

CALIFORNIA STATE COLLEGE

AT HAYWARD

CAMPUS DEDICATION

MAY 2, 1964

*“as it fulfills its destiny”*



Commemorating the dedication of California State College at Hayward May 2, 1964

“as it fulfills its destiny”

FRED F. HARCLEROAD

PRESIDENT OF CALIFORNIA  
STATE COLLEGE AT HAYWARD

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of the civic-minded citizens, and their representatives for bringing this new college into the world.

permanent campus just in time for the Fall Quarter. The success of this momentous achievement seemed to be the result of the Advisory Board proposed and planned a week-long series of meetings.

College is a tax-supported institution, some outside of Hayward and Alameda County, through their generous contributions, provided this assistance, supporting their efforts for the area.

many eminent scholars and important personalities in his field. Several of the speakers gave addresses on the challenges and possibilities of today's world.

These addresses we have had a few of them printed and distributed to friends and institutions that participated in

FRED F. HARCLEROAD



## Invited Participants

HIS EXCELLENCY, EDMUND G. BROWN  
Governor of the State of California

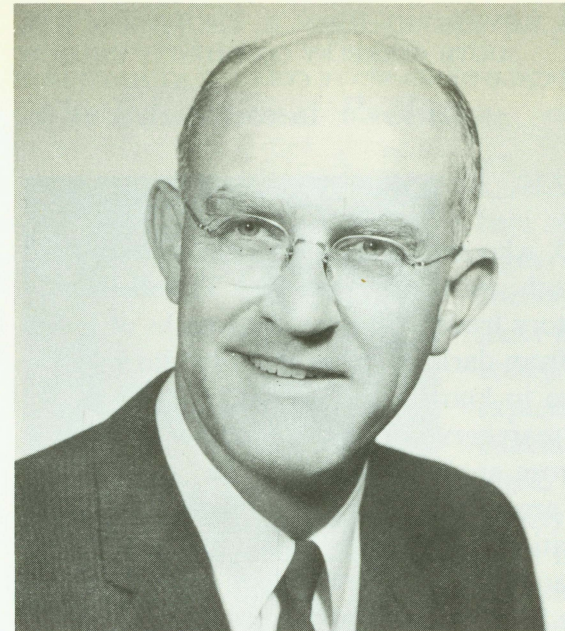
DR. GLENN S. DUMKE  
Chancellor, California State Colleges

DR. CLARK KERR  
President, University of California

DR. STAFFORD WARREN  
DR. ARMIN RAPPAPORT  
DR. HOWARD KENDLER  
DR. ALEXANDER MEIKLEJOHN  
DR. HERBERT BLUMER  
DR. ALEXANDER SPOEHR  
MR. KENNETH STEWART  
MR. JULES DUNDES  
MR. TEMPLETON PECK  
MR. HERB MICHELSON  
DR. LEWIS FEIN  
DR. HALLETT SMITH  
THE HONORABLE BEN DUNIWAY  
MR. GEORGE PHILLIPS  
MR. PERNELL ROBERTS  
MR. DICK ROSMINI  
PROF. AND MRS. HAROLD PAUL WHELAN  
MR. GENE GRAVES  
MR. LORIS COBURN  
MR. GLENN GLASOW  
REV. JOHN B. THOMPSON

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FRED F. HARCLEROAD

PRESIDENT OF CALIFORNIA  
STATE COLLEGE AT HAYWARD

The idea for starting a state college to serve the people living on the East side of San Francisco Bay was conceived many years ago, but it wasn't until September 25, 1959, that Alameda County State College was officially born. It was on that date that the first of 400 students — 100 full-time — registered for classes to be taught by just 20 instructors in only seven rooms leased from a newly constructed high school in Hayward.

Now, five years later, California State College at Hayward — Alameda State was renamed in 1963 — has an enrollment of 4,000. Classes are taught by 200 instructors in two multi-story buildings located on a 354-acre hill-top campus. We expect there will be more than 11,000 students attending the College in 1970. The physical plant will include the Fine Arts, Science, Music, Field House, Cafeteria, Physical Education, Classroom No. 1, Speech and Drama, and Library-AV-Administration buildings, plus a stadium and other outdoor athletic facilities.

Such rapid growth surely attests to the vision of the civic-minded citizens, and their representatives in the state legislature, who were responsible for bringing this new college into the world.

Our fledgling college moved onto its own permanent campus just in time for the Fall Quarter of 1963 to open. Some type of special observance of this momentous achievement seemed to be in order. Rising to the occasion, the College's Advisory Board proposed and planned a week-long "Dedication" of the new educational facilities.

But since such an event is expensive and our College is a tax-supported institution, some outside financial assistance was necessary. The people of Hayward and Alameda County, through their City Council and Board of Supervisors respectively, provided this assistance, supporting their belief that the new college was a sound investment for the area.

The dedication program, as you recall, included many eminent scholars and important personages. Each of the men was a leader and an authority in his field. Several of the speakers gave outstanding addresses concerning the problems and possibilities of today's world.

To give some permanence and distribution to these addresses we have had a few of them printed in this book, and we are happy to distribute this to friends and institutions that participated in our campus dedication.

FRED F. HARCLEROAD



## The Invocation

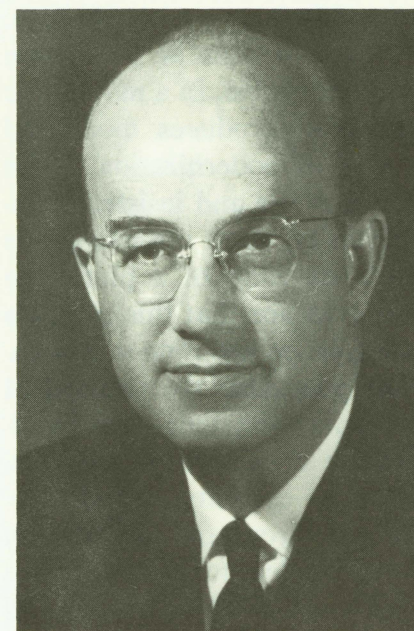
ETERNAL GOD, who art the goal of all knowledge and the source of all truth; we thank Thee that Thy disturbing spirit in human history leads mankind along paths of learning and discovery, from darkness to light, from fear to courage, from ignorance to knowledge. We thank Thee for all great thinkers and searchers, for prophets and scholars, for poets and saints, from ancient times until our own, whose labors and visions are woven into our common life. ■ In this hour of celebration and dedication we give thanks for all Thy sons and daughters who have dreamed and labored to bring this college into being; administrators and teachers, students and citizens, and representatives of our state government. Grant that we may all be united in pursuing the goals of sound learning, of freedom of the mind, and of responsiveness to human need. In this hour of pride grant us deeper insights into the needs of our world, humility to learn from its history, and wisdom to combine the old and the new. ■ As we gather to dedicate a new campus and its buildings, so may all of us re-dedicate our energies and our joint labors to the search for life's deeper meanings:

*In the ordeal of hard study,  
In the valor of pure thinking,  
In the riches of accumulated tradition,  
In the vitality of logic,  
In the freedom of thought,  
In the joy and honor of work,  
In the pride of craft,  
In the magic of sight and sound,  
In humble reverence for words,  
In the majesty of natural and divine law,  
And in the pure love of beauty.*

Deliver us, O Lord, from all mis-use of our skills. Help us to compound knowledge and judgment into wisdom. Whatever light may shine or shadow fall, keep us faithful to the true ends of sound learning and to the high resolves of this hour. Grant us grace to devote ourselves to the increase of incorruptible goodness and truth and beauty; working not only for ourselves but for all mankind. *Amen.*

## The Educational Evolution

CLARK KERR, Ph.D., LL.D.  
PRESIDENT OF THE UNIVERSITY OF CALIFORNIA



CHANCELLOR DUMKE, President Harclerod, members of the Board of Trustees of the California State Colleges, delegates and distinguished guests, members and friends of the California State College at Hayward. ■ We meet this morning in formal convocation to dedicate a new college. This new institution is part of a great movement of expansion, the greatest expansion in the history of higher education. Joining Hayward are four other new state colleges, with more to come. Three new campuses of the University of California have also been started recently. And what is happening in California is also taking place all over the nation and indeed around the world. Great Britain plans to triple the number of students in higher education by 1980. Russia is now devoting about seven per cent of her gross national product to all levels of education — a percentage about twice as high as our own. An educational explosion is taking place which is at least as dramatic as the population explosion. More young people everywhere are being given more and more education. In our own state, as you know, one of every two young people now enters higher education, and it may soon be two out of every three. Other states and nations will surely follow suit. As we meet today in the midst of this educational explosion, we might note some of the changes that education is bringing and may bring into the life of man. ■ Education, in its totality, is coming to have a greater and greater impact on the evolution of nations and even of world society. Wherever education is highly developed, it has these important consequences, among others:

Economic productivity rises.

Social mobility increases.

People become more tolerant on non-economic issues, less prone to discrimination, more anti-authoritarian, less given to violence and extremism.

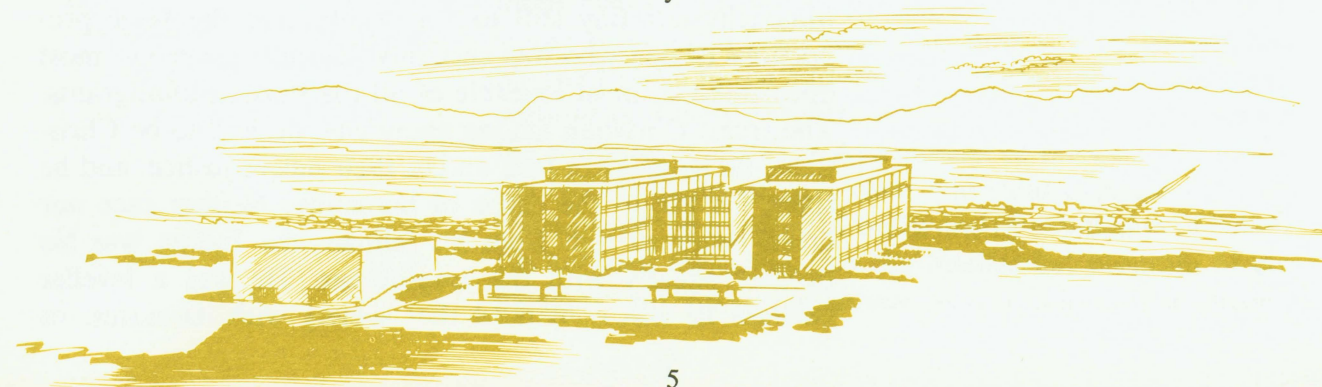
This is an impressive list, although education alone cannot take full responsibility for these consequences. ■ Impressive as are the past and present contributions of education, I should like to suggest that education's future role will be even more influential, and for a reason which is both intriguing and just a little disquieting. Throughout history, education has been the treasurer of one class or another or the servant of one institution or another. Now, for the first time, it is beginning to loom as an independent force in the world — at first in a few nations, perhaps eventually in all. This increasingly vast machine of education which man has fashioned to serve his own purposes is taking on an auton-





