

Freedom

THE ANARCHIST WEEKLY

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Threepence

THE ELECTIONS ARE OVER, THE NEW BOSSES ANNOUNCED

And Now What?

At a cost of some £2,000,000, of millions of hours of envelope writing and canvassing, several tons of valuable paper; of reports which for weeks have been unreadable; of some nervous towns and broken friendships we have learned that the balance of power in the British Isles is in the hands of a handful of Liberals and a handful of Conservative candidates in about 100 constituencies, when they gave their crosses to Conservative candidates in greater number than Labour candidates with the result that in seats held by majorities, the Liberal vote is sufficient to turn the scales.

We have also learned that in spite of the grumbling by the householder, the despair of the householder and the despondency of the "stricken middle classes" they consider the Labour Party the lesser of the two political evils. For the Labour vote was 600,000 more in 1950. [The fact that the Labour Party polled more votes than the Conservatives and won 26 seats is a question we leave to the "government by the majority" supporters to explain away.]

We have also learned that the general public is quite impervious to the cajoling, the threats, the promises and assurances that are given by the parties at election time. The attitude, often consciously expressed, is that whoever "gets in" will go on, more or less as before. Yet West Ham would find it just as unthinkable not to continue returning its Labour candidate to the House with a majority of 30,000 as would Westmorland not to return a Conservative with a large majority. With two solid immovable blocs voting Labour and Conservative respectively at every election, the political parties to end the deadlock which otherwise may result in a breakdown of the existing parliamentary system must either introduce some form of Proportional Representation or seek to eliminate the liberal vote altogether by absorbing it as well as finding ways and means of inducing the 6 million

electors, who at present vote for neither side, to take part in future elections.

FOR the Anarchists, their course is clear. They must continue to work to place before the general public the only alternative to government: no government. It is a slow process, for the conditioning forces at work to keep the people subservient and to inculcate in them the acceptance of the idea that there must always be the rulers and the ruled—even in the most "democratic" countries—are powerful and all-embracing. Beginning with the family, the Church, the School, the Employer and the State, we are faced with authority at every turn. Yet ours is not a hopeless task for however slowly the anti-authoritarian ideas may progress they are at least in the right direction (which is more than can be said for the reformers who in wanting to patch up the existing system to make it palatable, are travelling in circles, their ultimate fate being that of the Liberals). And there are signs of some progress in the relations between parents and children; of open criticism and scepticism with regard to the authority and dogmas of the Church; and quite visible progress in the attitude to education and discipline in our schools compared with only twenty-five years ago.

ANARCHISTS are not dreamers. Dreamers are those who, with the experience of many Governments of differing hues and broken promises, still hope that their problems can be solved satisfactorily by politicians and by governments. The Anarchists are realists because they have broken through that vicious circle, and are not afraid to face the problems of life.

We are told, "If you have no Government, there will be chaos" and because most of us have never been allowed to grow up (and no person who is not responsible for running his life and being himself has grown up) we are haunted by the unknown the moment central authority

collapses. Yet, it is in such periods in history where the ordinary man and women, left to his or her own devices, has proved the creative powers and sense of responsibility which we all possess. That the ruling classes, the employers of labour, and the parasites of society do not recognise this is understandable; it would be against their interests to do so. But to us the wage earners, the cannon fodder, the silent masses who are directed first here then there, who are one day told that black is white and the next that white is black, it is in our interests to grow up and learn to "walk" without the aid of the ever-growing number of "knowing" hands which are offered to us, all of which lead us away from the direction we would want to take.

We Anarchists are not afraid of the unknown. Nor are we afraid that once freed from the bonds of authority our fellow beings will become raving lunatics bent on cutting one another's throats. Man's real interests lie in co-operation with his fellow beings. It is in our present society that the "law of the jungle" operates.

WILL TORY LAWYERS STILL CHAMPION CIVIL LIBERTIES?

ON October 8th, the administrative law sub-committee of the Inns of Court Conservative and Unionist Society issued a report on the growth of the power of the Executive and on problems of administrative law in England.

During the past twenty or thirty years the liberty of the individual has been gradually whittled down, and practices which, a generation ago, would have horrified our fathers, are to-day accepted as normal. It is therefore gratifying to see a protest coming from the lawyers themselves.

The report stated that during the past 50 years, for various reasons, the power of the Executive has tended to expand so that there is to-day a real danger that it will overtop the other functions of the administration and will be beyond the control of the Legislature or the Judiciary. It was clear that the attempt to protect administrative decisions from the scrutiny of the Judiciary was a threat to the liberty of the subject.

