DELIBERAN.....

El jueves 17 de noviembre, compareció ante la Corte de Apelaciones, el joven Juan Pérez Varela. El "delito" cometido por este muchacho no es otro que haber abandonado un buque de guerra franquista, materializando los postulados que, en todo tiempo y lugar, proclaman las más altas autoridades norteamericanas: repudiar la dictadura, preferir la democracia.

Discurriendo por los complicados vericuetos de la Ley, nuestros abogados, Máximino González y Ernest Fleishman, han aportado alegatos incontrovertibles, que no hemos de ponderar, porque están siendo objeto de examen y deliberación por parte de los ilustres jurisconsultos que constituyen tan alto Tribunal. Los imaginamos metidabundos, en la soledad de sus austeros gabinetes, rodeados de libros y personas de aspecto grave y solemne. Merece la pena; a su arbitrio se halla la vida de un hombre y la felicidad de una joven esposa, que lleva con ella el fruto de su primer amor.

Empero, aunque legos en la materia, y por ende, al margen de toda interpretación jurídica, tenemos algo que decir, interpretando el sentir y pensar del hombre-común, dotado de ese sentido a que se apela con harta frecuencia.

Tácitamente, el Pacto que se invoca, de 1903, está superado; lo invalida la acción del tiempo; lo anula y condena el devenir del Progreso. Cuando el Pacto se firmó, España no era un Estado totalitario, regido por una despótica dictadura militar y Norteamérica no había llegado a ser lo que hoy es: líder máximo de las Democracias de Occidente. Así, por imperativos históricos, los señores Magistrados del Tribunal de Apelaciones, han de dictaminar sobre un caso que encierra mucha más sustancia Política que Jurídica. Escribimos con mayúscula ambos conceptos intencionadamente. La política de partido y las disquisiciones leguleyas, no cuentan en este caso. No se trata de interpretar la Ley impresa; sino, la Ley Social, la que escribe el hombre de la calle en su constante y penosa evolución.

Por eso, el Tribunal que juzga a Juan Pérez Varela, está juzgando a Manuel Martín Prieto y millares de casos semejantes que han de sucederse, porque el "delito" responde a imperativos biológicos de tal hondura y densidad que de por sí determinan que ese mismo Tribunal que juzga a los jóvenes marinos ha de ser, a la vez, juzgado por el más alto Tribunal de todos los tiempos: el de la CONCIENCIA UNIVERSAL. Si ayer pudo ser esta una frase hueca, hoy se halla plétora de autenticidad. A ella apelan, diariamente, derrochando millones de dólares y rublos, los campeones del Totalitarismo y de la Democracia, en Oriente y Occidente.

Al margen, repetimos, de toda consideración legalista, ateniéndonos al determinismo histórico aludido, los Estados Unidos y sus Instituciones jurídico-legislativas, no pueden convertirse en gendarmes al servicio de voraces dictaduras, sin quebrantar su prestigio internacional; hiriendo de muerte su inmediato futuro. Políticamente hablando y jugando la metáfora, pudiéramos decir que nos es Juan Pérez Varela o Manuel Martín Prieto, quien está en el banquillo; sino, el Tribunal que los juzgue. En otras palabras, si ha de prevalecer el Derecho de Gentes o la Razón de Estado.

Deportation Dramas and Follies

An Editorial in the New York Post

EDITOR'S NOTE: Flanked by a picture of the Statue of Liberty, with its flaming torch of welcome to the homeless of all lands, this timely editorial appeared in the Post on Tuesday, November 22. It is reprinted here by special permission and with deep appreciation of that newspaper's recognition of the far-reaching significance of the Pérez case.

There are times when the United States seems to go out of its way to invite the slander that it is a nation without a heart. These occasions arise when the bloodless machinery of the Immigration Service, functioning as an instrument of the Walter-McCarran Act, hunts down human quarry for deportation under the letter of the law with only the narrowest hypothetical relevance to national security. Several recent cases suggest anew that our immigration authorities are too often more interested in proving their efficiency than in protecting the country. The result is tragedy for their victims and sadness for the United States.

