

## CHAPTER 3

### **Librarians Unbound**

The two visitors standing at the front door of the Library Connection, a consortium of twenty-seven Connecticut libraries that share a computer system, did not look like they had come to inquire about the latest novels. The men, one dressed in a blazer, the other in a tight T-shirt, flashed their badges and asked to speak with the boss. George Christian, the Library Connection's trim, mustachioed, and ever courteous executive director, ushered them into his office. They introduced themselves as FBI agents from the Hartford office. They proceeded to hand Christian a national security letter (NSL) demanding "any and all subscriber information, billing information and access of any person or entity" that had used computers in the twenty-seven libraries between 2 P.M. and 2:45 P.M. on February 15, 2005. The letter advised that the information was sought "to protect against international terrorism."

Christian was stunned. Libraries? Terrorism? Was this the plot of some clever new thriller? The agents assured him they meant business; they drew his attention to one line in

particular. Like a children's librarian, one of them used his finger to underline the words and instructed Christian to read them carefully: The recipients of this letter could not disclose "to any person that the FBI has sought or obtained access to information or records." It was a lifetime gag order; break it, and Christian could be looking at five years in jail.

He peered through his wire-rimmed glasses at the good cop/bad cop before him, and stood his ground. "I believe this is unconstitutional," he said firmly to the agents. He told them he would fight the order. One of the agents smiled, giving him that pitying look that a bully gives the prey he is about to pulverize. The agent handed him a business card, and instructed him to have his lawyer contact the FBI.

Christian slumped into his chair. He didn't actually know how he'd fight, or whom he was fighting. And from the threatening way the NSL was worded, he didn't even know if he could call a lawyer. He decided he was obligated to inform his four-member executive committee before committing the organization to a pitched legal battle.

Christian's first call was to Peter Chase, director of the Plainville Public Library in central Connecticut. Earnest, bookish, and imbued with a strong sense of civic-mindedness, Chase is the quintessential librarian. He just couldn't say no when his fellow librarians asked him in early 2005 to serve on the board of the Library Connection. "We'll make you the vice president," a colleague said to woo him. "It'll be easy."

Two weeks later, he got a cryptic phone call from Christian. "We have a situation that requires a decision of the executive committee, and requires it right away," Christian informed him solemnly. Little did Chase realize that his

volunteer work was about to morph into a nightmare with national implications.

The executive committee—Chase, Christian, Portland Public Library director Janet Nocek, and Glastonbury Public Library director Barbara Bailey—met with an attorney in the Windsor offices of the Library Connection, not far from Hartford. George Christian passed around the national security letter that the FBI agents had handed him. The attorney then announced that by virtue of having read the NSL, everyone in the room was bound by its provisions and gagged. It was as if they had been exposed to radioactivity: Once they were contaminated, they could not approach anyone.

This marked the beginning of a year-long battle that was to pit the four Connecticut librarians, barred from speaking publicly and identified only as “John Doe Connecticut,” against the full might and power of the national security state. But as the Bush administration was about to learn, these librarians were not going to be so easily “shushed.”

The USA PATRIOT Act, a sweeping antiterrorism law rubber-stamped by Congress three months after the 9/11 attacks, drastically eased restrictions on the issuance of national security letters, which are one of the most secretive and draconian investigative weapons used by the FBI. An NSL allows the FBI to demand phone, financial, and electronic records without court approval, and simultaneously imposes a veil of secrecy and silence over the investigation.

For the Bush administration, NSLs are the perfect weapon: no judges, no public discussion, no rights. Just a one-sided fight where the government has all the muscle.

You might think that this is an obscure tool reserved only

for hardened terrorists. Think again: A March 2007 report from the Justice Department's inspector general disclosed that more than 143,000 NSL requests were issued between 2003 and 2005. In 2000, a year before the PATRIOT Act was passed, 8,500 NSL requests were issued; by contrast, in 2004, there were 56,000 NSL requests. With unchecked power, abuse has been rampant. A June 2007 investigation revealed that the FBI had broken the law or regulations governing NSLs in more than 1,000 cases. Among the violations were: failing to get proper authorization, making improper requests under the law, shoddy recordkeeping, and unauthorized collection of telephone or e-mail records. The FBI consistently underreported to Congress the number of NSLs it issued. Of the 143,000 NSL requests, only one led to a conviction in a material support for terrorism case.<sup>1</sup> Even when an investigation is closed, information gained through an NSL is kept forever by the FBI.