The principal Ministers of the Crown were to-day in the possession of the powers which enabled them to requisition the property of any subject without the right of appeal. They compel service in the armed forces, restrict entrance to or exit from the country, and even control how or when the subject was to earn his daily bread.

Those enormous powers were conferred by the legislature as a result of the war, and were prolonged by the Labour Government in the Supplies and Services Act, 1945. The report says that

"It is difficult to free fools from the chains they bear."

VOLTAIRE

there was no doubt that these powers were lawful, but it was doubtful if the legislature had realised how extensive they were.

The real and growing evil, say the Conservative lawyers, is the existence of ministerial autocracy, and they propose the following remedies:

- (1) Legislation to remove existing clauses in Acts of Parliament which at present hamper the free exercise of the jurisdiction of the courts;
- (2) Legislation to provide a right of appeal to the courts on points of law in all cases;
- (3) Administrative tribunals to be made independent of the department interested, their establishment and procedure to come under the Lord Chancellor; and
- (4) The establishment of a committee or commission of three under a High Court judge to review the procedure and constitution of administrative tribunals and make recommendations.

Now it is not difficult to see in these recommendations a main concern for the property rights of individuals faced—for example, with compulsory purchase by some Ministry or other. Nevertheless, the right, upheld in the past, for a private citizen to go to law against the government ought to be upheld in the general struggle against bureaucratic encroachment.

This report appeared two and a half weeks before the General Election.

The Conservative Party itself has been vociferously attacking Socialist bureaucratic trends. Mr. Churchill has appointed two eminent lawyers to non-legal ministerial positions. Will it be asking too much of political good faith to hope that the Tories will take notice of the law sub-committee's report?

Re-enter Mr. Churchill

"I am no flatterer—you've supped full of flattery; They say you like it, too—'tis no great wonder. He whose whole life has been assault and battery, At last may get a little tired of thunder; And, swallowing eulogy much more than satire, he May like being praised for every lucky blunder; Called 'Saviour of the Nations' not yet saved, And 'Europe's Liberator'—still enslaved."
—BYRON on the Duke of Wellington.

MR. Churchill has on a few occasions pointed out that he had no personal ambitions in seeking office since the wildest daydreams of his youth had been fully surpassed. The coy admission leads one to speculate on what Mr. Churchill's youthful daydreams might have been, but certainly he could never have expected the fates—or the Press?—to have been so kind to him in his old age. There are more fulsome tributes paid to Stalin, of course, but the build-ups received by Mr. Churchill are all the more flattering because the journalists who wrote them did not have to do so and got nothing in return but good story material.

When the young Mr. Churchill came home from the South African War, his exploits were popularised in the press, and he played well up to the rôle assigned him by the journalists of the time. It facilitated his entry into politics, where for the first time he encountered real opposition, the envy of fellow-Liberals and the sneers of the Conservatives. When he crossed the floor of the House and became a Tory, he became the most reactionary of the Tories, and in office and out continued on the road to higher office yet, until suddenly he found decisively he was out. The Conservative Party had never really welcomed him; it might be all very well thinking in terms of the sinner who comes to repentance, but not when the bishoprics are being handed out.

As an independent Conservative it was possible to stand out against some of the crimes and blunders of the party. While the advocacy of Edward VIII did not come off, and left Mr. Churchill lonelier than ever, it was possible for him to stand out against the Chamberlain policy of appeasing the dictators. Mr. Churchill had been in his day an extreme admirer of them; it was never in the nature of the Churchill family to stay

too long supporting somebody else, however, and when the fascist powers began to menace the security of the British Empire, and when, too, an independent body of Conservatives dissociated itself from Munich, Mr. Churchill came back into the limelight once more. The sequel is known: when Chamberlain had to step down in 1940 and the Munich leaders fell with France, in came Mr. C. to lead the Government.

There can be no doubt that the effusive compliments he was paid then and has been paid ever since, both by his professional admirers and by the Press, have been exceedingly welcome to one whose whole life was "assault and battery"—in the political rather than the military sense. The Duke of Wellington fell for the same line of talk; he too did his best to live up to it, and in the same way our new Prime Minister—although not even a soldier—came to believe that he was "the man who won the war". Recently he reproached those who called him a warmonger with the claim that they were "ungrateful". The full implications of the remark are staggering.

Byron remarked of the Iron Duke: "There is no doubt that you deserve your ration, But pray give back a little to the nation."

