

My Aunt's Sham Marriage

My father, a Marine who fought at Guadalcanal, never told a story of combat. He seemed to have little patience or liking for story-telling at all, as if he believed himself too ordinary to be the subject of anything memorable. In general he said less rather than more, but what he did say you could count on. When I asked what his enigmatic father did, he said that he was some sort of broker of sewing machines, and years later I found him described just so on a census form. So too, when something possessed me to ask if my father's elder sister Ruth had ever been married and he answered that she once helped someone by marrying him on paper, I knew on the spot that this was true but that there was more—much more—to the story and I was not going to get it from my father.

My father's parents, immigrants from Eastern Europe, were cousins, and his family close-knit. His other sister, Julie, lived for some years in the next-door apartment after her marriage in the latter 1930's. My aunt Ruthie, for her part, resided with her parents until they died; a somewhat remote but kindly presence, she exemplified for me the figure of a spinster before I knew the term. Born in 1910, she did not complete high school but instead went into office work and became a stenographer, and by 1940 brought home about \$30 per week. Through the lean years of the 1930's the family lived in an apartment the right size for three in a musty building in a nondescript section of Brooklyn, one block from the elevated subway.

The same 1940 census that shows Aunt Ruthie's income records that she worked all 52 weeks of 1939. Exactly what, then, was a woman who did not receive a vacation and who lived modestly doing on the luxury liner Normandie, the most regal of ships, as it crossed from Le Havre to New York in December 1936? Aunt Ruthie appears as one of but thirty U. S. citizens (half of them naturalized) on the ship's manifest, all other passengers being aliens. Why would she have journeyed to Europe, in cold weather no less, when so many were fleeing the other way? It seems more likely that she visited relatives on a matter of concern than that she chose just that moment to see the sights of Paris and the glories of Rome. The one certainty is that she was then single, for so she is classified on the manifest, one of but three unmarried women.

Aunt Ruthie next appears in the 1940 census, where she is listed as M (Married) but living with her parents under her original name. What can this mean? That Aunt Ruthie, though married, lived exactly as before seems inexplicable except on one of two assumptions: either the marriage was a mistake which she undid in fact but not in law or else she entered into it with no intention of living as her husband's wife. My father's account supports the second theory. It may have been unwise of my matriarchal grandmother or whoever else answered the official questions to reveal the glaring anomaly of an irregular marriage, but the census-taker was no spy and had enough to do simply to record the correct information. He originally included Aunt Julie as a member of the household, only to cross out her name and insert my father's in the small space provided.

State New York Incorporated place Brooklyn Block of city 16 Unincorporated place _____
County Kings Division of county ATL Block No. 7 Institution _____
DEPARTMENT OF COMMERCE-BUREAU OF THE CENSUS
SIXTEENTH CENSUS OF THE UNITED STATES: 1940
POPULATION SCHEDULE
2241
S. D. No. 1 S. D. No. 107
Enumerated by me on April 15, 1940. Enumerator George Simon