omous life, demonstrating the capacity to perpetuate itself and to change the surrounding society in the process — even beyond the conscious will of that society. The faithful servant may become a forceful master. ■ This educational evolution which is now beginning will undoubtedly have sweeping effects, many unforeseeable from our perspective. But we can attempt to predict a few of them. ■ Education may actually determine how nations evolve. In a monolithic and authoritarian society education produces more and more intellectuals to serve the needs of modernization. These intellectuals are likely to exert a growing and insistent pressure for more freedom and diversity, until ultimately the monolithic system cracks and some form of a pluralistic society emerges. There is some evidence that this pressure is being exerted now, in Eastern Europe and even in Russia. ■ Education and research may guarantee the renewal of societies. Institutions of higher education today are creating or discovering new knowledge at a phenomenal rate. This new knowledge, because of its quantity and vitality, spurs the progress of a society and throws off encrustation and stagnation. In fact, our main problem today is to adjust rapidly enough to the process of renewal. ■ Education will produce new class structures in society. Merit will increasingly be the portal. Generally speaking, the higher a person's skill, the greater will be his prestige in society. This hierarchy will bring about some interesting effects. The upper levels of society, the better educated, are likely to be more adaptable to change and thus more progressive. The more poorly educated will tend to be more rigid and conservative. ■ Education is becoming big business, and it is acquiring political power. In time it may even come to rival the military-industrial complex of which President Eisenhower has spoken. The education complex will take its place in the power structure. ■ Education will bring about a new life for modern man. With a more highly educated labor force, jobs will have to be made more interesting — more varied and more responsible. Ways can be found to do this, even in the large organizations of today and tomorrow. Leisure pursuits will be more diverse, consumers' tastes and demands more varied, cultural life stimulated and enriched. In turn, education will come to be regarded less as an investment to make men serve society better, and more as a means to serve the individual in society. ■ Only time will tell whether today's prophecies are good or bad. I should like to share with you one very good educational prophecy, made in the late nineteenth century by the eminent British scholar and translator of Plato, Benjamin Jowett: ■ "Education, to use the expression of Plato, moves like a wheel with an ever multiplying rapidity. Nor can we say how great may be its influence, when it becomes universal — when it has been inherited by many generations — when it is freed from the trammels of superstition and rightly adapted to the wants

and capacities of different classes of men and women. Neither do we know how much more the cooperation of minds or of hands may be capable of accomplishing, whether in labour or in study. The resources of the natural sciences are not half-developed as yet; the soil of the earth, instead of growing more barren, may become many times more fertile than hitherto; the uses of machinery far greater, and also more minute than at present. New secrets of physiology may be revealed, deeply affecting human nature in its innermost recesses. The standard of health may be raised and the lives of men prolonged by sanitary and medical knowledge. There may be peace, there may be leisure, there may be innocent refreshments of many kinds. The ever-increasing power of locomotion may join the extremes of earth. There may be mysterious workings of the human mind, such as occur only at great crises of history. The East and the West may meet together, and all nations may contribute their thoughts and their experience to the common stock of humanity. Many other elements enter into a speculation of this kind. But it is better to make an end of them. For such reflections appear to the majority far-fetched, and to men of science, commonplace." ■ Education as a master of man's fate may seem far-fetched to some today. I believe it will be commonplace to all tomorrow. ■ This increasingly crucial role for education, and particularly higher education, places the dedication of a new college campus in a most significant light. This new college will train thousands and thousands of young men and women who will, as a consequence, be more productive in their economic pursuits and better citizens in our political life. This new college will serve as a cultural center for its community, with lectures and concerts and plays open to all its neighbors. This new institution will become a focal point for the aspirations and achievements of a high proportion of the members of this community now and in the future. Beyond that, along with colleges and universities in this state, this nation and the world, it will participate in the most dramatic period in the long history of education, as education becomes a more important force than ever before in the affairs of men. Today we mark an important episode in that immense drama as we welcome the establishment of the California State College at Hayward, and as we wish it well in what will be its long and useful history.





## Freedom Under the Constitution



ALEXANDER MEIKLEJOHN, Ph.D.  
PRESIDENT OF AMHERST COLLEGE — EMERITUS  
WORLD-RENOWNED PHILOSOPHER AND AUTHOR  
(now deceased — 92 years old when photo taken)

LADIES AND GENTLEMEN. I would like to talk with you this morning about freedom — freedom in the United States. My paper falls into three sections, each of which will, I think, take about fifteen minutes. As we travel together, that division may enable you to calculate how long the journey may be. In the first section a story is told of a man who was one of the earliest, and perhaps the greatest, students and advocates of freedom our nation has known. The second section, written a few years ago, tells of dreadful violations of freedom by our government in what we call “The McCarthy Period.” The third section goes to the Constitution itself to find out what freedom really is. ■ The man whose story I have in mind is Roger Williams. Three hundred and thirty-three years ago, within a year after the settlement of the Massachusetts Bay Colony, this young preacher and teacher, then some thirty years of age, left England with his wife and came across the seas to share in the great new venture; but only four years later a general court of the Colonies sitting in Boston condemned him to banishment. The authorities, moved by ideas still active among us, wished to send him back to England where he had come from; but Williams escaped that fate. Already he had won the friendship of the Indians of the surrounding region, and, with their help, he made his way into the wilderness. With a few associates he founded the Providence Plantations, the first settlement of Rhode Island. ■ Vernon Parrington in his “Main Currents in American Thought” tells brilliantly of the personal quality of Williams and of the dramatic events which led to his expulsion. Roger Williams, he says, was the most provocative figure thrown on the Massachusetts shore by the upheaval in England, the one original thinker amongst a number of capable social architects. And again, he goes on, England gave her best when she sent us Roger Williams. A great thinker and a bold innovator, a repository of the generous liberalism of a vigorous age, he brought with him the fine wheat of long years of English tillage to sow in the American wilderness. How much America owes to him is, perhaps after all the intervening years, not adequately recognized. The shadow of Massachusetts Bay still too much obscures the large proportions of one who was certainly the most generous, most open minded, most loveable of all the Puritan immigrants. The truest Christian among many who desired to be Christians, he believed in men and in their native justice, and he spent his life in the cause of humanity. Neither race nor creed sundered him from his fellows; the Indian was his brother equally with the Englishman. He was a leveller because he was convinced that society with its castes, its

## Freedom Under The Constitution

institutions, dealt unjustly with the common man. He was a democrat because he believed that the end and object of the political state was the common well being. He was an iconoclast because he was convinced that the time had come when a new social order must be erected under decay of the old. Roger Williams, may I summarize, was an idealist who looked at freedom. ■ Why did the court at Boston decide to drive out from the colonies its truest Christian, its one original thinker? The formal charge against Williams was that he had divulged diverse views and dangerous opinions against the authority of the magistrates and had refused to retract them. The accusation was true. Williams himself, like Socrates, frankly admitted the facts alleged against him. With frankness and fearlessness he had assailed the plans of the governors and criticized their thinking. Against every institution which they had set up, he hurled a challenge of unwisdom. First, he attacked the economic system. The colonists, he said, had no legal right to the lands on which they had settled. Their titles to those lands rested on grants from the King of England. But the land, Williams protested, belonged to the Indians, it could therefore be lawfully acquired only by agreement with them, presumably by purchase from them. The King could not give to others what he himself did not possess. And again, speaking on an issue which still torments us, Williams condemned the requiring of loyalty oaths and the excluding of non-church members from voting and from office. Still again, in a society over which the elders of the church had civil as well as religious authority, he demanded the separation of church and state. The political stage, he declared, could have no rightful control over the souls and consciences of men, nor could the church take action concerning the bodies and goods and external state of man. As he advocated those doctrines there can be no doubt that to the capable social architects who were carrying the burdens of a new and precarious social enterprise, Williams was a trouble-maker. He was a dangerous revolutionary. ■ But as an idealist, he was even worse than dangerous: he was incomprehensible. Not only did he attack the government, he also justified by a theory of government the making of such attacks. With a subtlety and depth of insight which few, even of the world’s greatest political thinkers have excelled, he proclaimed the inalienable right and the imperative duty of a free man to criticize those who are chosen to govern him, to assess their decisions, to protest if need be against their actions. Herein lies his chief claim to the admiration and gratitude of later generations of Americans. One hundred and sixty years before the adopting of the First Amendment of the Constitution of the United States he gave clear and valid expression to the principle of the freedom of belief and of expression of belief. He outlined for our nation the intellectual program of democracy. He was as dangerous, as revolutionary, as incom-



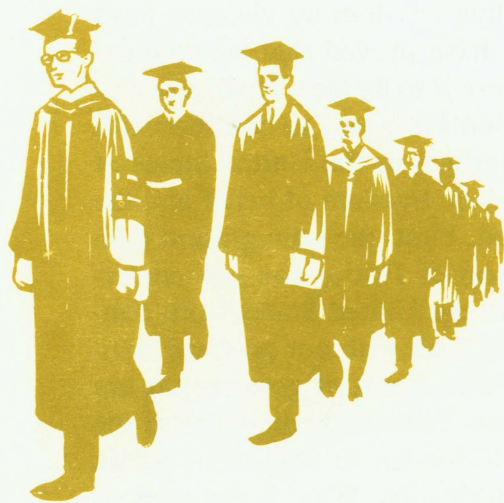
prehensible to the go-getters of his day and of ours as is the doctrine that, whatever may be the danger involved, the minds of men must be free. ■ In the text from which we already quoted, Parrington tells of the amazement and shock which the radicalism of Williams produced in the minds of the responsible men of the early colonies. He quotes for the purpose of illustration the words of Cotton Mather and of John Cotton. Mather in his *Magnalia* described Williams as follows: "In the year 1654 a certain windmill in the low countries, whirling around with extraordinary violence by reason of a violent storm then blowing, the stone at length by its rapid motion became so intensely hot as to fire the mill from whence the flames, being dispersed by the high winds, did set a whole town on fire. But I can tell my reader that about twenty years before this there was a whole country in America like to be set on fire by the rapid motion of a windmill in the head of one particular man." And Cotton, Parrington adds, worsted in his bout with his brilliant antagonist and perhaps frightened at the latter's free speculation, found such satisfaction as he could in epithets. Roger Williams was "an easy worker. His head runneth round. It would weary a sober mind to pursue such windy fancies, such offensive and disturbant doctrines. When a man is delivered up to Satan no morvel he casts for firebrands and arrows and mortals aims. It is such a transcendent life as putteth out all the lights of the world besides." ■ Three hundred and thirty years have gone by since Roger Williams landed on the rough and rocky-bound coast of New England. That time spent of our life and of the people falls into two nearly equal periods: the one before the adoption of the Constitution, and the one after it. And these two periods differ sharply in the quality of their political thinking. In the years which led up to the establishing of the Constitution, men had much practical work to do. They had a new world to subdue to their purposes, and in the field of government two tasks of primary importance and of great difficulty were thrust upon them. First, they faced the necessity of planning and executing a revolution, of breaking away by violence from the mother country which had given the colonies birth. And second, when violence had done its work, when independence was won, they were plunged into the far more difficult enterprise of fusing themselves together into a nation of peace and order, of freedom and justice. That forming of a single body politic united in diversity, organized for self-government, was one of the world's greatest political achievements. But it was great chiefly because the men who accomplished it were dreamers as well as doers. They thought while they worked. Point by point their minds plunged forward leaving far behind the rock-ribbed theories and customs which Williams had encountered in Massachusetts. ■ With the passing of the colonial days American beliefs about the nature of gov-