How grateful the nation might well be to Mr. Churchill if he really had "won the war" and they had been of it! But by and large it has never allowed the Churchill myth. It has swallowed many incredible stories about the war, but not the oddly pacifistic belief that one unarmed old man saved England in its darkest hour. . . . It would, however, be heresy to say otherwise in Fleet Street, the Carlton Club and—possible—Transport House.

The parallel with Wellington is close enough, however, because one may legitimately consider how much he did as well. Tolstoy, writing of Napoleon, remarked that after all, these so-called great men were only the tickets of history, and he sought the cause of the war not so much in Napoleon as in some French corporal who signed on again for a further term in order to get a bounty. The legends about Churchill are growing and whether or not they will pass into history depends solely on how accurate a history of our times is compiled. Already we can see that Labour politicians and supporters referred to Mr. C. as a warmonger. One is inclined to agree with his reply that "the finger on the trigger" for the next world war might be American or Russian or

Chinese, but it would not be British, and we must add to that the statement that it matters exactly as much whether the British Prime Minister is inclined to warmongering as it does whether the Czechoslovakian Prime Minister is or not.

The truth is that once again a saviour has been hailed of nations which have not been saved. Europe has passed into its worst enslavement since the day of the Holy Roman Empire, and yet the Press keeps hailing its Liberator. The worst Mr. C. did as Prime Minister was not to cause war by imperialist provocation, but to skip gaily from capital to capital, more blithely than Chamberlain ever did, and hand over whole countries and territories, whose lives and liberties were sold to one despot in return for his support against another. Having sold out Eastern Europe to the new aggressor, Western Europe is delivered in a neat bundle to United States capitalism. The crowning glory of the Churchill administration in wartime was Yalta and Potsdam when—despite the fact that Stalin had very little bargaining power in those days—the present situation was created. Since the war he has gained in popularity amongst Continental statesmen who want a Marshall Aid feathered by his advocacy of such schemes as Strasbourg. If there is war, it will be Yalta versus Potsdam.

For all that, the gentleman who steps back into No. 10—with a small majority that baffles the pollsters and Press, who did not realise the Labour vote would not fall because it still gets the working-class district votes—still persuades himself and others that he is consistent and lets himself be persuaded that he is one of our greatest Prime Ministers. When Disraeli became Prime Minister at 64, he murmured ruefully that it came too late. In this respect, Mr. Churchill prefers to think with Gladstone. In his dotage that gentleman came out determined on his mission to pacify Ireland, which was rather more difficult than a mission to-day to pacify the remnants of the Liberal Party. But the comparison must rest with the old Iron Duke, who survived Waterloo to become Prime Minister and whose rigid Toryism in the post-war years soon destroyed the legend that he had been tough with the French—he became a little too tough for the British, and eventually London crowds turned to breaking his windows. Nowadays only high-spirited Young Tory sons of gentlemen creep out at nights and break windows of Cabinet Ministers, of course, but while his windows may remain intact, a little fresh air may soon blow into the Churchill museum erected with such care in the minds of readers of the Press.

INTERNATIONALIST.

Firemen's Boycott

FIREMEN throughout the country have been carrying out a boycott against all duties except fire-fighting.

Traditionally, the Fire Brigade was paid the same wages as the police force, but following a recent increase for policemen, the firemen have fallen behind. Repeated demands and negotiations through the union have failed and the men have now turned to direct action.

Because of the special responsibility towards life and property invested in the Fire Service, however, the men have seen the irresponsibility of a normal strike, and so have staged boycotts of all cleaning and polishing, drill, lectures, and training duties in general.

The movement has been widespread. In London, the Midlands, Yorkshire and South Wales, 48-hour boycotts have been called, with 100 per cent. support—and even with the sympathy of the Fire Brigades' Union itself. It is an effective way of drawing attention to their grievances, showing their determination,

without alienating the sympathy of the public.

It is perhaps a surprise to the general public to realise that in such an essential service the men are forced to take action like this. Of course, the general public probably think the police force is an essential service—and so it is for the maintenance of State power, and the domination of property relationships.

But the police are an essentially repressive force; their existence is bound up with a repressive form of society, and they are the hirelings who protect that society, and are its first line of defence.

In a free society, the police would be redundant. But in any society, some form of organisation would have to be maintained to deal with the emergency of fire. Firemen, who perform dangerous and arduous work, often risking their lives to save the lives of others, should not have to fight for rewards equal to that given, to the unproductive and officious copper.