Each month brings to light more abuses with NSLs. In October 2007, an ACLU lawsuit revealed that the Department of Defense, which has only limited authority to investigate nonmilitary personnel, misled Congress and schemed with the FBI to secretly issue hundreds of NSLs to obtain financial, telephone, and Internet records of Americans without court approval.

This has become the perfect crime: Only the victims of this abuse know how people's rights are being trampled under the guise of fighting "terrorism." Yet the victims are gagged, so no one has been able to describe their ordeal . . . until now.

When President Bush rammed the PATRIOT Act through a fearful Congress shortly after the 9/11 attacks, he

could count on rolling over cowed senators and a traumatized public. But there was one adversary Bush hadn't counted on: America's librarians. These unsung guardians of democracy were about to teach a lesson to the president that they normally reserve for unruly kids in the reference section: Hell hath no fury like a librarian scorned.

Peter Chase and Janet Nocek greeted us at the door of the Plainville Public Library. Chase's smile tightened when we asked to bend the rules by bringing in our full cups of coffee. He looked around, and since the library was closed, he nodded for us to keep them with us as we headed swiftly to his tidy basement office. Despite its being after hours, he was still on duty, sporting a tie and badge that identified him as the library director.

As we walked through the library, Nocek pointed out that libraries "serve more people than McDonald's."

Chase piped in, "Libraries are one of the best loved institutions. Congress should do as well."

The beautifully renovated Plainville library would be the envy of any community. Built in 1931, the stone building with stately wooden columns serves a formerly industrial community of nineteen thousand. "We wanted people to want to walk into the building even if they couldn't read," Chase told us with the pride of a doting parent. The library is now a state-of-the-art multimedia facility with rows of public computers sharing floor space with the extensive book collection.

Public libraries have always stood for more than just books and bytes. Chase explained to us with great earnestness, "We consider ourselves to be a pillar of democracy." Central to

fulfilling this role is the library's ability to assure the privacy of its patrons. "For librarians, who uses the library for what is a matter of confidence. We feel that people come to the library and they should use it for whatever they want. They should see a variety of ideas and form their own opinions." Chase added, "We feel that spying on what people are doing in libraries is like spying on people in voting booths."

But the USA PATRIOT Act (the name is an acronym for "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism") is all about spying on citizens. It authorizes myriad ways for the government to eavesdrop, wiretap, and open mail and e-mail, often without court orders. The Bush administration's insatiable appetite for spying inevitably takes special aim at libraries. Section 215 of the act allows an FBI agent to enter a library or bookstore and demand records of the books that patrons read and which Internet sites they visit. The American Library Association (ALA) led the charge against this provision and has encouraged libraries to use circulation software that automatically erases any record of a patron's book use—provided the book is returned and the fines paid. So now there's added incentive to return your library books on time: If you don't, the FBI might want to talk to you.

Former attorney general John Ashcroft mocked librarians and the ALA, accusing them and other administration critics of fueling "baseless hysteria" about the government's use of the PATRIOT Act to pry into the public's reading habits. Former Justice Department spokesman Mark Carallo claimed the ALA "has been somewhat duped by those who are ideologically opposed to the PATRIOT Act," adding that Ashcroft's remarks "should be seen as a jab at those who would mislead

librarians and the general public into believing the absurd, that the FBI is running around monitoring libraries instead of going after terrorists.”<sup>2</sup>

Attorney General Michael Mukasey scoffed at the concerns of librarians, writing in 2004, “The USA PATRIOT Act has become the focus of a good deal of hysteria, some of it reflexive, much of it recreational.” He chastised those “that suggest [the PATRIOT Act] gives the government the power to investigate us based on what we read, or that people who work for the government actually have the inclination to do such a thing, not to mention the spare time.”<sup>3</sup>

Absurd to spy on libraries? The ALA knew that it was happening. A sampling of ALA members in 2005 revealed that libraries had received at least 200 requests for information from law enforcement authorities since September 11, 2001. In 147 cases, these were formal requests or came as subpoenas.<sup>4</sup>

Few Americans understand how draconian the PATRIOT Act is unless it reaches out and touches them. When the four Connecticut librarians received a national security letter, they were shocked to learn that it stripped away civil rights that they thought were inviolable.

“Where is the court order?” Chase asked George Christian.

“There is none,” replied Christian. “They said they didn’t need one because they had an NSL.” The librarians were being ordered to turn over records on their patrons simply because an FBI agent told them to.