ernment ceased to be authoritative and conventional dogmas; they became hypotheses, ventures, dangerous and uncertain experiments in freedom and independence. The colonies, we should never forget, did not find a form of government already made; they fashioned a new one by the sheer energy of their intelligence; by thinking they created an idea which in that form the world had not known before. But the political thinking which we Americans have done since the Constitution was adopted has had no such energy, no such creative character. On the contrary, with every passing decade our thinking has become less and less adventurous, more and more defensive. Like the capable social architects who sent Roger Williams into the wilderness we now regard the basic problem of government as having been solved for us by our ancestors, and our chief concern is to protect that ancestral inheritance from attack, domestic and foreign. What we demand of men's minds, therefore, is not the independence which creates insight but the conformity which destroys them. As the heirs of a great tradition we are seeking not to produce but to enjoy, not to cultivate but to defend, not to explore but to exploit. By force, by compulsion we now drive each other in giving to freedom the slavish, timid loyalty which does not dare to ask what, with the passing of time, a changing freedom has become. Now the tragedy which inevitably befalls any such defense of an idea by repression is that the method used denies and refutes the idea which it is defending. Any belief which is merely accepted as an authoritative dogma or creed rapidly becomes untrue. To defend an opinion by any other influence than that of presenting evidence on its behalf is to destroy and to kill it. Beliefs which are not challenged by counter-beliefs, which are not exposed to the free play of hostile criticism, which do not grow and change in a changing world, lose their vitality, become sterile, and inert and false. And just that in large measure is the disaster in which intellectual servility of our go-getting efficiency has brought down upon the freedom which our forefathers had dreamed into being. ■ Our current American devices, used both at home and abroad, by defending freedom by violence have proved only one thing. They have proved that we who defend the principle do not believe it to be true. Now in justification of this railing accusation I ask you to consider with me some of the practices by which in the United States of today, that is some years ago, the freedom of belief and the expression of belief are denied. First, the immigration division of the Federal Department of Justice has now undertaken to defend the people of the United States from dangerous ideas. If foreigners find fault with our political institutions, if they believe that other forms of government are better than ours, they may now be denied admission to the country, or if admitted are forbidden to engage in public speech except by special authorization. What is the purpose

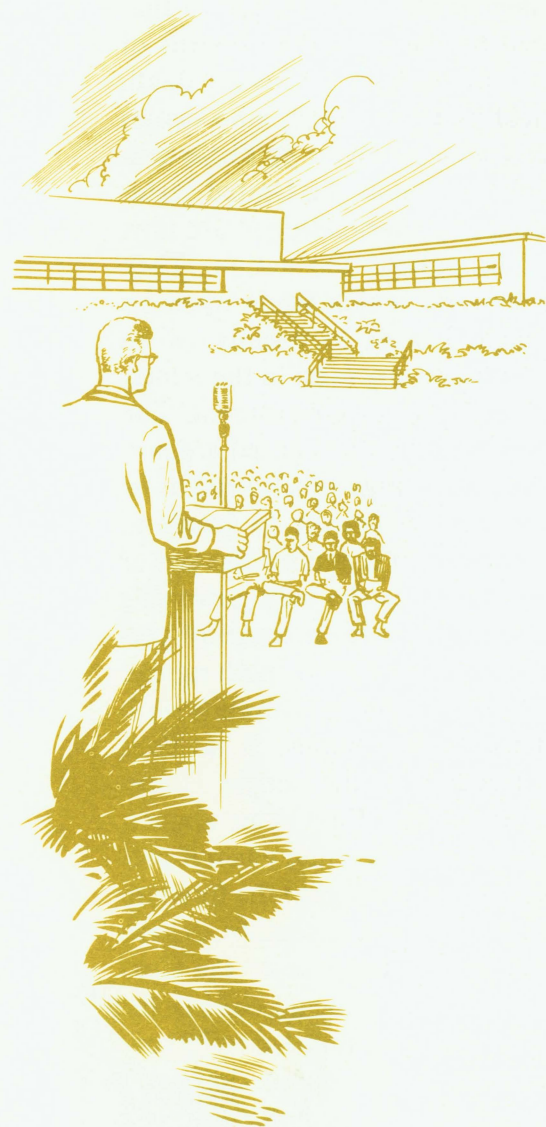


of this abridging of freedom? Why may we not hear these visitors who discuss the basic political problems which now confront all the peoples of the world? The obvious purpose is to protect the minds of our citizens from ideas which are too dangerous for them to hear. Do we Americans wish to be thus protected? Are we afraid of ideas? If so, then we have abandoned the experiment of self-government, we have decided to let someone else do our thinking for us. Any man or any government which is afraid of ideas, of any idea, has shown itself unfit for the great venture of freedom which is established and ordained by the Constitution of the United States. ■ Second, the Federal Bureau of Investigation, which we know as the FBI, has built up throughout the country a system of espionage, of secret police by which millions of our people, without any chance of facing their accusers, without any knowledge of the evidence or pseudo-evidence which is piled up against them are listed as holding this or that set of dangerous opinion and those listings are held in Washington as giving basis for action by the government against the persons listed. That un-American procedure has spread fear, suspicion, uncertainty and despair of justice or of freedom into every corner of the nation. It could be carried on only by a people which has lost its sense of what political freedom, of what political decency is. ■ Third, in much the same way, the Attorney General, acting on order of the President, has listed associations and organizations as subversive and dangerous. In direct defiance of the spirit if not the letter of the Sixth Amendment he has publicly condemned and stigmatized these groups as disloyal and has done so without giving them a hearing, without even a statement of the evidence on which the condemnation is based. And these procedures, we are told, are devised and used for defending the institutions of free self-government. ■ Fourth, the same methods in even more objectionable form are followed by the federal and state legislature committees on un-American activities. These committees have taken it as their task to discover in the body politic dangerous ideas and to expose to public condemnation and disrepute the persons who hold those ideas. They have even demanded of the persons so accused that by a statement of their beliefs they share in their own condemnation, and when citizens as free men have refused thus to testify they have been punished for contempt. ■ Finally, and most inefficient of all, may I tell you how the officials who largely control colleges and universities are destroying in our students and younger teachers, the faith in free institutions. For fifty or sixty years of close association I have watched that process of destruction, and I wish to report to you my findings. There is only one strong influence now driving our young people into distrust of American institutions, and that influence is the arbitrary and dictatorial attempt of our authorities to suppress criticism of those institutions. At the present time that suppression takes the



form of debarring Communists from our faculties. As the capitalist and Communist worlds now face each other in deadly hostility, our students know that more than any other form of learning they need to hear directly from men who are themselves advocates of Communism, why they hate our institutions and what they plan to do waging war against them. These young women and men may soon be called upon to risk their lives, their health, their careers in desperate conflict with the Communist nations. Should they not know what they are fighting for and what they are fighting against? And how can they know what they are fighting for unless they understand what they are fighting against? Why then are they denied that knowledge? In that denial, instituted and enforced by the governing boards of our colleges and universities, one finds at its lowest depth the inefficiency of the practical man, so-called, who denies what he believes, who destroys what he loves. ■ These misguided steps to protect the Constitution of the United States by violating it, to defend freedom by suppressing it, are now spreading like a prairie fire throughout the nation. They have all of the quality of a hysteria which feeds upon its own madness. As against them, I wish to declare as an idealist, a follower of Roger Williams, my faith in the American Constitution, in our national plan of government. The principles of freedom upon which that plan is based are not, in my opinion, weak and ineffectual things which need to be propped up and supported by devices hostile to freedom. The democratic form of government, if it retains the power of adjustment to changing conditions, is the only governing form which, through its own strength, gives promise of permanence and stability. If we keep faith with it, nothing can destroy it. ■ I ask you, therefore, to examine carefully with me now the Constitution of the United States. What does it say about the intellectual freedom of the people? Especially we must, of course, examine the First Amendment. What does that magnificent proclamation mean when it provides that Congress shall make no law abridging the freedom of religion, of speech, of press, of peaceable assembly, of petition for redress of grievances? ■ The purpose of the Constitution is as we all know to define and allocate powers for the governing of the nation. To that end three special governing agencies are set up and to each of them are delegated such specific powers as are needed for the doing of its part of the work. Now that program rests upon a clear distinction between the political body which delegates powers and the political bodies, legislative, executive and judicial, to which powers are delegated. It presupposes on the one hand the supreme governing agency to which originally all authority belongs. It specifies on the other hand, subordinate agencies to which partial delegations of authority are made. What then is the working relation between the supreme agency and its subordinates? Only as we answer that question shall we find the positive meaning of the First Amend-





ment. ■ First of all then, what is the supreme governing agency of this Nation? In the opening statement, the Constitution answers that question. "We, the *people* of the United States," it declares, "do ordain and establish this Constitution." Those are the revolutionary words which define the freedom which is guaranteed by the First Amendment. They mark off our government from every form of despotic politics. The legal powers of the people of the United States are not granted to them by someone else, by Kings or barons or priests, by legislators or executives or judges. ■ All political authority whether delegated or not belongs constitutionally to *us*. If anyone else has political authority, *we* are lending it to him. *We* the people are supreme in our own right. We are governed directly or indirectly only by ourselves. ■ But now what have we the people in our establishing of the Constitution done with the powers which thus adhere in us? Some of them we have delegated, but there is one power, at least, which we have not delegated which we have kept in our own hands for our own direct exercise. Article I Section II authorizes the people in their capacity as electors to choose their representatives, their agents; and that means that we, the people, in a vital sense do actively govern those who by other delegated powers govern us. In the midst of all our assigning of powers to legislative, executive and judicial bodies, we have jealously kept for ourselves the most fundamental of all powers. It is the power of voting, of choosing by joint action those representatives to whom certain of our powers are entrusted. ■ In view of the Constitution, then, we the people are not only the supreme agency; we are also politically an active electorate, a fourth, or perhaps better, a first branch which through its reserved powers, governs. That is the essential meaning of the statement that we Americans are, in actual practice, politically a free people. The First Amendment, freedom is not merely an aspiration, a hope; it is an arrangement made by women and men who vote freely, and by voting govern the Nation. That is the responsibility, the opportunity, which the Constitution assigns to us, however slackly and negligently we may at times have exercised our power. ■ Now it follows from what has just been said that under the Constitution we Americans are politically free only insofar as our voting is free. But to get the full meaning of that statement we must examine more closely what men do when they vote and how they do it. The most obvious feature of activity at the polls is the choosing of candidates for office, but under our elective procedures with their party platforms and public meetings, with the turmoil and passion of partisan debate, the voters are also considering and deciding about issues of public policy. They are thinking. As we vote we do more than to elect men to represent us; we also judge the wisdom or folly of suggested measures. We plan for the welfare of the nation. Now it is these