It is only that the State sees that, for its existence, the police are more essential and therefore must be bought at a higher price. But for society and its safety, firemen are far more essential.

P.S.

U.S. IMPERIALISM IN PUERTO RICO

Freedom

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TOM PAINE OR JOHN LOCKE?

TOM PAINE was by no means an anarchist, but he had a poor opinion of governments. He once wrote to the effect that society arises from men's wants, government from their wickedness, and he often stressed the fact—obvious enough, though usually overlooked—that society, mutual association between men, existed before there was ever thought of government. Pursuing his remark that government arises from men's wickedness, he placed it in the rather conscious category of "at best, a necessary evil". Nevertheless, it can be seen that he did not envisage as a social possibility the total extinction of the institution and idea of government.

In a Conservative government where in power we may do well remember the remark of the Conservative philosopher, John Locke, wrote at the beginning of the eighteenth century, nearly a hundred years before Tom Paine, that "the chief end of men putting themselves under government is the preservation of their property." In Paine's work for the American Revolution, his devotion to the ideals of the French Revolution and his outspoken opposition to the decline (he pleaded against the execution of the king), his idealisation—all make him a synthetic figure. But we are inclined to say that John Locke's state of government seems to us more practical.

Freedom had many occasions during the last six years to point out that the Labour Party took good care of property, and that though industry were nationalised the position of the workers (and, we might add, the consumers) remained unchanged. The respect for property, the according to it of more importance than to human needs and feelings, has been denounced by many a great writer since the Industrial Revolution. Nevertheless, it remains the guiding principle of administration.

Yet Paine's view of government is essentially the common view today—that without it we should be at the mercy of men's evil impulses. It seems likely that this is still the main conscious prop for the idea of government, which is still regarded as a necessary evil.

Anarchists regard it as an unnecessary evil. Life under government means, life deprived of social responsibility to a very great extent (this extent is increased in the welfare state where the well-being of one's fellow-man ceases to be one's own direct concern—it is looked after by this or that welfare department). Where the men do not have to take care of social responsibilities, is it surprising that they act irresponsibly? Governments not only arise from wickedness, they encourage it.

Society, the mutual aggregations of men and women with common interests or common living territory, by contrast encourages responsibility. The removal of authority from above, far from releasing men's wickedness, will release also their social instincts and aspirations. We have no doubt that these are far the more powerful.

"I place no reliance upon any old party, nor upon any new party. Suppose one to be formed with the noblest intentions, how long will it remain so? . . . As soon as it becomes successful, and there are offices to be bestowed, the politicians leave the unsuccessful parties and rush toward it, and it ripens and rots with the rest."
WALT WHITMAN.

THE American pacifist organisation recently sent a deputation to Puerto Rico, in the knowledge, they say, "that Puerto Ricans have suffered greatly under 35 years of colonial rule by the United States," and as a result of the clash between the Insular Government and the Nationalists (who do not recognise the presence of the United States in Puerto Rico), the arrest and imprisonment of Ruth Reynolds (American pacifist in Puerto Rico working for independence), and the stories that civil liberties in Puerto Rico were reaching a new low ebb.

One of the three-man Peacemaker mission, Ernest R. Bromley, reports in the October issue of the *Catholic Worker* (New York) on their visit.

The trial of Ruth Reynolds, who is a pacifist of long standing who had previously worked for Indian independence began on the day of the mission's arrival. The charges against her were:

(1) "Being a leader and active member of an organisation known as 'The Nationalist Party of Puerto Rico' she did 'illegally, criminally, maliciously, wilfully, and knowingly . . . promote, advocate, advise and preach the overthrowing and subverting of the Insular Government of Puerto Rico . . . by force and violence'. Under this count it was alleged that she did these things at an assembly on December 18, 1949, by pledging to give 'life and fortune to insure the overthrowing, paralyzing and subverting of the Insular Government' through armed revolution, 'which movement culminated in a revolt that started in Puerto Rico on or about October 30, 1950'. (2) 'On or about October 26 and 27, 1950' she was riding in an automobile which carried 'firearms and incendiary bombs' (this also referred to the three young men of the Nationalist Party who were on trial with her).

Mr. Bromley reports that: "She was haggard and emaciated, and we hardly knew her when we saw her come into court. . . She had been arrested on November 2, and held on \$2,500 bail for nine months until trial. She went to Puerto Rico this last time in 1948 at the time of the student strikes in the University of Puerto Rico over the issues of academic freedom and civil liberties. Numbers of students were expelled, some were jailed, and several professors were fired. She held public hearings on these events, and investigated many other phases, making the stories part of a book she was writing.