LOCATION	HOUSEHOLD DATA	NAME	RELATION	SEX	AGE	DATE OF BIRTH	PLACE OF BIRTH	EDUCATION	MARRIAGE	SINGLE PERSONS, APRIL 1, 1940										MARRIED PERSONS, APRIL 1, 1940										TOTAL PERSONS, APRIL 1, 1940									
										Married	Never married	Widowed	Divorced	Married	Never married	Widowed	Divorced	Married	Never married	Widowed	Divorced	Married	Never married	Widowed	Divorced														
107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1044-1045-1046-1047-1048-1049-1050-1051-1052-1053-1054-1055-1056-1057-1058-1059-1060-1061-1062-1063-1064-1065-1066-1067-1068-1069-1070-1071-1072-1073-1074-1075-1076-1077-1078-1079-1080-1081-1082-1083-1084-1085-1086-1087-1088-1089-1090-1091-1092-1093-1094-1095-1096-1097-1098-1099-1100-1101-1102-1103-1104-1105-1106-1107-1108-1109-1110-1111-1112-1113-1114-1115-1116-1117-1118-1119-1120-1121-1122-1123-1124-1125-1126-1127-1128-1129-1130-1131-1132-1133-1134-1135-1136-1137-1138-1139-1140-1141-1142-1143-1144-1145-1146-1147-1148-1149-1150-1151-1152-1153-1154-1155-1156-1157-1158-1159-1160-1161-1162-1163-1164-1165-1166-1167-1168-1169-1170-1171-1172-1173-1174-1175-1176-1177-1178-1179-1180-1181-1182-1183-1184-1185-1186-1187-1188-1189-1190-1191-1192-1193-1194-1195-1196-1197-1198-1199-1200-1201-1202-1203-1204-1205-1206-1207-1208-1209-1210-1211-1212-1213-1214-1215-1216-1217-1218-1219-1220-1221-1222-1223-1224-1225-1226-1227-1228-1229-1230-1231-1232-1233-1234-1235-1236-1237-1238-1239-1240-1241-1242-1243-1244-1245-1246-1247-1248-1249-1250-1251-1252-1253-1254-1255-1256-1257-1258-1259-1260-1261-1262-1263-1264-1265-1266-1267-1268-1269-1270-1271-1272-1273-1274-1275-1276-1277-1278-1279-1280-1281-1282-1283-1284-128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escaped to the United States before the outbreak of the war.”¹ The rigidly exclusionary immigration law in effect in the 1930’s made even a fraction of such an influx impossible. Under the circumstances, well might a refugee from Europe seek out a fictitious marriage with a willing American for the purpose of obtaining citizenship. Before her brother became a Marine and her mother a civil defense warden, Aunt Ruthie evidently undertook this rescue mission (possibly for a distant relative). What else could my father’s recollection that she *helped someone by marrying him on paper* realistically mean? That she got an executive a promotion by giving him the appearance of a respectably married man? A stunt. That she gave a gay friend cover? No, nothing short of saving a life could possibly have induced someone of Aunt Ruthie’s background to enter into a deceptive marriage. An unassuming and, if truth be told, homely woman, Aunt Ruthie attracted no notice, let alone suspicion: a perfect choice for an affair that would have been wrapped in the utmost secrecy.

In engaging in a semblance of marriage, Aunt Ruthie must have recognized that she was surrendering any chance of actual marriage that remained for her. Though her union was not real, its effect in precluding an authentic union was only too real. However, as she approached the age of 30 still unmarried, Aunt Ruthie may have felt that she had no prospects to renounce. (Her sister Julie, seven or eight years younger, is shown in the 1940 census as already married. She herself was born when her mother was about 21.) Possibly she felt her place was at home anyway. A photo taken between 1942 and 1944 shows my nominally married aunt side by side with her brother and parents, a portrait of a family unit.

¹ Andrew Baxter and Alex Nowraster, “A Brief History of U. S. Immigration Policy from the Colonial Period to the Present Day,” *Cato Policy Analysis* 919 (Aug. 3, 2021).

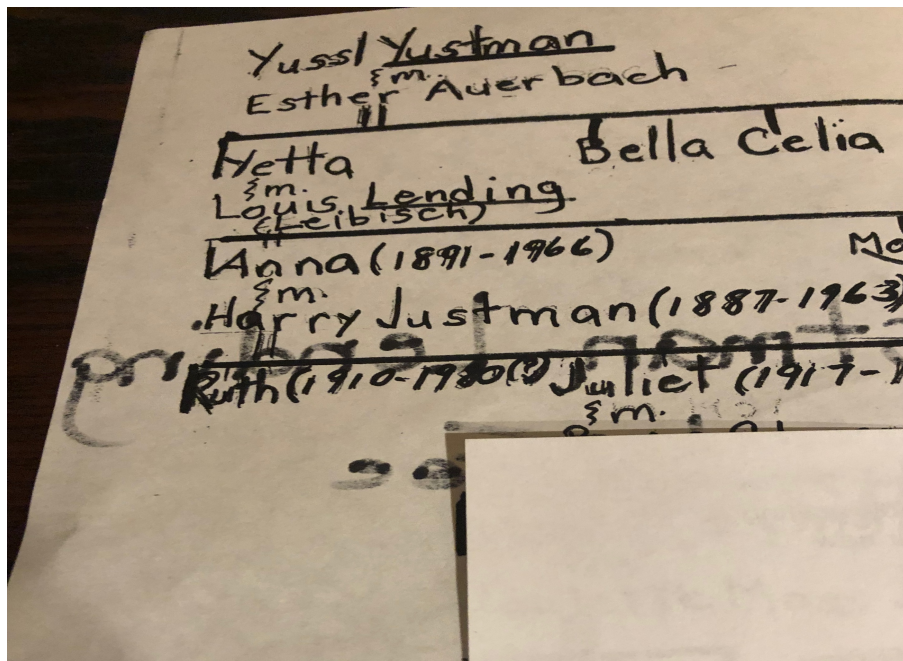


None of which makes contracting a fictitious but binding marriage for the sake of another any less admirable.