judging activities of the governing people which the First Amendment protects by its guarantees of freedom from legislative interference because as self-governing women and men we the people have work to do for the general welfare, we make two demands. First, our judging on public issues, whether done separately or in groups, must be free and independent, must be our own. It must be done by us and by no one else. And second, we must be equally free and independent in expressing at the polls the conclusions, the beliefs, to which our judging has brought us. Censorship over our thinking, duress over our voting, are alike forbidden by the First Amendment. A legislative body or any other body which in any way practices such censorship or duress stands in contempt of the sovereign people of the United States. ■ But further, what more specifically are the judging activities with which censorship and duress attempt to interfere? What are the intellectual processes by which free men govern a nation which therefore must be protected from external interference? They seem to be of three kinds. First, as we try to make up our minds on issues which affect the general welfare, we commonly, though not commonly enough, read the printed records of the thinking and believing which other men have done in relation to those issues. Those records are found in documents and newspapers, in works of art of many kinds, and all this vast array of ideas and facts, of science and fiction, of poetry and prose, of belief and doubt, of appreciation and purpose, of information and argument, the voter may find ready to help him in making up his mind. Second, we electors do our thinking not only by individual reading and reflection but also in the active associations of private or public discussion. We think together as well as apart. And in this field, by the group action of congenial minds, by the controversies of opposing minds, we form parties, adopt platforms, conduct campaigns, hold meetings in order that this or that set of ideas may prevail, in order that that measure or this may be defeated. And third, when election day finally comes, the voter having presumably made up his mind, must now express it by his ballot. Behind the canvas curtain, alone and independent, he renders his decision; he acts as sovereign, one of the governors of his country. However slack may be our practice, that in theory is our freedom. ■ What then is seen against this Constitutional background is the purpose of the First Amendment as it stands guard over our freedom. That purpose is to see to it that in none of these three activities of judging shall the voter be robbed by action of other subordinate branches of the government, of the responsibility, the power, the authority which are his under the Constitution. What shall he read? What he himself decides to read. With whom shall he associate in political advocacy? With those with whom he chooses to associate.



Whom shall he oppose? Those with whom he disagrees. Shall any branch of the government attempt to control his opinions or his vote to drive him by duress or intimidation into believing this way or that? To do so is to violate the Constitution at its very source. We, the people of the United States, are self-government; that is what our freedom means.

■ But this interpretation of the First Amendment which I have tried to give is, of necessity, very abstract. May I therefore give some more specific examples of its meaning at this point or that. First, when we speak of the Amendment as guarding the freedom to hear and to read, the principle applies not only to the speaking or writing of our own citizens but also to the writing or speaking of everyone whom a citizen, at his own discretion, may choose to hear or to read. And this means that unhindered expression must be open to non-citizens, to resident aliens, to writers and speakers of other nations, to anyone, past or present, who has something to say which may have significance for a citizen who is thinking of the welfare of his nation. The Bible, the Koran, Plato, Adam Smith, Joseph Stalin, Ghandi, may be published and read in the United States not because they have or had the right to be published here but because we, the citizen voters, have authority, have legal power to decide what we will read, what we will think about. With the exercise of that reserved power, all delegated powers are by the Constitution, forbidden to interfere. ■ Second, in the field of public discussion when citizens and their fellows assemble to listen to a speaker, whether he be American or foreign, conservative or radical, safe or dangerous, the First Amendment is not in the first instance concerned with the right of the speaker to say this or that. It is concerned with the authority of the hearer to meet together to discuss and to hear discussed by speakers of their own choice whatever they may deem worthy of their consideration. ■ Third, the same freedom from attempts at duress is guaranteed to every citizen as he makes up his mind, chooses his party, and finally casts his vote. During that process no governing body may use force upon him, may try to drive him or lure him toward this decision or that, or away from this decision or that. And for that reason no subordinate agency of the government has authority to ask under compulsion to answer, what a citizen's political commitments are. The question, "Are you a Republican?" or "Are you a Communist?" when accompanied by the threat of harmful or degrading consequences, if an answer is refused or if the answer is this rather than that, is an intolerable invasion of the reserved powers of the governing people, and the freedom thus protected does not rest upon the Fifth Amendment right of one who is governed to avoid self-incrimination. It expresses the Constitutional authority, the legal power of one who governs to make up his own mind without fear or favor, with the independence and freedom in which self-government con-

sists. ■ And fourth, for the same reason, our First Amendment freedom forbids that any citizen be required under threat of penalty to take an oath or make an affirmation as to beliefs which he holds or rejects. Every citizen, it is true, may be required and should be required to pledge loyalty and to practice loyalty to the nation. He must agree to support the Constitution, but he may never be required to believe in the Constitution. His loyalty may never be tested on grounds of adherence to or rejection of any belief. Loyalty does not imply conformity of opinion. Every citizen of the United States has Constitutional authority to approve or to condemn any laws enacted by the Legislature, any actions taken by the executive, any decisions rendered by the judiciary, any provisions made by the Constitution. All those in essence, which as men who are governed, we must obey, are subject to our approval or disapproval as we govern. With respect to all of them we who are free men are sovereign. We are the people; we govern the United States. If then on any occasion in the United States it is allowable to say that the Constitution is a good document, it is equally allowable in that situation to say the Constitution is a bad document. If a public building may be used in which to say, in time of war, that the war is justified, then the same building may be used in which to say that it is not justified. If it be publicly argued that conscription for armed service is moral and necessary, it may be likewise publicly argued that it is immoral and unnecessary. If it may be said that American political institutions are superior to those of England or Russia or Germany, it may be with equal freedom be said that those of England or Russia or Germany are superior to ours. These conflicting views may be expressed, must be expressed, not because they are valid but because they are relevant. If they are responsibly entertained by anyone, we the voters need to hear them. When a question of policy is before the house free men choose to meet it, not with their eyes shut but with their eyes open. To be afraid of ideas, of any idea, I say again, is to be unthinkable for self-government. Any suppression of ideas about the common good the First Amendment condemns with its absolute disapproval. The freedom of ideas shall not be abridged.





*Law and Freedom*

WHEN I WAS A BOY, I lived for a time in a small town in Wyoming. One of the town's great celebrations was held annually on the Fourth of July. It occurred in front of the little gray brick courthouse, and it began with a reading of the Declaration of Independence. This was followed by an oration, delivered by a prominent citizen, usually a lawyer. Such an oration, if it met with public approval, was referred to as a "stem-winder" — a term that has gone out of fashion with the development of the self-winding watch. Invariably, the orator's theme was the glorification of the American Revolution, accompanied by some general praise of liberty and independence, and usually intertwined with a good deal of verbal twisting of the tail of the British lion. The more flowery the language, the more elaborate the metaphors, however mixed they might be, the better the oration was considered to be. ■ The oration was followed by the playing of the "Star Spangled Banner" by the town band. Then everyone "paraded" or rather straggled, out to the fairgrounds for the annual wild west show. The California term of rodeo had not yet penetrated to the wilds of Wyoming! By the time the day was ended, with real fireworks in nearly every back yard, everyone, with the possible exception of one or two incautious youngsters who might have lost a finger, or even an eye, had had a glorious Fourth. ■ Such celebrations have gone out of fashion, along with the old stem winding watch. We no longer regard the British Redcoat as the principal threat to our liberties. Today, all over this country, we celebrate Law Day, devoted, it is hoped, to a serious consideration of the rule of law and its meaning, to us and to the world. It is quite fitting that we do so. There is another type of celebration in progress today. It takes place in the communist countries, and it glorifies a philosophy and a system of government that are the antithesis of our own. I do not say that there is no law in communist nations, or in other nations where absolutism of the left or the right prevails. But it does not embody the rule of law as we know it — the idea that those who govern are just as much subject to the law, and bound to obey it, as are the governed. ■ Our system also embodies another idea, one that is not accepted in many of the free nations of the world. That idea is that there are certain rights which each of us has that government cannot take away. These rights, as we all know, are embodied in the first ten amendments to the Constitution of the United States — the Federal Bill of Rights and in the thirteenth, fourteenth, fifteenth, and nineteenth. Every state constitution, including that of

California, contains a similar bill of rights, and some of those of the older states are older than the Federal Bill of Rights. ■ Today, most of us take the guarantees of the bill of rights pretty much for granted. I think, too, that most of us tend to overlook the fact that rights are correlative to duties. Indeed, we often forget that we have duties as well as rights. Most of us would agree, on those rare occasions when we stop to think about it, that we have a duty to obey the laws. Most of us do so as a matter of course. If that were not so, all of the law enforcement officers we could hire would not be enough to procure obedience to the laws. Most of the time we respect the rights of others — and we would agree, if asked, that we ought to do so. ■ However, I think that too many of us never think about these matters at all. Or, if we do, it is in terms of the small things that directly affect us, or of some major event that makes news on the front pages of the papers. It may be a little thing for me to park my car, illegally, in the red zone next to a fire plug. I may salve my conscience by telling myself that it is just for a few minutes, and no harm was done. But if everyone habitually did the same thing, it could jeopardize the fire protection of a whole community. I may read about a decision of the Supreme Court reversing the conviction of someone whom the papers describe as a notorious criminal, because the police beat him with rubber hoses until he confessed, and I may become indignant about it. All too often, however, the indignation will not be directed at the patently illegal acts of the police, which deprived the man of rights guaranteed by the constitution, but at the court which upheld those rights, thereby reversing the conviction. We see manifestations of that kind of irrational indignation on billboards along our highways that display the American flag over the slogan "Save Our Republic; Impeach Earl Warren." Yet, Earl Warren has done as much as any judge in our history to preserve for us the rights guaranteed to us by the constitution. ■ I am a part of that division of the government, the judiciary, that has in its keeping the rule of law. It is a part of the sworn duties of the judges, both state and federal, to preserve, protect and defend the Constitution of the United States — and that includes the Bill of Rights. Unhappy experience has repeatedly demonstrated that the other two departments, the executive and the legislative, occasionally yield to public clamor, or the apparent expediency of the moment, and take actions, or enact laws, that infringe those rights. At that point, our sole defense against such infringement is in the hands, first, of courageous and independent citizens who are willing to stand up for their rights, second, of courageous lawyers who will take and try their cases in the courts, and third, of courageous judges who will uphold those rights in such cases. It is not surprising that the United States District Judges who today man the Federal trial courts in the Southern states have been