MANIFESTO

The release of our *Peacemakers Manifesto to the Puerto Rican People* was given good attention in *El Mundo*, largest paper on the island. It read: "This statement of 1,400 words expresses repentance for the continuous aggression of the U.S. against the people of Puerto Rico, saying, 'We call upon the United States to pull clear out of Puerto Rico.' It went on to say that our statement called upon both Puerto Ricans and Americans to resist the tyranny of the United States, and quoted our words, 'To consent to the exploitation of oneself is immoral. To consent to the exploitation of others is just as immoral.' The paper then referred to our defining the real violence as imperialism itself, and the overt violence which had broken out as only a manifestation of that continuous violence. 'We are not,' it quoted us, 'recommending the non-violence of the weak—those who would come to terms with the oppressor at all costs. We are recommending the non-violence of the strong—those who refuse to accept any lower status, who will not co-operate in their oppression, who will not obey any law that is immoral, who will face danger without flinching, and bitterness or even blows without retaliation or resentment.'"

A POLICE STATE

Ruth Reynolds overheard talk from the jail office below her on the morning that we were to arrive, learned we were coming, and heard a discussion on whether it would not be wise to arrest us immediately upon alighting from the plane. The intelligence service of the Insular Government is an elaborate affair, and we came to understand how such things as our coming were learned. Though we were not at any time arrested, we often realised we were being watched and followed. People who attended court were searched for weapons. On the first day the police took numerous photographs of the packed courtroom, coming close to where we were sitting a couple of times to get close-ups of us. After a strong dissent by the defence, the pictures ceased, but never again during the trial (lasting nearly three weeks) was the courtroom full, or even half full. "I can't afford to take the chance," was

the reply we got from those who were frank about why they didn't attend.

THE TERROR

We came to learn that in the round-up of "subversives" in early November, hundreds of Independents (young, but growing, opposition party) were arrested—all without warrants. It was manifestly an occasion used by the officials in power to arrest opponents of all kinds. Munoz Marin gave a message which went round the world that the Communists were behind the revolt of October 30. He said this not because it was true, but because it was the easiest and most effective way to smear the factions who are in favour of independence. As a matter of fact no Communist in Puerto Rico was charged with any act occurring on October 30, though a number were arrested. So wild was the rampage of arrests that Giegel Polanco, Attorney-General of Puerto Rico during that period, and now editor of *El Diario de Nueva York*, told us on our return that he went to the jails and found members of the Popular Party there. Officials had seized the opportunity to imprison political opponents even in their own party.

All the arrests we learned of occurred at night, between the hours of two and

three a.m. Ruth Reynolds reported that she was gotten out of bed by forty men, some with machine guns, and taken to jail, though no warrant for her arrest was thought necessary. All her personal belongings were confiscated, and she was held in jail for nearly two months before charges were conjured up. Stories of others were very similar.

Seventeen witnesses appeared against Ruth, taking two weeks to show evidence, mostly sub-machine guns, dynamite, rifles, revolvers, etc., seized at different parts of the island. There was no attempt to link them with Ruth, the purpose being only to try to get the jury to associate them with her.

She was convicted on the first count only, and given a sentence of six years hard labour ("two to six years" was the technical sentence).

AFRAID TO MEET

Though the people who we sought out were glad to talk with us personally, they did not, for the most part try to get a group for us to speak before. Their personal involvement in something like that would be a little too much. At one point some students of the university did try to schedule an informal meeting on the campus. When we

arrived at the meeting place on the green, there were detectives waiting instead of students. That night we learned that the President had been informed, and that he had called the police. The students didn't dare appear and hoped we wouldn't.

Through a friend, Ralph Templin was invited to speak in the Methodist Church in San Juan. But before Sunday the engagement was cancelled. He went and sat in the audience. Embarrassment was so great that he was invited to speak anyhow.

We went for a visit to the island of Vieques, off the east coast of Puerto Rico. We were there only a few hours, talked in the Methodist Mission Sunday School and were invited back before we left Puerto Rico. This engagement was also cancelled, the supervisor telling us later that our brief stay in Vieques caused great agitation in the military, and that it would not be well for us to return.