“All of us, as law-abiding citizens, understand that when there’s a subpoena, and there’s judicial oversight of the process in the course of an investigation, library records may be subpoenaed,” said Alice Knapp, president of the Connecticut

Library Association and director of public services at the Ferguson Library in Stamford. “But what is of the utmost concern to people is the lack of oversight [in the PATRIOT Act]. And that it can be used for a fishing expedition.”<sup>5</sup>

Chase explained, “For us, this is a very important principle. A court order protects you because you have a neutral third party—the court—and you must convince them that a crime has been committed. People come to us and say very confidential things to our reference librarians—they have medical issues, personal matters. What people are borrowing at a public library is nobody’s business.”

For librarians, safeguarding the privacy of their patrons is a sacred trust. Chase recounted how local police once came into the Plainville Public Library alleging that a driver in a nearby hit-and-run car accident had just come from the library. The police demanded to know who had borrowed books that afternoon so that they could identify potential suspects. “I told them to get a warrant,” said Chase, whose politeness belies his steely determination. “They were not happy with me, but that’s okay.”

As for the cops? “They didn’t get the information.”

The Library Connection attorney said that the only way to avoid arrest was to either give the FBI the information it wanted, or sue the attorney general of the United States. The librarians quickly realized that they had been snared in a cynical trap. “We were well aware that Ashcroft actually said we were being ‘hysterical’ because [the government] was not using the PATRIOT Act against libraries,” Chase told us. “So what are we supposed to do—actively participate in this deception? It was not bad enough that we had to watch this. Now we had to join in.”



For Connecticut's mild-mannered librarians, there was no hesitation about how they would respond to this attack on the privacy of their patrons: They would fight like hell.

### *A Diabolical Deception*

The four librarians decided on an aggressive legal approach. They would mount a frontal assault against the PATRIOT Act itself. They engaged the national office of the American Civil Liberties Union in New York to represent them in their lawsuit, *John Doe v. Gonzales*. They sought an injunction against having to comply with the NSL, and they wanted a broader ruling to strike down NSLs as unconstitutional. They also wanted their gag order lifted in order to be able to inform their full board of directors about what was happening. Most important, the librarians wanted to be able to participate in the national debate going on in 2005 and early 2006 over renewal of the PATRIOT Act. They thought Americans would want to know that the FBI had declared public libraries to be a front line in the war on terror.

"We were the only ones in America who could testify that they really were using [the PATRIOT Act] against libraries," said Chase. "But we couldn't speak."

The librarians learned from their attorneys that the NSL statute had already been ruled unconstitutional by a federal district court in New York in an ongoing case involving a small New York Internet service provider (ISP) that was resisting an NSL seeking information about one of its clients. The government appealed the decision, and the librarians decided

to join their case with the ISP. But because of the gag order, they did not know the name or any details about the codefendant or his case.

The gag order quickly ensnared the librarians. Peter Chase was head of the intellectual freedom committee of the Connecticut Library Association. He had spoken often in that capacity about the dangers of the USA PATRIOT Act and had publicly debated the U.S. Attorney for Connecticut, Kevin O'Connor. Suddenly in July 2005, Chase fell silent on the subject. His lawyers advised him that he risked violating his gag order. "I could no longer speak about the PATRIOT Act because I'd be asked about the case against the librarians in Connecticut," he explained. "If I said, 'I can't talk about that,' it would be like waving a red flag saying, 'It's me! It's me!'"

By contrast, U.S. Attorney O'Connor was speaking so often and ardently in favor of the law that he boasted at one forum, "The PATRIOT Act is my mistress."<sup>6</sup> So while O'Connor traveled the state reassuring people that the PATRIOT Act was not targeting libraries and would only be used against terrorists, he was silencing one of his most articulate and effective critics—by using the PATRIOT Act against libraries. It was a diabolical deception worthy of Kafka.

Connecticut's newspapers were abuzz with news that librarians were in the dock. But no one initially knew who John Doe was, and the four librarians scrupulously avoided exposure. The first hearing of the Library Connection case took place in federal court in Bridgeport in September 2005. Notably missing from the courtroom were the plaintiffs. They had been declared a "threat to national security" and were barred from attending.

So America's most dangerous librarians observed the

proceedings by closed-circuit television inside a locked storage room in a Hartford courthouse. As they peered at the images, Chase noticed a familiar figure making the government's case: It was Kevin O'Connor. "So the very man who is having me gagged, who I debated, is making the case against me," he observed wryly.