described in a recent book as the fifty-eight lonely men. Some of us here in California occasionally feel pretty lonely, too. ■ I am not so foolish as to assert that all judges always do their duty, or that even the best judge never makes a mistake. I do not wholly agree with Gilbert's delightful verse, sung by the Lord Chancellor in "Iolanthe" — "The law is the embodiment of everything that's excellent. It has no possible fault or flaw, and I, my Lords, embody the law." We judges are people, too, and can be just as foolish and misguided as others. But the position of independence that a judge occupies, the comparatively calm atmosphere that is preserved in the courtroom, the detachment that surrounds him when he retires to his chambers to study the case, to decide it, and to express that decision in an opinion, and the long lines of decisions of predecessors interpreting and applying the law to which he can look for guidance and inspiration, all contribute to the probability that his decision may be right. Of this much at least I am certain: were it not for the decisions of the courts, extending back to the days of the Revolution, we would not today enjoy the rights and liberties that are ours. ■ Moreover, I am convinced that we will keep the legal system of which we are so proud — and the Constitutional rights that we cherish — only so long as we deserve them. To deserve them, we must do much more than make annual speeches about them. It is too easy to spend a half hour in self-congratulation and then return to our daily round with the all too prevalent assurance that all is right with our own little world. If Law Day were to become an occasion for that sort of mere self-congratulation, it would, in my opinion, be worse than useless. ■ Let us, then, consider an imaginary case that might occur in any American community, and some of the problems that it could present, first to the community and its government, and then to the courts. ■ James Madison, our fourth President, was one of the authors of the Federalist Papers, that extraordinary series of essays that did so much to persuade the thirteen colonies to ratify the Constitution of the United States. In the tenth of those papers, he discussed what he called the danger of faction; the danger, as he saw it, that in a democratic society, where decisions are made by majority vote, the majority might trample upon the rights of a minority, or of an "obnoxious individual." (The term is his, not mine.) It was precisely because of that danger that the Bill of Rights — the first ten amendments to the Constitution — was adopted. It was because of that danger that a similar bill of rights is found in the Constitution of every state, including our own. It was to prevent trampling upon the rights of a particular minority, our negro citizens, that the fourteenth and fifteenth amendments to the United States Constitution were adopted, after the Civil War, as restrictions upon the powers of the states. To our shame be it said that California did not ratify

either of them. We finally got around to ratifying the fourteenth in 1959, and we first rejected the fifteenth, but finally ratified it in 1962! ■ Now let us return to the "obnoxious individual" about whom Madison wrote. I propose to suggest such a person to you — one living in an imaginary California city of today — a city that could well be your own. I suppose that most of us would say that there are two principal types of obnoxious individuals today — the criminal and the agitator for outlandish causes. The former I do not propose to discuss, though he too has constitutional rights, and all too often we condone flagrant violations of those rights. It would be well to recall that there, but for the Grace of God, goes each of us. ■ My individual, whom I will name Mr. Obnoxious, in order to avoid treading on the toes of anyone present, is 45 years of age, married to a charming wife, the father of four attractive and well behaved children. His personal life has been exemplary. He loves his wife and children; he has a nice home in a pleasant neighborhood; he is a good neighbor, and has been active in community affairs—the PTA, the Boy Scouts, the Camp-fire Girls, the Community Chest. He is a successful business man — so successful, in fact, that he has retired, and is living on the income from his very considerable investments. And he is a thoroughly "nice guy." ■ What, then, makes him obnoxious? Well, he has always been a great reader, and he has done a lot of thinking about what he has read. Particularly since his retirement, his interests have developed along two lines — religious, and economic. In the area of religion, he has become a convinced and dedicated atheist. He cannot accept the idea of a personal God, interested in the welfare of his soul, or of an impersonal supreme being to whom he owes an obligation of worship. He thinks that man alone has the ability and duty to improve his own lot here on earth, and that his only immortality is in his children. He thinks that religion, both organized and unorganized, diverts people's attention to the hereafter, thereby preventing them from devoting themselves to the solution of earthly problems. Therefore, he concludes, he must convert as many people as possible to atheism. ■ In the area of economics, which is, in his opinion, inextricably intertwined with politics, he has arrived at equally unorthodox convictions. He thinks that the State of California has all the resources necessary to make it economically self-sufficient. He believes that the activities of the Federal government have been, without exception, detrimental to this state and its people. He considers that our downfall began with the federal income tax, and that if we did not have to pay it we would then be forced to solve our own problems instead of looking to Washington for help, and would have the money to do it. He resents the great influx of people into the state and believes that we should at once stop all further immigration to California, not only from abroad, but from the





rest of the United States. He is outraged that the Federal government has even considered a plan whereby some of California's water might be diverted to Arizona. He is equally upset by the fact that so much of our land is owned by the United States, and is convinced that the state should own it all — including the oil resources beyond the three-mile limit. He can go on about additional grievances for hours. He thinks, in short, that California should promptly get out of the United States and become a completely independent nation. ■ But he remains devoted to the bill of rights, both as it applies to him, and as it applies to everyone else. He would be horrified at the idea of achieving his aims by force or by any unlawful means, and would vigorously oppose any person who advocated such methods. He feels duty-bound, however, to propagate the ideas that he has formulated. His convictions in this regard are reinforced by his religious view, that man alone, unaided by a Supreme Being, must work out his own salvation. ■ The school board of the district in which he lives requires that all pupils salute the flag every morning. It was because of this that Mr. Obnoxious first came to public attention. A few years ago, when the pledge was amended to include the phrase "under God," he went to a meeting of the Board and demanded that his children be not required to take the pledge, or be permitted to leave out those words, on the ground that the compulsory use of the new words violated his children's constitutional rights to freedom of religion. There was a rather heated debate, and the matter was reported in the papers, but the Board decided to exempt his children, and the matter blew over. ■ Now, however, he is ready to push his views. Having money at his command, he sets about the propagation of his ideas in a big way. He has a printing press, and has printed thousands of pamphlets advocating his ideas. He has a truck, equipped with a rostrum and a loudspeaker that can be heard at a great distance. He has prepared speeches on atheism and his demand for California's independence, and has had them recorded on tape and has hired a number of young people, equipped with portable machines that can replay his speeches. ■ He tries to rent the high school auditorium from the local school board, for the purpose of having a mass meeting to "kick off" his great new movement, but is refused, although many other groups, such as the local Democratic and Republican parties, are permitted to use it. So he prepares advertisements to go in the local papers, and tries to buy time on the local radio and TV stations, for the purpose of announcing a mass meeting in the local public park, but the papers and the stations turn him down. He then prints a quantity of handbills announcing the meeting, and urging support by all atheists and secessionists. These are distributed for him in two ways — by a crew of persons hired by him who hand them out at every intersection in the downtown area,



and outside every church on Sunday, and by his young people and their portable machines, who fan out through the residential districts. They ring each doorbell, and when the bell is answered, give a handbill to the person answering, and then turn on the machine, insisting on playing the tape all the way through, even when asked to leave. Meanwhile, he himself cruises the streets with his sound truck, with the bull horn turned on full blast, expounding his theories and urging one and all to attend his meeting. ■ It happens that the town, like many in this state and elsewhere, has what is commonly called a handbill ordinance. The ordinance makes it a misdemeanor to distribute handbills on the city streets without a license. The license must be obtained from the chief of police, who is authorized to deny it if he finds that it would be contrary to the public interest to allow the distribution. No distinction is made between commercial, religious and political handbills. There is also an anti-littering ordinance, which makes it a misdemeanor to scatter papers on the streets. Then there is a third ordinance, which forbids house to house canvassing for any purpose whatever without a similar license from the chief of police, and specifically makes it a crime to refuse to leave private premises when requested to do so by the owner, whether such a license has been obtained or not. Mr. Obnoxious firmly believes that each of these ordinances infringes his rights to freedom of religion, freedom of speech, and freedom of the press, as guaranteed to him by the first amendment to the United States Constitution and by the Constitution of California. So he has not applied for any license. ■ The town is a quiet and conservative one. Nothing like this has ever happened there. As can be imagined, all of this activity produces a sharp reaction from many citizens. Various people who receive handbills phone the mayor, the city attorney, the police, the F.B.I., the American Legion, the fire department, the state highway patrol, the sheriff, the district attorney, and some of the local Municipal and Superior judges. The same thing is done by many outraged housewives, and by persons hearing the sound truck. Angry letters go to Congressmen and Senators, the Governor, the Attorney General of California, the President, the Secretary of Defense, the Atomic Energy Commission, the Attorney General of the United States, J. Edgar Hoover, the local papers, and to all kinds of private organizations, ranging from the John Birch Society, the D.A.R., the Archbishop of San Francisco, and the local ministerial alliance, to the Secretary General of the United Nations, the Central Intelligence Agency, and the Pope. The afternoon papers carry banner headlines describing Mr. Obnoxious and his activities and ideas, as well as interviews with prominent local citizens and an editorial, all highly denunciatory. The local and national radio and TV play the story, and every commentator is highly critical. ■ The Chief of Police, who firmly



believes in constitutional rights, and can tell when he is about to get a bear by the tail, is reluctant to act. But he is under heavy pressure to do so, and finally he does. Mr. Obnoxious and his handbill distributors and doorbell ringers are arrested and hauled off to jail. Each is charged with the four separate misdemeanors of violating the anti-handbill ordinance, the anti-littering ordinance, and the anti-canvassing and anti-trespassing ordinance. ■ Having plenty of money, Mr. Obnoxious gets himself and all his employees out on bail, and announces plans to go ahead with his mass meeting. This time, he gets plenty of free publicity from the news media — the press, the radio, and the TV. Every news story and announcement, however, is accompanied by critical and sometimes denunciatory editorial comment. Public officials are deluged by phone, by wire, and by letter, with demands that the meeting be stopped or broken up. The mayor announces that he will not allow the city park to be used for the meeting. Every politician in the area gets into the act, and Mr. Obnoxious finds himself charged with heresy, subversion, and treason by most of the “responsible” and “decent” people in the town. On Sunday, he is denounced from every pulpit in town, save one. That minister analyzes and refutes his ideas, in a careful sermon, and then begs his flock to remember that Mr. Obnoxious has a right to advocate, and to stand up for his right to do so. The minister is denounced, and several of his flock resign from his church. ■ But Mr. Obnoxious believes that he is right, that he can convince people that he is right if they will only listen, and that he has a right to hold his meeting. He demands police protection. Again, the chief is on the spot. He announces that he will see to it that public order is maintained, and that if any person breaks the law, that person will be arrested. ■ Meanwhile, a few thoughtful persons have become alarmed by all the hubbub and denunciation. They are not at all afraid of Mr. Obnoxious’ ideas; they believe that the best and simplest thing to do is to let him have his say. They believe with Justice Holmes that freedom includes “freedom for the thought we hate,” and that the best test of the validity of Mr. Obnoxious’ ideas is their ability to get themselves accepted in the market place. They send a carefully reasoned signed statement to that effect to the news media — and find themselves denounced. ■ On the day of the meeting, a large crowd, mostly hostile, has gathered in the park. A few students from the local University appear, carrying placards supporting Mr. O., and some are manhandled by the crowd. When Mr. O drives up in his sound truck, there are boos and catcalls, and some rotten vegetables are thrown. However, the police hold the crowd back, and Mr. O. begins to speak. At that point the crowd starts to get out of hand, a few try to rush the truck, and the police are soon involved in a melee with the crowd. Mr. O. turns up the bull horn and goes on talking. But the