Two such pointless deportations took place this week-end and at least two more are in the making. First, William Mackie, who was eight months old when he came here with his Finnish immigrant parents, was deported from Oregon to Finland on Friday after losing an eight-year legal struggle to remain. The next day Hamish Mackay, a Canadian whose court battle began in 1949, followed him out of Oregon to Vancouver, B.C. Their offense? Back in the Thirties both had joined depression-spawned organizations now on the subversive list. The Supreme Court had turned down their appeals and the State Department had refused Senator Morse's request for mercy on the coldly calculated grounds that these deportations "would have no significant impact on our foreign relations."

While State's standard for the exercise of humanitarianism bespeaks extraordinary callousness, it is ironic to note that Mackie's arrival in Helsinki raised a storm of criticism in the Finnish press (which Mackie can't read.)

Bureaucratic cruelty also characterizes the case of a Scottish biophysicist who faces ouster because he, along with other students, picketed the House Un-American Activities Committee hearing in San Francisco last May. Studying on a fellowship at the University of California, he was not involved in the police fracas that marked the hearings. But the mere fact that he dared to express his opinion about the investigation seems to have brought down the wrath of Committee Chairman Walter. The Scot's visa has been cancelled and he will probably have to complete his studies in Canada. The threat he represents to U. S. security is scarcely frightening—except possibly to Representative Walter (Democrat-Pennsylvania.)

Finally there is the tragic case of Juan Pérez Varela, 22, a Spanish sailor who deserted one of General Franco's training ships here because he was fed up with dictatorship. He married a local girl and settled down to a life of freedom. The hunters tracked him down and he is now in danger of being deported to Spain and to the fate Franco metes out to Spaniards who prefer dignity to tyranny. Varela's case is now in the U. S. Court of Appeals.

It adds nothing to the prestige of this country that our government's case rests on the apparent assumption that a flight to freedom in a uniform is ipso facto reprehensible when Mr. Franco is concerned because he is the landord of United States military bases. Must one wear a Soviet uniform to be a welcome refugee from tyranny and an honored guest performer at Congressional hearings?

President-elect Kennedy has much to do to re-establish the American image. Our deportation follies provide a rich field for a heartfelt beginning.

2 Spanish Sailors Saved From Sudden Deportation

Mexico Pledges Asylum to Both

Swift Action By Attorneys Paves Way for Appeals Against Surrender

In swift eleventh-hour action, attorneys for the Workers Defense League and the Confederated Spanish Societies lately saved two Spanish sailors from impending deportation to Spain. Both were charged with desertion from Dictator Francisco Franco's Navy, and, if deported, would face probable long imprisonment in their home land.

Meanwhile the Confederation has obtained a promise from the Mexican Government to grant the two men political asylum if they are set free.

Ernest Fleischman, attorney for the WDL, and Maximino Gonzalez, for the Confederation, are handling their cases. Only a few hours before Manuel Martin Prieto and Juan Perez Varela were to have been shipped to Spain, the lawyers obtained court orders which delayed such a move so that there will be time for appeals against the threatened surrender of both men to the Franco dictatorship.

Prieto, a carpenter, was a corporal on the LSM 1, a carrier and landing ship for marines. He is 21 years old, and he quit that vessel in Norfolk, Virginia, on June 28, one day after completing his four years of mandatory service for the Franco regime.

Held Under 1903 Treaty Terms

On September 17 he was arrested here by immigration agents under the terms of a 1903 "treaty of friendship" between Spain and this country providing for reciprocal return of military deserters.

"Actually Prieto was not a deserter," Vera Rony, the WDL'S national secretary, declared this week, "for he had served his full time. It is not surprising that he did not wait for a formal discharge to escape from Franco's hands, in view of the extreme imprisonment which is the lot generally of his opponents today."

Prieto had been outspoken about the dictatorship in talks with fellow-sailors, and feared reprisals because there were informers on the LSM 1.

Perez was accused of deserting the training ship **Juan Sebastian Elcano** around May 1, when it was docked in the East River. On July 7 he married Mirta Vega, an American-born girl, in Brooklyn, and they set up housekeeping there in a one-room apartment at 153 Bergen Street. Next day, she related in an affidavit, two Immigration and Naturalization Service investigators forced their way into the apartment, ransacked it without a search warrant, confiscated various private papers, insisted on waiting at length until Perez came home from work, despite his wife's protests, and then arrested him without a warrant.

Long Delay, Then a Denial

After his arrest, a lawyer employed by friends of Perez filed an application for a **habeas corpus** writ and for a hearing on the merits of the case in the United States District Court. Judge Alexander Bicks reserved decision on that request for some 10 weeks, then, on October 4, denied the application, and the immigration authorities scheduled Perez's deportation on a Spanish ship for the 6th.