There was something else they saw in those images from the Bridgeport courtroom: There were librarians in every row. They came from around the region to show their support. John Doe was bound and gagged, but he was not alone.

The four librarians went to great pains to shield their identities, but their cover was finally blown—due to the government's bungling. Following a judge's ruling, the government was forced to release some documents in the case, and it failed to redact all the occurrences of the name of the Library Connection and of Peter Chase. Chase promptly received a phone call from a *New York Times* reporter, with whom he spoke briefly before hanging up on her. That's when things got serious.

"I called our attorney and told him what happened. There was dead silence on the other end of the line. He said, 'I'll call you back.'" Chase recounted that the lawyer called back and explained grimly, "Well, Peter, you have to understand your situation. . . . It would be easy to find out that there was a phone call between your house and the *New York Times*. If that story comes out in the *Times*, people could get the wrong idea that you are talking." The *Times* did finally publish the name of the Library Connection on September 23, 2005. The ACLU lawyer informed Chase that they had decided to hire criminal attorneys for him—just in case. And, the lawyer

added pointedly, “We think it would be best for you to leave your home so that papers can’t be served on you.”

So Chase assumed the life of a fugitive, on the run from his own government for the crime of defending privacy and free speech in his library. “From thereon in,” said Chase, “I realized how serious this was.”

### *Bound and Gagged*

Being gagged and the target of an FBI terrorism investigation became an increasingly surreal experience.

Janet Nocek couldn’t tell her husband that she was the plaintiff in a major lawsuit against the attorney general of the United States. “He read in the paper that Library Connection was fighting this, and he said, ‘Oh, that’s good,’” she recounted. “I told him I was going to business meetings in New York City, and he didn’t ask why.”

George Christian testified before the U.S. Senate in 2007 that as the executive director of a nonprofit organization, “I felt terrible I could not let anyone know that the struggle was not depleting our capital reserves and putting the corporation at risk. I could not even tell our auditors that the corporation was engaged in a major lawsuit—a direct violation of my fiduciary responsibilities. I pride myself on my integrity and openness. I worried if, knowing I was participating in this court case behind their backs, the members of the board and other library directors were starting to wonder what else I might be concealing.”<sup>7</sup>

Peter Chase was finally confronted by his family. One day his teenage son bounded out of the house to greet him,

looking ashen. “Dad, you just got a call from the Associated Press saying the FBI is investigating you. Is that *true*? Why haven’t you told us?”

Chase was unsure how to respond. He didn’t want to lie, but he also didn’t want to confirm anything. “I’m involved in a case,” he said slowly and deliberately. “I can’t talk about it. And it would be best if you didn’t tell anybody about that phone call.”

Chase’s main concern was protecting his family from learning about the NSL, lest they instantly be bound and gagged by it. “To tell your own son—he must think I was involved in drug running!” Chase shook his head, his voice trailing off as he recounted the story. “He just wondered, why was the FBI investigating his father? The less he knew, the better it was.”

Even going to court involved cloak-and-dagger tactics. When “John Doe Connecticut” went to an appeals court hearing in Manhattan in October 2005, the four librarians had to conceal their reasons for attending. Their ACLU attorneys instructed the four not to enter the room together. Furthermore, they were not allowed to sit next to one another, look at one another, or look at their attorneys. Chase dressed in lawyerly black and did his best to look “dour and grim” so as not to draw any attention. John Doe New York—the Internet service provider who was a codefendant in the case—was also in the room, but they did not know who he was.

Once again, librarians from all around Connecticut turned out in force in the courtroom. “It’s nice to know that other people are on your side, especially when they can’t tell you that,” reflected Chase. In Washington, D.C., librarians protested in support of their unnamed Connecticut colleagues by wearing gags emblazoned “NSL.” Speakers at the rally in-

cluded Sen. Russell Feingold (D-Wisc.), the only senator to vote against the PATRIOT Act in 2001, Rep. Jerrold Nadler (D-N.Y.), and Rep. Bernie Sanders (I-Vt.).

The government's insistence on keeping the librarians gagged became an exercise in Orwellian absurdity. The Library Connection's name was published six times in the *New York Times* alone between September and November 2005, and Peter Chase and George Christian were identified by name in numerous newspapers. Their names were also visible on court Web sites.