chief has had enough. He orders Mr. O’s arrest for disturbing the peace, inciting to riot, and trespassing on city property, and once more Mr. O. finds himself in jail. Again, he bails himself out. He is forced by anonymous threats to ask police protection for his home and family. To the great credit of the chief, he gets it. ■ Meanwhile, certain ambitious politicians see an opportunity for publicity. The district attorney announces that he will convene a grand jury to investigate the conduct of Mr. O., and the chairman of the House Un-American Activities Committee announces that his committee will investigate Mr. O. as a subversive. The grand jury is duly convened, and there results an indictment of Mr. O. and his employees for conspiracy to commit each of the seven misdemeanors with which he is already charged, such a conspiracy being a felony. He and his associates are arrested at their homes, late in the evening, and again hauled off to jail. This time, Mr. O. is not permitted to make any phone calls, or to see a magistrate or anyone else, so that he can post bail, until morning. So they all spend the night in jail. ■ Now it happened that, frightened by anonymous calls, the hostility of the neighbors, and the carloads of tough looking men who cruised slowly past her house, Mrs. O. had taken the children and gone to another city, hoping that things would soon blow over. And when Mr. O. was arrested, he forgot to close the front door of his house. Shortly after his arrest, there appeared at the house an investigator for the Un-American Activities Committee, armed with a subpoena requiring Mr. O. to appear before the committee in Washington the following week. The open door was too much for the investigator, and in he went. He ransacked the house, and took with him every paper and book that seemed to him remotely subversive, including much personal correspondence and many books. One was by Dean Griswold of the Harvard Law School and entitled “The Fifth Amendment.” ■ Next day, Mr. O. gets out on bail again, and is promptly served with the committee subpoena. Upon going home he finds his house a shambles, and his books and papers gone. And the school board announces that it will henceforth require his children to take the pledge of allegiance. At that point, he finally decides that he needs a lawyer. ■ Now, many lawyers here will recognize the fact that our little story is constructed around a number of decisions of the United States Supreme Court and of the Supreme Court of California dealing with constitutional rights of the individual. It is probable that most of the things that happened to Mr. Obnoxious violate his constitutional rights to freedom of religion, freedom of press and speech, freedom of assembly; rights to be secure in his home and his papers and effects, and against unreasonable search and seizure, and perhaps others. It is less clear that others do. In a series of decisions involving the Jehovah’s Witnesses, the Supreme Court of the United States has held that their children cannot be required to salute the flag if it



is contrary to their religious beliefs to do so; that licenses restricting distribution of handbills, house to house calls, and using phonographs, are invalid when applied to their evangelizing activities. In the famous Hague case, it held that Mayor Hague denied constitutional rights to the C.I.O. when he refused to permit a meeting in a public park. But the Court has also denied that one has the right to propagandize by cruising the streets with a loudspeaker. ■ The basic principles behind these decisions have been variously stated. The court has said that a citizen has a right to hold views upon any and all controversial questions, and to disseminate them, including the promotion of Communism by the ballot box, but not by incitement to violence. It has said that each of us has the right to maintain theories which are rank heresies to followers of orthodox faiths. Many decisions make it clear that the seizure of Mr. Obnoxious' papers violates his rights against unreasonable search and seizure. And it is at least doubtful that one who merely advocates secession or atheism can be hauled before a Congressional Committee and questioned as to those beliefs. ■ One thing, however, is certain. Mr. Obnoxious desperately needs a lawyer, and a good one. Both Supreme Courts have repeatedly stated that a man charged with crime is in no position to defend himself. Every lawyer knows that that is true. That is why the Constitutions of the United States and of this state guarantee the right to have the assistance of counsel in one's defense. ■ Now, the question I wish to put to those of you in this audience who may be lawyers is this: If Mr. Obnoxious, with all this legal business, involving constitutional questions of the greatest importance, and well able to pay you amply for your time and effort, were to walk into your office and ask you to represent him in all these matters, would you do it? Or would you refuse, either because of fear of community disapproval or of the disapproval of present or prospective clients? Or would you insist, as a condition to your representing him, that he give up what you consider to be a foolish — indeed, an obnoxious — crusade? ■ And the question I wish to put to those of you who are not lawyers is this: If your lawyer took Mr. Obnoxious' many cases, what would your attitude be? Would you be shocked that the man whom you have considered to be so able and upright would permit himself to be associated with this dangerous and subversive character? Would you feel that perhaps your lawyer had the same kind of ideas as Mr. O., or otherwise he would not represent him? Would you be afraid to have your lawyer continue to act for you because you think his representing Mr. O. would make the judges and jurors regard him with suspicion or hostility? Would you decide that you had better get another lawyer? ■ I suggest to you that if the lawyers' answers are that they would not represent Mr. Obnoxious, or if the clients' answers are yes, I would have doubts about my

lawyer, and I might get another, then constitutional rights in this community are in grave danger. ■ Recent public opinion surveys have brought to light some very disturbing things. Most people, when asked what they think of the Bill of Rights, don't know what it is. The others either think it is a "good thing," or have no opinion. But when they are asked whether a man like Mr. Obnoxious ought to have a right to do the things that I have described, a very large percent say, no he should not. Yet his ideas and conduct are no more obnoxious to the powers that be — and to the majority of our people — today than were the ideas and conduct of those whom we revere as the founding fathers of this Republic in their day. We would do well to recall a famous definition of a conservative — "One who worships dead radicals." ■ It is not enough to write guarantees of individual rights into the Constitution. They are only as good as their enforcement. It is the courts that must enforce them. That means that we must have judges who are convinced of their importance, and who have the courage of their convictions. It means much more. It means that lawyers — competent lawyers, lawyers of unquestioned reputation and integrity, must be willing to assert those rights in court, regardless of public clamor and hostility. And, because lawyers cannot live without clients, it means that clients must recognize that it is the right and the duty — indeed the proud privilege — of lawyers to defend the constitutional rights of unpopular persons. It means that we the people — all of us — must understand the meaning of the Bill of Rights in practical application, and support those who defend it. ■ John Adams set the standard when he undertook the defense of the British soldiers who shot and killed some of the citizens of Boston in the famous Boston massacre, and obtained an acquittal. He was severely condemned by some of his fellow patriots, but he went on to become a signer of the Declaration of Independence, the veritable architect of freedom, and the second President of the United States. ■ There are modern parallels. A recent issue of *Life* carried a book review about the case of Colonel Abel, a Russian spy, who was defended by a well-known lawyer in New York, James Donovan. As the review puts it:

"Donovan took on the defense of a dedicated and dangerous spy out of his deep belief in the guarantees of the Constitution — and he did it, as his book recurrently shows, against a lot of social and business pressure. Clients took accounts away from his firm. Women made snide cracks at his wife. He went right ahead anyway, but despite the superbly skillful defense he gave Abel, the court sentenced the spy to 30 years."

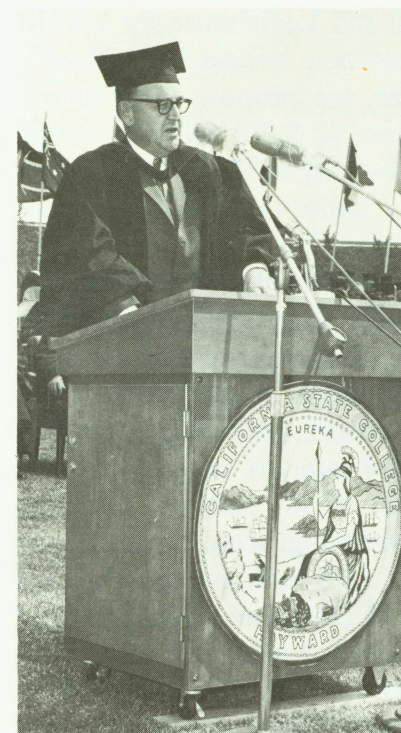
I suggest that the people who so treated attorney Donovan were themselves being disloyal to our constitution. Donovan deserved praise, not condemnation, for what he did. ■ Do



not misunderstand me. This paper is not an advocacy of atheism or of secession. It is not an advocacy of the activities devised and carried out by Mr. Obnoxious to propagate his ideas. There are many cases in which good judgment tells us that we will accomplish nothing, and may damage our ultimate objectives, by adamantly standing on our rights and pushing them as far as we can. Getting things done in a democracy is primarily a matter of persuading our fellow man to want to get them done. ■ But if we are to remain a great and free nation — a beacon light in a world largely in darkness — we cannot tolerate the whittling away of our liberties by denying them to those whom we dislike, or with whom we violently disagree. Many an idea that was anathema to the majority when it was first propounded, has since become an accepted part of the thinking of mankind. We may look back with shocked disbelief at the people who tortured Galileo to make him recant his scientific observations, thinking of them as benighted members of a less enlightened age. Yet it is not very long ago that Scopes, a teacher, went on trial, in this enlightened nation, for the crime of teaching the theory of evolution. It is even less long ago that a famous scientist was publicly stripped of his character, primarily because he dared to doubt the wisdom of developing a hydrogen bomb. There lurks in each of us a little of the unreasoning zeal of the inquisitor. Nor is that zeal confined to those who would oppose change in our society. We see it today on the part of many advocates of change, who damage their own cause by conducting demonstrations in a manner that clearly violates the laws, and promotes disregard of law and order. ■ We need, then, to remember that we have responsibilities as well as rights. Correlative with the right to resist and defy a law that is unconstitutional is the duty to obey the law that is valid. Our system contains built-in ways of procuring change, by orderly and peaceful means, including orderly and peaceful demonstrations. We have a duty to protect and defend the right of each of us to use them. ■ Admiral Rickover, in a recent paper, has stated the matter well. He said:

“Implicit in democracy is the correlation of liberty and responsibility. A citizen is a person with private rights and public duties. In an oversimplified way, one could say that he safeguards his private liberties by conscientiously attending to his public responsibilities. Democracy will not function well unless at least a majority of citizens recognize this correlation and act accordingly. Individual rights will be lost unless they are, as it were, earned by each generation through active and intelligent participation in public affairs.”

I would add only this — that each of us also has a duty, in our participation in public affairs, so to act as to preserve, protect and defend the rights of all of us.