In the 1950 census Aunt Ruthie is listed as D (Divorced), still living at her parents' address, still working as a stenographer. Outwardly, then, nothing has changed. Presumably the parties agreed in advance to divorce after a decent interval; possibly the notional husband sought a real marriage and did not care to incur the charge of bigamy. At some point, in any

event, it was safe to end the fictitious union because it had endured long enough—on paper—that it did not look like the ruse it was; the marriage itself had been naturalized.

On one and the same page, Ancestry.com shows Aunt Ruthie as Married and not having a spouse. When my mother set about constructing my father's family tree (an object so complicated it required notes and secondary panels), she went one better and showed Ruth as the never-married daughter of Harry and Anna Justman. Certain people whose existence my mother elected to ignore appeared on the tree—but not Aunt Ruthie's husband, an erasure that apparently reflected the family's preferred version of events. Somehow an act of magnanimity became, over the years, something not to be spoken of.



At the time of my birth in 1948 Aunt Ruthie was probably already divorced, but throughout my childhood I had not the slightest inkling of her actual status. To envision Aunt Ruthie as ever having been married was flatly impossible, like imagining a wedded Emily

Dickinson. (How I later came to wonder about her history I cannot say; it's not as if I learned anything about her that provoked a question.) A certain disgrace attached to divorce in those days, and to my perception no such taint hung about Aunt Ruthie. The fact is that the aid she rendered to a man in need was hushed up as completely as if *it* were a disgrace, and this even when the conditions originally necessitating strict secrecy had long since expired. Why this should be so is a question I find more fruitful than that of the identity of the mystery man who co-signed the marriage certificate around 1940.

To begin with, the authorities did not look kindly on the use of the marriage license to cheat the immigration laws. In the case of *United States v. Rubenstein* (1945), where the parties (one a Czech) agreed to marry on paper and divorce within six months, the Second Circuit Court of Appeals held that "a marriage in jest is not a marriage at all."² In 1953 the Supreme Court upheld the conviction of three aliens who entered into sham marriages with American veterans in Paris for the purpose of gaining entry into the United States under the War Brides Act of 1945. Wrote Justice Minton for the court:

The conspiracy to commit substantive offenses consisted in that part of the plan by which each of the aliens was to make a false statement to the immigration authorities by representing in his application for admission that he was married to his purported spouse, and to conceal from the immigration authorities that he had gone through a marriage ceremony solely for the purpose of gaining entry into this country with the

² 151 F.2d 915 (2d Cir. 1945).

understanding that he and his purported spouse would not live together as man and wife, but would sever the formal bonds of the ostensible marriage when the marriage had served its fraudulent purpose. . . . Congress did not intend to provide aliens with an easy means of circumventing the quota system by fake marriages in which neither of the parties ever intended to enter into the marriage relationship. (344 US 604 [1953])

The last statement would seem to apply with devastating effect to Aunt Ruthie's sham marriage, the purpose of which was to get around a quota system that tightly restricted the number of Jews emigrating to the United States. According to the Immigration Law of 1924, "Whoever knowingly makes under oath any false statement in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, shall upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both." Under any ordinary circumstance, people like my father's family would not have dreamed of involving themselves in an act of fraud liable to such unthinkable penalties. They led quiet lives, invisible to history.

Presumably the secrecy enveloping Aunt Ruthie's history much as if it were one of shame began with an act of misrepresentation that had to be concealed for the sake of both parties. The law of the land that had adopted my father's parents was not to be trifled with. In a Declaration of Intention dated February 13, 1923, my father's father (formerly having resided in "Warsaw, Russia") solemnly renounced "all allegiance and fidelity" to his country of origin and swore that "it is my intention in good faith to become a citizen of the United States of

America”: wording that warns by implication against any scheme to obtain citizenship by deception.