Meanwhile, the government was suffering legal setbacks: Judge Janet Hall ruled in September 2005 in U.S. district court in Bridgeport that the gag order violated the librarians' first amendment rights and that there was no compelling reason why revealing their names would hinder the government's investigation. The court held that the gag was preventing "the very people who might have information regarding investigative abuses . . . from sharing that information with the public"—which, it had become abundantly clear, was the main purpose of the gag order.

The Justice Department appealed Hall's decision, insisting that revealing the librarians' identities would jeopardize national security. U.S. Attorney Kevin O'Connor insisted that abandoning the gag order would undermine the government's ability to pursue terrorists. "You can't just think about this particular case," he said.<sup>8</sup> The ACLU and the librarians appealed to the U.S. Supreme Court for an emergency stay in order to allow the librarians to testify before Congress, which was debating reauthorization of the PATRIOT Act at that very moment. But Justice Ruth Bader Ginsburg declined to intervene.

So Congress reconsidered the PATRIOT Act without the benefit of hearing from any victims of the law's excesses. The "debate" was utterly one-sided: While the librarians were forced into silence, the Bush administration and its allies reassured Congress and the public that what was actually happening was not happening at all.

Rep. James Sensenbrenner, Jr. (R-Wisc.), then chair of the House Judiciary Committee, declared flatly in a *USA Today* op-ed piece: "Zero. That's the number of substantiated USA PATRIOT Act civil liberties violations."

Peter Chase chafed at having to sit on the sidelines while the debate raged around him. "It was well known that librarians in Connecticut were under a gag order, and a judge had ruled that my rights had been violated." Sensenbrenner's piece was "very frustrating and made me mad that I couldn't contradict what he was saying."

Janet Nocek added, "We couldn't show our face, a human face, that citizens could look at. Their rights are being violated, too, because they couldn't get that information."

George Christian watched the national debate over the PATRIOT Act with quiet fury. He thought about the two things he'd like to ask lawmakers, if only he could speak. "I wanted to ask the Congress if any of them could explain to me in their own words what they thought the difference was between a police force authorized to act in secret with no oversight, and a secret police. I couldn't see the difference.

"The second question I wanted to ask was what good they think they are doing by giving the FBI an unconstitutional tool? If the FBI actually was able to capture some nefarious people, chances are they would be let go because of the unconstitutional methods used to capture them."

For Christian, a soft-spoken man used to working behind a desk, not at a podium, the road to standing up to injustice began during the Vietnam War. Sitting in shorts and sandals on a hot summer afternoon at his house in southern Connecticut, he talked about how he became a conscientious objector to the war forty years ago. He described a leaflet that he passed out to others who were getting their pre-induction physicals in New Haven. The leaflet urged draftees to “think about what you are doing. Your country is asking you to commit murder as the price of continued membership. Realize that resistance to the draft is possible.”

Christian went on to have a family and become a software designer for large companies. “I never felt I had to take a conscientious stand like that since that time,” he said. “I would have led a really unremarkable life had this issue [of the PATRIOT Act] not come knocking on my door. But when the issue does come knocking at your door, you have an obligation to take a stand if you think it is wrong.”

The PATRIOT Act was reauthorized in March 2006. Librarians won a few modifications in the revised bill, including a flimsy requirement that the FBI had to show “reasonable grounds” for demanding library information, a pathetically low threshold. The deeply flawed law passed the Senate by a vote of 89–10, and passed the House 280–138.

Following the reauthorization vote, part of John Doe Connecticut’s case—the challenge to the NSL provision of the PATRIOT Act—was ruled to be moot, since the law had changed, albeit slightly. But the librarians and the ACLU continued to challenge their gag order, which remained in force.

Six weeks after the PATRIOT Act was reauthorized, the



Justice Department had a sudden change of heart. The librarians were not a threat to national security after all. The government informed the ACLU that they would no longer contest the librarians' demand to lift their gag order. John Doe could have his name back. His voice, too.

"That's how the four of us became the only Americans who can speak about our personal experience" as targets of a national security letter, said Chase.

Dropping the troubled case was a cynical move for the government. By lifting the gag order, the government rendered the librarians' challenge to the constitutionality of gag orders moot. "They kept us silent just so they could pass the PATRIOT Act," said Chase. "They only allowed us to speak because it would make our case go away."