TWO YEARS AGO I was privileged to visit the new site for this campus during the 1962 campaign. On that occasion, our chartered bus stalled on the steep grade on Hillary Street. But Dr. Harclerod and Dean Wren came to the rescue with a borrowed car and our tour came off right on schedule. ■ The campaign bus, too, eventually made the grade. ■ And today we are here to dedicate a college in these beautiful East Bay foothills which is hard at the task of developing a great college which one day will enroll 20,000 students and even more. ■ California State College at Hayward is new evidence that the State of California — through the network of state colleges, the University of California and the junior colleges — is presiding over an educational miracle. ■ Many people have joined efforts to bring this particular miracle into being since the Hayward Chamber of Commerce began its drive for a four-year college a decade ago. No man, however, deserves more credit than Assemblyman Carlos Bee — for the college began as a gleam in his eye, too, and he is certainly entitled to recognition as the proud father today. ■ Recently, for example, the Trustees have approved six new baccalaureate majors — in chemistry, physics, Spanish, speech-drama, psychology and political science. You are already offering the Master of Science degree in mathematics and the Master of Arts degree in English. And you have drawn here students not only from the East Bay communities, but from 36 states and 10 foreign countries. ■ This is all evidence of the vitality of California's state college system — the largest system of four-year colleges in the United States, and the second largest in the world. And, we must note, it is also a system which must plan now to accommodate some 400,000 students by the year 2000 — or about three times today's enrollment. ■ I am proud that California is approaching this giant task with zest and vigor. And against that background, I am therefore asking you today to take certain actions which will enable our state to be equal to the tremendous scope of our challenge in education. ■ *First, I ask you to bring to the attention of our citizens the wisdom of this state's investment in public education.* ■ When we dedicate a college, we know that it will not just be a warehouse for knowledge — a static force. Rather, it will be a positive force in society, a training ground for the youth who will direct the fortunes and the future of the nation's leading state. And if we are to succeed — it becomes my painful duty as Governor to remind our citizens that the investment requires money. ■ During my 5½ years





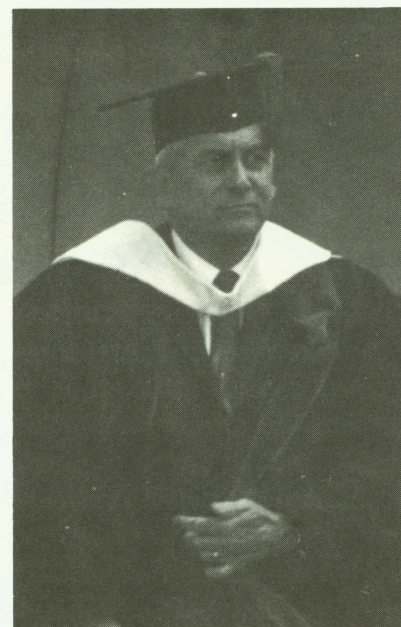
as Governor, I have assigned the highest priority to education. And I have consistently urged the Legislature to give us the financing and support for a program of educational development and expansion that has not been matched in this nation's history. ■ As one example, here at Hayward we have already invested a total of \$25.1 million in this new college. And I have asked the Legislature for almost \$8½ million for Hayward in my new budget for 1964-65. ■ Another example. Next year, we propose total investments in the state college system of \$173 million—along with \$235.7 million for the University of California and almost \$60 million in state aid for junior colleges. ■ With all the enthusiasm that I can summon, I can tell you that the state has never made a better investment—or a more prudent one. And through that prudence, we will save millions of dollars for California, even while we provide the state with better education than is offered in many a state with a static population. ■ Here at Hayward, for example, we plan to spend \$309,000 next year for support of your existing library facilities—the very heart of any college. The Fine Arts building and the Science building, which you already occupy, will have cost a total of \$8.3 million when they are completely equipped next year. ■ Sometime when you hear someone complain about state taxes, I wish that you would invite him to visit your temporary library, or your Fine Arts building, or your Science building—and ask him whether he thinks our investments in those facilities are justified. ■ *Second, I hope you will do everything in your power to help win passage of the construction bonds this year which will make possible the extension of all our facilities of public education.* ■ I have asked the Legislature to place on the November ballot a \$370 million state construction bond act which is absolutely essential if we are to give needed support to this college and all other parts of our system of public education. I repeat that this is the most gilt-edged investment in the State of California—and I am confident that you in this community will work to help us pass it. ■ *Third, I ask you to continue to demonstrate that the state college system is concerned not just with numbers, but with first-class education; not just with quantity, but quality.* ■ The state college system in this state is making tremendous progress which is not yet fully recognized in eastern states where for the most part education is the privilege of the favored few. ■ You will still see cartoons showing state college students lolling among the orange groves and articles indicating that William Shakespeare would not have been allowed to teach in our English departments. ■ But the fact is that our state colleges and their 7,000 faculty members are setting increasingly high standards which will lift the tone and improve the quality of our national life. And the students who can meet the increasingly stiff standards of admission are being drawn from every social and economic level in this great state. ■ I have spoken to you

in terms of dollars of all that we are accomplishing for California education. But we would delude ourselves if we thought that the bricks and mortar, the billions of dollars spent for education, will do the job. They will not. ■ Above all, we must continue to emphasize excellence. We must continue to give positive encouragement to a climate of free inquiry in our universities and colleges. We must continue to make sure that our colleges are institutions in which the traditional values of democracy prevail and where opportunity is available to all who can make the grade. ■ *This leads me to a fourth major challenge to all of us to open the doors of opportunity to all citizens, whether they are struggling against racial or economic handicaps.* ■ Let me begin with the issue of civil rights—which constitutes a great moral and constitutional challenge—a challenge which is not confined to the south. ■ Despite our fine words, the fact is that 100 years after Abraham Lincoln, many Americans continue to raise legal, economic and social barriers against the minorities. The tendency today is to shrug and say: Well, at least they are better off than they used to be. ■ But I ask you this. Is it enough to look down on Birmingham—when the Negro ghetto in Los Angeles is the third largest concentration of Negroes in the nation? ■ We must see this. The tensions created by segregated housing, segregated schools and discrimination in employment and public places threaten to burst the ties of our social order—unless we do something about them. ■ I am proud that we have already taken many actions in California to assure freedom to our minorities. We have passed many laws making discrimination illegal. And last year, we passed the Fair Housing Law which would give every citizen an equal chance to buy a house within his means. ■ Unfortunately, a strong campaign is being mounted to achieve the repeal of that Fair Housing Law next November. That is an extreme and divisive action. It would increase the very tensions we are working so hard to decrease. ■ Let me emphasize strongly that the Fair Housing Law should be given a chance to prove itself. And I hope that you will support our efforts to give it the opportunity it deserves to demonstrate that it is a good and much-needed law. ■ Last year we took other action by establishing pilot programs to reach the children who are so handicapped culturally or emotionally that they become discouraged and drop out of school. In the school districts they will receive special attention from teachers and counselors who will help them develop their best potential—help them stay in school and develop job skills and careers. ■ You may have heard the estimate by Robert Hutchins that in 1970, 50 percent of the boys graduating from high school will not be able to find work. That is a grim figure—and whether the estimate is too low or too high, it is imperative that we do something about it. ■ Last year, we created a Commission on Manpower, Automation



and Technology which will give us a broader approach to the problem of adapting to changing industrial needs. Under the national Manpower Development and Training Act, 8300 Californians have received training as nurses aids, stenographers, office machine repairmen, farm mechanics, tractor operators, psychiatric technicians, operating engineers and in many other trades and skills. A substantial number of these people have completed the courses and found new jobs. ■ These and other efforts by the federal government and the state have convinced us that the President's plan to attack poverty and reduce unemployment is realistic and workable. ■ *Fifth and finally, we must strengthen the free form of government in which we believe by discouraging the growth of the festering hate groups, the sickness of mind that flourishes in society's outcasts, those who have never found acceptance and therefore must strike out at good.* ■ Let me be the first to emphasize that it is not an easy matter to encourage freedom of thought, to promote tolerance, and to guarantee liberty to all men. But if there is any place to start, it is on our college campuses and in the government itself. ■ Let me illustrate this objective by referring to a letter which Thomas Jefferson wrote at the age of 70 to John Adams, aged 78. ■ Jefferson said something like this: "I state my difference with you not because I wish to begin a controversy when we are both too old to change opinions arrived at over a long life of experience and reflection. I state my difference with you only because I believe that we ought before we die to explain ourselves to one another." ■ That, in essence, is democracy. It is not necessary that we should agree. But it is necessary that we should explain ourselves to one another. And the more successful we are—you on this campus, my administration in Sacramento, and our citizens everywhere—the more impossible it becomes for left- or right-wing fanatics to spread poison in our state and our nation. ■ And finally my friends, let me say that I share your pride and pleasure in this new state college. ■ It is a bright and affirmative sign that we face our problems with determination to solve them through the best means open to man—the enlightened mind. ■ The influence of this college will extend far beyond our state borders. In the spirit of the positive programs affirmed by the late President Kennedy and now by President Johnson, it will inspire new progress in education throughout the United States. ■ California State College at Hayward is our vote of confidence in the future. And as Governor, I am therefore proud to join you in this dedication.