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U. S. DEPARTMENT OF LABOR
IMMIGRATION SERVICE
DUPLICATE
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ORIGINAL
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UNITED STATES OF AMERICA
DECLARATION OF INTENTION
Invalid for all purposes seven years after the date hereof

State of New York, ss: In the Supreme Court of Kings County.
I, Harry Justman, aged 36 years,
occupation Boiler Maker, do declare on oath that my personal
description is: Color White, complexion Fair, height 5 feet 4 inches,
weight 135 pounds, color of hair Brown, color of eyes Brown,
other visible distinctive marks None.
I was born in Russia, on the 20 day of December, anno Domini 1886. I now reside
at 37 Bay 17th St., Brooklyn, N. Y.
I emigrated to the United States of America from Holland on the vessel
Boordam, of Russia, on the 20 day of December, anno Domini 1906. I am
foreign residence was Boordam, Russia. I am single; the name
of my wife is Anna, of Bay 17th St.
and now resides at 37 Bay 17th St.
It is my bona fide intention to renounce forever all allegiance and fidelity to any foreign
prince, potentate, state or sovereignty, and particularly to the present
Government of Russia, of whom I am now a subject;
I arrived at the port of New York about the 31 day
of July, anno Domini 1906. I am not an anarchist; I am not a
polygamist nor a believer in the practice of polygamy; and it is my intention in good faith
to become a citizen of the United States of America and to permanently reside therein;
So HELP ME GOD.

Subscribed and sworn to before me in the office of said Court
at Brooklyn, N. Y., this 23 day of February,
anno Domini 19 23.
[SEAL] William J. Ford, Clerk of the Supreme Court.
[SEAL] William J. Ford, Deputy Clerk.

CERTIFICATE OF ARRIVAL-FOR NATURALIZATION PURPOSES
This certificate is for the use of the person applying for entry, and is invalid for any other purpose.
The Act of June 28, 1906, sec. 4, (Act 2, 704), requiring a certificate from the Department of Labor,
showing date and manner of arrival in the United States.

U. S. DEPARTMENT OF LABOR
BUREAU OF NATURALIZATION
NEW YORK
DEC 31 1925
OEO
This is to certify that the following-named alien arrived in the United States on the date and in the
manner described below, at Ellis Island, New York.
Name of alien: Justman, Chiel
Date of arrival: July 31, 1906
Manner of arrival: Boordam

By direction of the Secretary of Labor:
[SEAL] Raymond F. Crist, Commissioner of Naturalization.
[SEAL] William J. Ford, Deputy Clerk.

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My father himself was what used to be called a law-abiding citizen, which meant more than that he paid his taxes; it meant that he led his life in an upright manner, had a definite sense of duty, and would never entertain the conceit of a “higher law” in whose name enacted laws could be violated. Characteristically, though he lost a stripe for brawling with a fellow Marine who insulted his religion, he never intimated that the verdict was unjust. Rules were rules; laws

were to be obeyed. Were not the Jews themselves people of the law? For that matter, only someone who believed it a civic or even legal duty to tell the truth on a census would have revealed Aunt Ruthie's marital status in the first place.

If the sham marriage had been exposed, not only would the parties find themselves in deep trouble but the public might well presume that money had changed hands, thus transforming an act of rescue into a sordid exchange. Years later, the Justice Department noted that "The typical fact pattern in marriage fraud cases is that a U.S. citizen and an alien get married. They fulfill all state law requirements such as medical tests, licensing, and a ceremony. But the U.S. citizen is paid to marry the alien in order to entitle the alien to obtain status as a permanent resident of the United States; the parties do not intend to live together as man and wife."³ In the sham marriage case decided by the Supreme Court in 1953, two American brides "received a substantial fee for participating in [the] marriage ceremonies" (344 US 604 [1953]). If the world came to know of Aunt Ruthie's marriage, we can be pretty sure commentators would not have taken care to ascertain the facts of the matter before alleging that cash been pocketed.⁴

By the time I arrived on the scene the familial practice of not discussing a marriage that broke the law and contradicted, as it were, their own way of life was probably so well established that it had become habitual. But there was more in this marriage to sicken the

³ <https://www.justice.gov/archives/jm/criminal-resource-manual-1948-marriage-fraud-8-usc-1325c-and-18-usc-1546>

⁴ The scheme of a nominal marriage for cash figures crucially in the 1944 novel *Strange Fruit*, which I distinctly remember on Aunt Ruthie's bookshelf (its title puzzled me). At once feckless and faithless, Tracy Deen pays his black servant \$100 to marry, at least in appearance, the black woman he impregnated. Henry does not live to carry out this inconceivable arrangement.

