I consider— and I invite you too to consider— those friendless, isolated persons who are wrongfully convicted, or wrongfully sued, or wrongfully accused, as was Dr. W. E. B. Du Bois and the four officers of the Peace Information Center in 1951— I am reminded of Christ's parable in the Gospel of Matthew, where he explained the terms of his eternal salvation, stating:

Then shall he say also unto them on the left hand, Depart from me, ye cursed, into everlasting fire, prepared for the devil and his angels:

For I was an hungred, and ye gave me no meat: I was thirsty, and ye gave me no drink:

I was a stranger, and ye took me not in: naked, and ye clothed me not: sick, and in prison, and ye visited me not.

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<sup>42</sup> Ibid., pp. 1099 – 1100.

Then shall they also answer him, saying, Lord, when saw we thee an hungred, or athirst, or a stranger, or naked, or sick, or in prison, and did not minister unto thee?

Then shall he answer them, saying, Verily I say unto you, Inasmuch as ye did it not to one of the least of these, ye did it not to me.

And these shall go away into everlasting punishment: but the righteous into life eternal.<sup>43</sup>

For too long now, Christians and the Christian Churches have turned a blind eye to the systematic injustices within the American court system.

In my humble opinion, such turning of a blind eye is most un-Christian and un-American. The Christian religion—Christ and his kingdom—was established “to do justice and judgment” in this present world and not wait for them in the New Jerusalem to come!<sup>44</sup>

Doing justice and judgment— e.g., visiting the prison bound— was a fundamental platitude of the early Methodists at Oxford University during the early 1700s—to visit and to minister to those who were in prison; and hence, the Methodist Law Centre, too, was established, in large measure, to assist Christian churches, pastors, and others with carrying out this fundamental and essential divine mandate.<sup>45</sup>

But on this very solemn Holiday, may we all resolve to commit ourselves to doing whatever we can to help the prison bound and such persons who are similarly in need.

Merry Christmas to all, and to all, a Happy New Year!

~ Rev. Roderick Andrew Lee Ford

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<sup>43</sup> Matthew 25: 41-46.

<sup>44</sup> And this is not simply my own conclusion, but it was also firmly held by such renowned theologians and pastors as Augustine of Hippo, John Wesley, and Martin Luther King, Jr. If a man like W. E. B. Du Bois could be rail-roaded, falsely accused, and nearly jailed for violating a court order and incarcerated on the basis of trumped-up federal criminal charges, what chance does the average citizen face when standing up for what is right whenever, if ever, such moral courage is necessitated?

<sup>45</sup> Matthew 9: 37-38, “Then saith he unto his disciples, The harvest truly is plenteous, but the labourers are few; Pray ye therefore the Lord of the harvest, that he will send forth labourers into his harvest.”