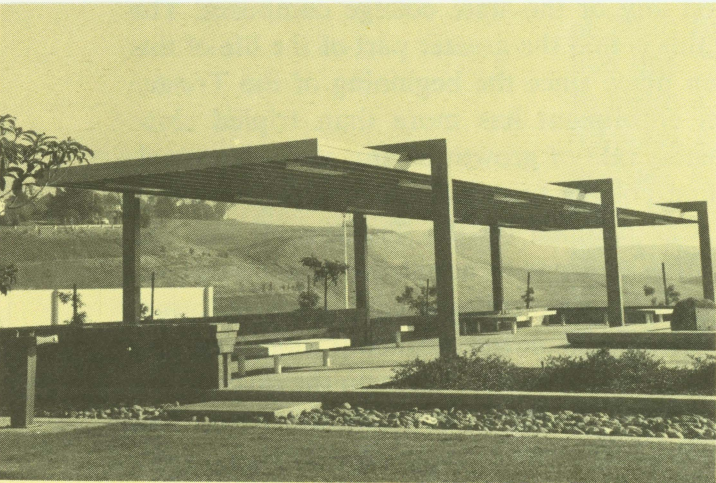
### *As It Fulfills Its Destiny*



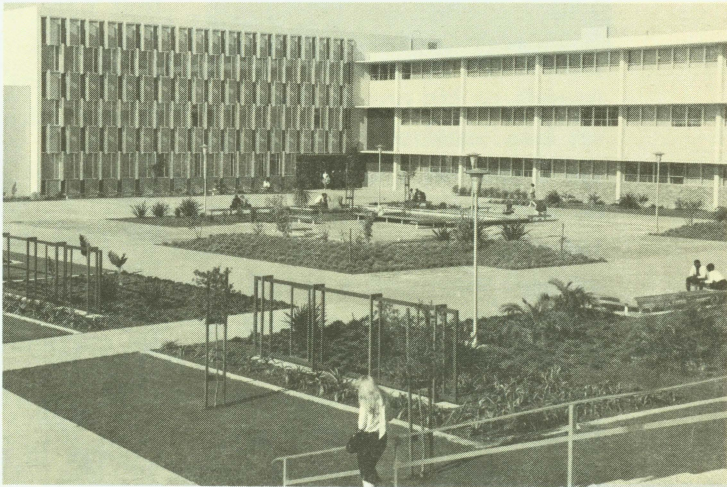
Governor Brown, President Harclerod, Assemblyman Bee, distinguished guests and ladies and gentlemen. Just a few short years ago by action of the Legislature the several State Colleges were brought together in a new system, under a governing body of their own and with their own central leadership. In this framework the colleges are moving ahead to fulfill the new and larger responsibilities allotted to them at that time. Their functions are set forth by the master plan for higher education and their tasks are outlined by the expectations of the students and citizens they serve. To accomplish these purposes the State Colleges have devised new approaches for planning academic programs and designing physical facilities. It is interesting to observe the degree to which these new concepts are reflected in the development of this college. Probably to a greater extent here than on any of the state college campuses. The basic reason for this is that the greater part of the life of this College has taken place since the beginning of the Trustee organization. Its enrollment has more than tripled since that date, the fastest rate of growth of any of the state colleges. It is the first college to move onto a campus whose physical layout was planned by the Trustees. It was the first of the operating colleges to adopt the new format for its name, a move that other colleges have since followed. Its curriculum reflects the newer academic concepts and even its academic calendar, based as it is on the quarter system, makes Hayward a leader in this coming trend. This College in many important ways expresses the faith of the people of this State in higher education and the support they have given to it. It has developed rapidly in its five years of life to help meet the enormous education needs of this booming area of our State and its influence, important as that is becoming, is not limited to this region, to this State or even this nation. Behind this platform are the flags of many nations each one of which has been represented in the student body of this College. The obligations of this College are great and its opportunities are unlimited. It is my privilege, as Chancellor of the California State Colleges, to dedicate the campus of the California State College at Hayward as it occupies this beautiful site and to pledge to it the full support of the California State Colleges as it fulfills its destiny.



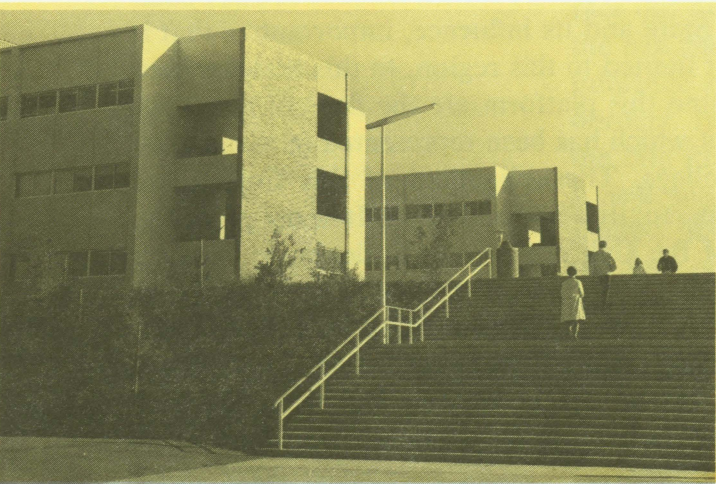
*The College As It Is Now*



*Senior Court*



*South West Court — Fine Arts Building*



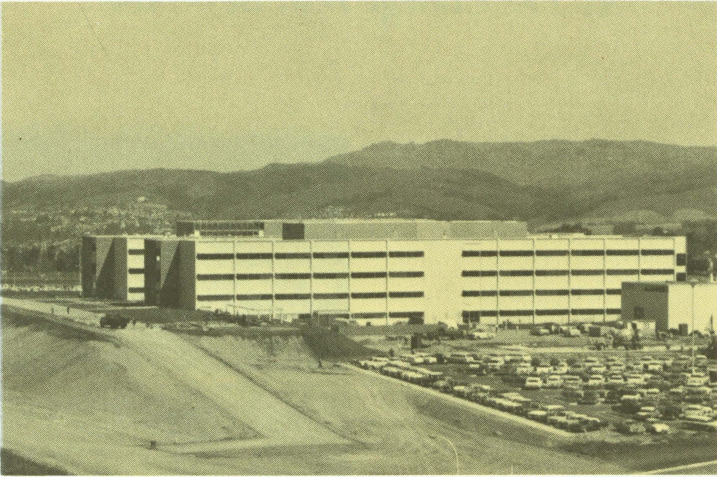
*Steps Leading to Science Building*



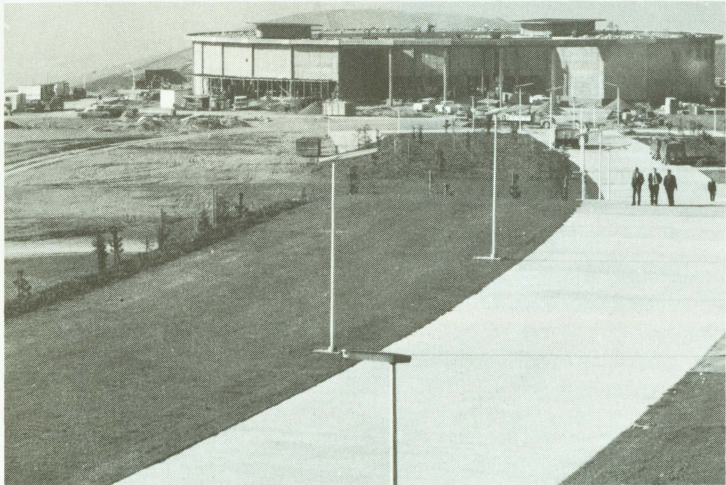
*Carlos Bee Residence Hall*



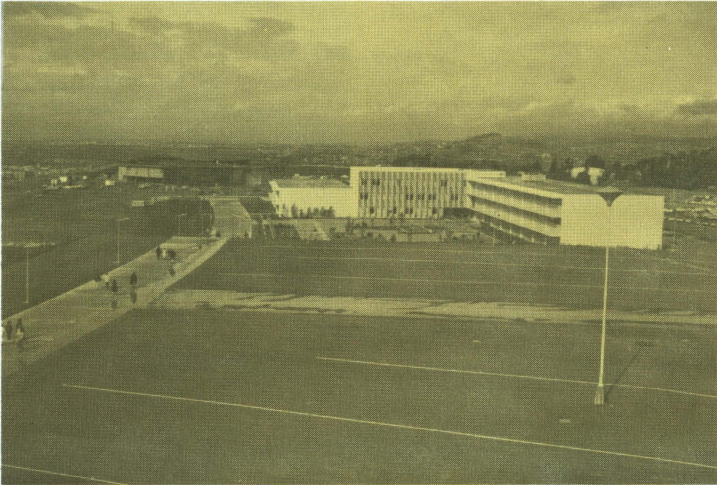
*Panoramic View of Campus and Bay Area*



*Science Building and Boiler Plant*



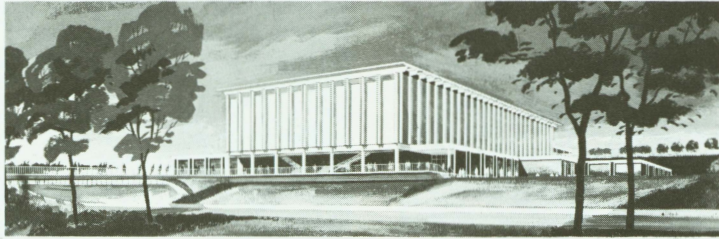
*Music Building*



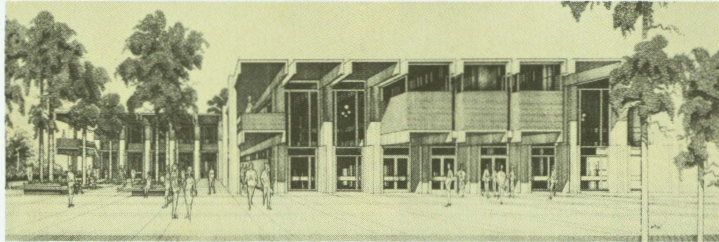
*Fine Arts Building in Foreground and Music Building Under Construction — Beyond*



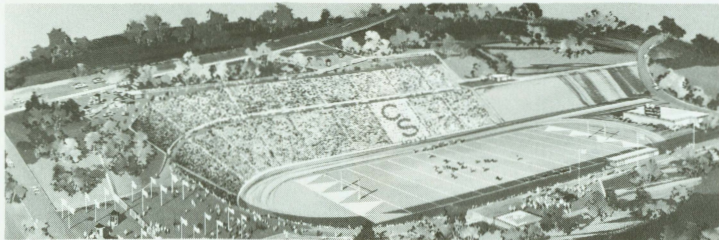




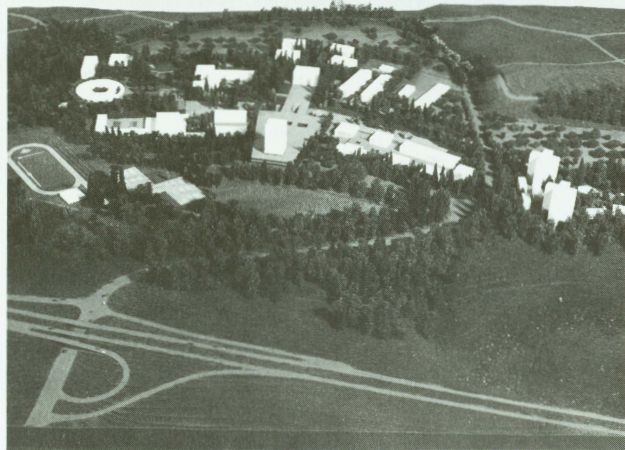
*Physical Education Building*



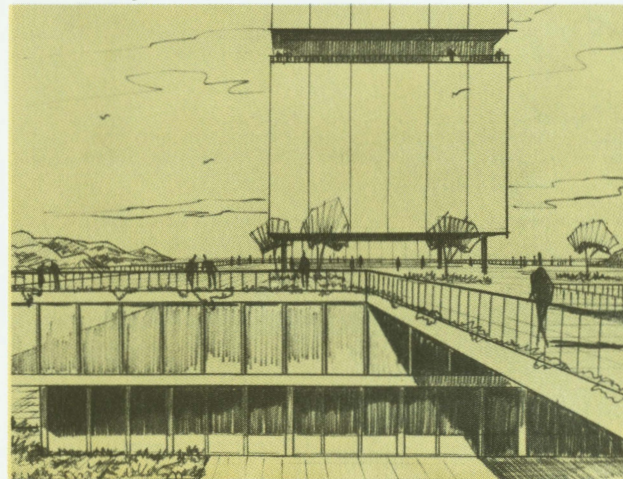
*Cafeteria Building*



*Stadium*



*Model of Ultimate Campus*



*A-V Services — Library — Administrative*



*Ultimate Campus Master Plan*