Immediately the Workers Defense League went into action. Messrs. Fleischman and Gonzalez again asked Judge Bicks for a stay, and it was refused. Hastily they carried their problem to the U. S. Court of Appeals, and three judges, sitting in emergency session especially for the Perez case, granted the desired postponment.

Those judges were Carroll C. Hincks, Sterry R. Waterman, and Leonard P. Moore, and their order specified that the appellant's brief be filed by October 31, and that the appeal be calendared for disposition in the week beginning November 14. Release of Perez on $1,000 bail was then authorized.

The next step was taken by the Confederated Spanish Societies, which arranged to provide money for a bail bond, so that Perez was liberated.

Echo of Long-Ago History

On Columbus Day he and his young wife were in the Confederation's office at 231 West 18th Street, rejoicing over his freedom. Perez hails from Huelva, near Palos, from which the Genovese explorer sailed in 1492. Two striking coincidences crop up in the Perez story, one involving a namesake of this clean-cut youth, who flourished at that time.

When the intrepid Cristobal Colon had met with repeated rebuffs in his efforts to get financial backing for his projected Westward voyage to Cathay in the Far East, he started with a heavy heart for Huelva, a little maritime town in Andalusia. Enroute he stopped to rest at the monastery of La Rabida. There he had a reunion with Juan Perez, a monk with whom he had made a lasting friendship in 1485.

Juan Perez had been Queen Isabella's confessor, and he wrote her urgently in Columbus's behalf. Cristobal was summoned to her presence, and soon money and ships were provided to enable him to make the voyage that led him to America.

The attorneys aver that the immigration authorities attempted arbitrarily to deport Perez without due process of law and without his ever being given a hearing.

Rowland Watts, counsel for the American Civil Liberties Union, gave ready advisory co-operation in the moves to aid the sailors.

Some technicalities delayed the freeing of Prieto, but the Confederation hoped to obtain his release on bail this week. Prieto comes from Seville.

Time Limit Has Expired

In Perez's case the 1903 treaty apparently no longer applies; for it requires that any deserter must be deported within three months from the day of his arrests. If that is not done, the treaty specifies, "the deserter shall be set at liberty, and shall not again be arrested for the same cause."

Miss Rony pointed out that the Immigration Service was rebuked by the U. S. Court of Appeals in San Francisco in 1958 for a similar attempt to force five anti-Franco deserters to return to their ship.

"No amount of legal precedent," she declared, "seems to persuade the Immigration Service to review its arbitrary deportation proceedings in cases involving rights of asylum from totalitarian regimes. The Workers Defense League, which played a major role in the California case hopes to re-establish those rights in the present cases."

In contrast to the Perez and Prieto cases, however, it was noted that immigration authorities here quickly granted asylum to the young Estonian sailor who defected a few days ago from the ship on which Premier Khrushchev arrived.

Two U.S. Ships to Franco

WASHINGTON—Two destroyers, the Jarvis and the McGowan, will go to Franco Spain in the near future as a loan from the United States Navy, in line with the military assistance pact.

AÑO DEL REFUGIADO. AYUDE A NUESTROS MUTILADOS, ENFERMOS Y ANCIANOS

Sociedades Hispanas Confederadas — *Spanish Refugee Aid.*

España Libre

ORGANO DE SOCIEDADES HISPANAS CONFEDERADAS DE LOS ESTADOS UNIDOS DE AMERICA

Nueva York Octubre 7, 1960

Vol. XXII No. 19

Se publica el Primer y Tercer Viernes

PRECIO DEL NUMERO

25 cts.

No Será Deportado

México Hospitalario, Acoge en su Seno al Marino Español Manuel Martín Prieto. Desembarcó en Norfolk del "LSM1", Ganado por el Bienestar Social de la Democracia Americana. Repudia la Tiranía Franquista y Todos los Totalitarismos.