Nocek, a bespectacled woman with a serious demeanor, is not prone to being overly dramatic. But she drops her restraint when talking about the Bush administration's motives in this case. "Ungagging us was like calling the fire department after the building had burned down." The librarians speculate that the Bush administration did not want their case to go to the U.S. Supreme Court, where the government had good reason to fear that it would lose.

Even when the government dropped its fight against the librarians, it insisted that the documents relating to the case remain sealed. It took an order from the U.S. Supreme Court in August 2006 to force the Bush administration to release the documents.

The full folly of this "national security" case became apparent when the "secret documents" were unsealed. Among the evidence that the government had censored: quotes from previous Supreme Court cases; clichés such as, "Once the cat

is out of the bag, the ball game is over” and “the genie is out of the bottle”; copies of *New York Times* articles; and the text of the Connecticut law that guarantees the confidentiality of library records.

The government also redacted arguments made by the ACLU attorneys, as if the ideas posed a threat to national security. Among the censored legal claims was this: “Now that John Doe’s identity has been widely disseminated, the government’s sole basis for the gag has wholly evaporated, and there is no conceivable further justification for employing the government’s coercive powers to silence American citizens during a national political debate of historic consequence.”

The lead attorney for the librarians, ACLU associate legal director Ann Beeson, declared, “The documents unsealed today show the absurdity of the government’s insistence that the Library Connection staff could not speak out even after the government’s negligence revealed that they were the John Doe plaintiffs. The government’s shameful cries of ‘national security’ to hide its actions from the public is an abuse of power that only makes America less safe and less free.”

The librarians insist that the members of Congress who voted to reauthorize the PATRIOT Act were deliberately duped by the Bush administration. “When Congress considers laws, they should know all the facts about them,” said Nocek. “But they didn’t.”

### *Unbound and Unbowed*

Connecticut’s librarians are now eager to be the poster children for the excesses of the PATRIOT Act. They have

been tireless in their advocacy. “Because we are the only ones who can talk about it, we haven’t turned down any invitations,” Chase told us. “People should know what’s going on.” The four plaintiffs have crisscrossed the country, including Alaska, to speak about their experience.

“The idea of a gag order in a democracy is frightening,” said Chase. “When people can’t talk about public affairs going on because they are under a gag order, how are we supposed to have a democracy? If it happened to some small town librarians in Connecticut, it could happen to you, too.”

When we asked the librarians which book on their shelves best captured their experience, they immediately mentioned *1984*. “It smacks of a *1984* kind of government. Big Brother is always watching you,” said Chase referring to George Orwell’s classic tale about life under a paranoid, all-controlling authoritarian regime. “They told me you don’t have to be suspected of any criminal activity to be a target of an NSL. Now they can serve it on anyone. There’s no court authorization needed, and they are not telling Congress what’s going on. They’ve made themselves judge, jury, and executioner.

“I don’t think this makes us safer,” Chase continued. “It makes us more fearful. It makes America a more dangerous place if we can’t talk about how our government works.”

Janet Nocek noted a key lesson, “One thing people should realize from our case is that you can challenge it.”

The groundswell that the fighting librarians started continues to build. In September 2007, a federal court in New York ruled that the entire national security letter provision of the PATRIOT Act was unconstitutional. The decision was a major blow against the Bush administration’s attempts to invoke sweeping unconstitutional powers. The ruling

came in response to the case of John Doe New York, the Internet service provider whose case had been joined with the librarians. Even though the FBI had dropped its demand for information from the Internet provider, it insisted on keeping him gagged. U.S. district judge Victor Marrero in New York said the secrecy requirements of NSLs are “the legislative equivalent of breaking and entering, with an ominous free pass to the hijacking of constitutional values.”

Marrero cited the cautionary examples of how courts failed to act against racial segregation and the internment of Japanese-Americans during World War II. “Viewed from the standpoint of the many citizens who lost essential human rights as a result of such expansive exercises of governmental power unchecked by judicial rulings appropriate to the occasion,” Marrero wrote, “the only thing left of the judiciary’s function for those Americans in that experience was a symbolic act: to sing a requiem and lower the flag on the Bill of Rights.”<sup>9</sup>

George Christian reflected on the improbable path that moved him and his three colleagues to take on the U.S. government, and win. “People think our gifted founding fathers set up this system with a bill of rights and that we are all protected. But it’s human nature that people in power feel they need more power to get the job done right. . . . If you don’t stand up to these encroachments on our liberties, we’ll lose them.

“Each generation has to stand up for its own rights,” he mused. “If we are all passive, we end up with no rights at all.”