conscience than its illegality and its outward resemblance to a transaction, as if that were not enough. While it can only have been to aid a fellow Jew in fear of his life that Aunt Ruthie resorted to the subterfuge of a paper marriage, the act itself risked fueling the prejudice against the Jews by exemplifying the deviousness so commonly attributed to them. Animosity toward the Jews ran strong in the United States in general and the State Department in particular (a veritable redoubt of hatred), even as the Nazi menace grew ever more dire. An official of the Visa Division of the State Department spoke for many when he wrote in 1934, "Experience has taught that Jews are persistent in their endeavors to obtain immigration visas, that Jews have a strong tendency, no matter where they are, to allege that they are the subjects of either religious or political persecution, that Jews have constantly endeavored to find means of entering the United States despite the barriers set up by our immigration laws."⁵ If merely entering the United States under the pretense of persecution is deplorable, then a ruse enabling the migrant to settle in the United States is intolerable. A sham marriage contracted for the purpose of obtaining citizenship for one of the parties would reinforce the notion that the Jews are a devious lot skilled at getting around "our immigration laws." If such a deception came to the knowledge of hostile journalists, it is all too easy to imagine stories about Jews sneaking their way into permanent residence with the collusion of designing Jewesses, or, indeed, Jews making a mockery of the sacred institution of marriage. From this point of view, Aunt Ruthie's secret marriage, contracted to aid a fellow Jew, posed at the same time a danger

⁵ Bat-Ami Zucker, "Frances Perkins and the German-Jewish Refugees, 1933-1940," *American Jewish History* 89 (2001): 44.

so acute that it alone—a single case—could conceivably inflame sentiment against an entire people, if only it somehow came to light.

If Aunt Ruthie's secret marriage carried risks too terrible to speak, why was I not told of it twenty or forty years later, well after the danger had passed? Perhaps a tradition of silence that originated in guilt and dread—guilt over an act of fraud, dread of exposure and all that went with it—took on a life of its own. If Aunt Ruthie herself preferred not to speak of the marriage (whether because of its dishonesty or because she like her brother did not choose to celebrate her courage, or both), that was all the more reason to keep the silence going. Without speech to nourish it, the memory of the original events would have withered, and so it was, perhaps, that my father eventually lost most of his memory of his sister's story, recalling only its outline. If we can come to believe our own lies through repetition, we can also forget the truth through failure to attest it—in effect, through neglect.

Families bond not only through their legends but their silences, and my father broke the silence over Aunt Ruthie's marriage only under direct questioning some years after she died. Two others of my generation have also picked up echoes or wisps of the story, though I believed my father's account implicitly before they confirmed it simply because he was no fabulist. The iota of documentation that survives is enough, to my mind, to establish the existence of the sham marriage as a moral certainty. Even if all outstanding documents (beginning with records of the marriage and divorce) were found, their meaning would remain surmise without inside knowledge of the story behind them, and at least some of that I already possess. I begin to wonder if I didn't know all I needed to know about Aunt Ruthie as a child,

when she appeared to me at once warm and yet shadowy, one who remained in the background by preference. In any case, I feel qualified to suggest how it is that her magnanimity became a closely held secret, because, after all, the persons whose lives I am entering into are not members of some remote group with a mentality alien to mine but my own kin, contributing sources of *my* mentality. And something tells me it is more likely Aunt Ruthie chose not to speak about her marriage than that she was inwardly embittered because her family did not recognize her merit. There was once such a thing as honorable reticence.

If I had been my father in 1940 (which is no great leap of imagination), I might well have felt that the less known of such a dreadful secret as a sister's fraudulent marriage the better; and over the ensuing decades of silence much of my original knowledge would have dried up. Now only a few bits of the story remain, and because I seem to be one of the last alive who know anything of it, at this point it is safe to say that the particulars of Aunt Ruthie's magnanimity will never be known. This is not absolutely a loss, however, as it serves as a reminder of the nature of heroism. "As charity does not puff itself up, heroism works quietly in the background."⁶

To the memory of Ruth Ann Justman, 1910-1980 (?)

⁶ Gary Saul Morson, *"Anna Karenina" in Our Time: Seeing More Wisely* (New Haven: Yale University Press, 2007), p. 225.