A los 17 años de edad se enroló en la Marina de Guerra franquista, Manuel Martín Prieto Alba, como un gesto de desesperación, acosado por el hambre. La laboriosidad de sus padres, Vicente y Francisca, no basta para cubrir las más perentorias necesidades de su humilde hogar y Manuel, a los *once años*, comienza a trabajar como aprendiz en una ebanistería en Utrera, Sevilla. A los 17 años, el joven Manuel Martín es todo un señor oficial carpintero. No importa. Como tántos y tántos artesanos y operarios en la España sojuzgada por el franquismo, con su honrado salario Martín Prieto no puede comer. La miseria, la espantosa y corruptora miseria, no puede ser vencida con el trabajo tenaz y la sobriedad más exigente. Ante la brutal realidad, se decide el joven Martín Prieto a sentar plaza en la Marina de Guerra.

Como marino, su comportamiento es excelente, a los 21 años es cabo segundo y carpintero a bordo del buque de guerra (lancha de desembarco), "LSM 1". En buena hora se le ocurrió al Almirantazgo franquista enviar al 'LSM 1' de visita a las libres playas de América. De nuevo, la cruda realidad hace mella en el espíritu sutil del joven sevillano. Lo que ve y constata es muy distinto y contrario a lo que los doctrinarios falangistas pregonan. Aquí, en la *podrida democracia americana*, el obrero vive bien, sin menoscabo de su personalidad humana. Con su salario alto y los derechos civiles que disfruta, el obrero americano cubre y satisface necesidades que en la España franquista son verdaderas golferías. Toda su sensibilidad herida se rebela. Han hecho escarnio de él, de sus padres y hermanos, de todos sus humildes compatriotas. Escarnio sarcástico porque, a la despiadada explotación física y material, se añade la mentira vil, embrutecedora. Deliberadamente, el franquismo hace de él y los suyos, bestias de corral, domesticados. . .

El aprendiz de once años, oficial carpintero a los veintiuno; el disciplinado marino, cabo segundo del "LSM 1", ha sufrido un tremendo choque: "Si esto es democracia – dice – yo me siento demócrata" y habla y discute con sus compañeros, a bordo y en tierra, defendiendo esta democracia americana, esta venturosa realidad que le entra por los ojos. Su pasión democrática le llevó demasiado lejos; con vehementes razones hizo comparaciones patéticas: lo que es el *imperio azul* y la *Falange vertical* y esta democracia liberal del *imperialismo yanqui*. Fue amonestado severamente; con tal severidad, que entrevió la represión que le esperaba. Es entonces cuando Manuel Martín Prieto, hondamente ofendida su hombruna dignidad, decide romper con la España franquista, con la Mentira obtusa y negra y vivir la Verdad, lisa y resplandeciente; vivir en un régimen social en el que no constituye delito cultivar los sentimientos humanitarios ni hacer comparaciones analíticas y el 28 de junio, solo y sin dinero, ni persona amiga a la cual dirigirse, no vuelve a bordo y viene a Nueva York.

Aquí pronto encontró remunerador trabajo y afectos sinceros. Donde estuvo trabajando hasta que fue detenido (17 de Sept.), se le ha dicho en presencia de las autoridades de Inmigración: "Deja usted, señor Martín Prieto, las puertas abiertas, cuando pueda y guste volver, tendrá trabajo". Amistades tan nobles que le visitan y ayudan como si se tratara de un propio familiar.

A estas amistades que supo conquistarse en tan corto tiempo, tres meses, se debe nuestra intervención; luego, él mismo, Manuel Martín Prieto, nos telefoneó y refirió los hechos que escuetamente relatamos. Nuestro Secretariado actuó con la rapidez y celo que el caso requería. Encomendó la defensa jurídica a nuestro abogado, Maximino González, a quien auxilian de cerca la *American Civil Liberties Union* y el *Workers Defense League*, instituciones que se han cubierto de gloria defendiendo con entera imparcialidad y generosamente los derechos civiles. El Gobierno mejicano concedió inmediato asilo político a nuestro patrocinado, honrándonos, una vez más, con su ejemplar hospitalidad. Se debe, tan rápida concesión de visa al prestigio y diligencia del Sr. Martínez Feduchy, representante del Gobierno de la República en el país azteca. A todos ellos, a cuantos intercedan en defensa de nuestro joven amigo y flamante demócrata, con nuestra gratitud imperecedera, les reafirmamos que *Sociedades Hispanas Confederadas* y *España Libre* lucharán con denuedo hasta conseguir la libertad o libre salida al país hermano, de Manuel Martín Prieto y Juan Pérez Varela, también detenido y en peligro de ser deportado, por igual motivo y semejantes circunstancias.