Vieques is an island twenty-two miles off-shore, twenty-three miles long and three miles wide, hilly and fertile. It has recently been expropriated by the U.S. Government for its most eastern "defence" in the Atlantic, and it is to be

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THE RIGHT TO DIFFER

IN July last, the U.S. Supreme Court confirmed the conviction of 11 Communist leaders under the Smith Act which makes it a crime to "knowingly or wilfully advocate, abet, advise or teach the duty, necessity, desirability or propriety of overthrowing or destroying any Government in the United States by force or violence, or by assassination of any officer of any such Government." Our New York correspondent com-

mented on some of "the less obvious implications of these prosecution" (FREEDOM, 4/8/51). Below we publish a document which has received little or no publicity in this country. It consists of the dissenting views of two members of the Supreme Court which, to our mind, are important statements on the serious violation of the Freedom of Speech and of the Press that the conviction of the American Communists represents.

spiry to form a party and groups and assemblies of people who teach and advocate the overthrow of our Government by force or violence and with a conspiracy to advocate and teach its overthrow by force and violence. It may well be that indoctrination in the techniques of terror to destroy the Government would be indictable under either statute. But the teaching which is condemned here is of a different character.

So far as the present record is concerned, what petitioners did was to organise people to teach and themselves teach the Marxist-Leninist doctrine contained chiefly in four books: *Foundations of Leninism* by Stalin (1924); *The Communist Manifesto* by Marx and Engels (1848); *State and Revolution* by Lenin (1917); *History of the Communist Party of the Soviet Union* (B) (1939).

Those books are to Soviet Communism what *Mein Kampf* was to Nazism. If they are understood, the ugliness of Communism is revealed, its deceit and cunning are exposed, the nature of its activities becomes apparent, and the chances of its success less likely. That is not, of course, the reason why petitioners chose these books for their classrooms. They are fervent Communists to whom these volumes are gospel. They preached the creed with the hope that some day it would be acted upon.

The opinion of the Court does not outlaw these texts nor condemn them to the fire, as the Communists do literature offensive to their creed. But if the books themselves are not outlawed, if they can lawfully remain on library shelves, by what reasoning does their use in a classroom become a crime? It would not be a crime under the Act to introduce these books to a class, though that would be teaching what the creed of violent overthrow of the government is. The Act, as construed, requires the element of intent—that those who teach the creed believe in it. The crime then depends not on what is taught but on who the teacher is. That is to make freedom of speech turn not on what is said, but on the intent with which it is said. Once we start on that road we enter territory dangerous to the liberties of every citizen.

Mr. Justice Black: Here again, as in *Breard v. Alexandria*, decided this day, my basic disagreement with the Court is not as to how we should explain or reconcile what was said in prior decisions but springs from a fundamental difference in constitutional approach. Consequently, it would serve no useful purpose to state my position at length.

At the outset I want to emphasise what the crime involved in this case is, and what it is not. These petitioners were not charged with an attempt to overthrow the Government. They were not charged with non-verbal acts of any kind designed to overthrow the Government. They were not even charged with saying anything or writing anything designed to overthrow the Government. The charge was that they agreed to assemble and to talk and publish certain ideas at a later date; and to use speech or newspapers and other publications in the future to teach and advocate the forcible overthrow of the Government. No matter how it is worded, this is a virulent form of prior censorship of speech and press, which I believe the

First Amendment forbids. I would hold Par. 3 of the Smith Act authorising this prior restraint unconstitutional on its face and as applied.

But let us assume, contrary to all constitutional ideas of fair criminal procedure, that petitioners although not indicted for the crime of actual advocacy, may be punished for it. Even on this radical assumption, the only way to affirm these convictions, as the dissent of Mr. Justice Douglas shows, is to qualify drastically or wholly repudiate the established "clear and present danger" rule. This the Court does in a way which greatly restricts the protections afforded by the First Amendment. The opinions for affirmance show that the chief reason for jettisoning the rule is the expressed fear that advocacy of Communist doctrine endangers the safety of the Republic. Undoubtedly, a government policy of unfettered communication of ideas does entail dangers. To the Founders of the Nation, however, the benefits derived from free expression were worth the risk. They embodied this philosophy in the First Amendment's command that Congress "shall have no law abridging . . . the freedom of speech, or of the press . . ." I have always believed that the First Amendment is the keystone of our Government, that the freedom it guarantees provide the best insurance against destruction of all freedom. At least as to speech in the realm of public matters, I believe that the "clear and present danger" test does not "mark the furthestmost constitutional boundaries of protected expression" but does "no more than recognise a minimum compulsion of the Bill of Rights." *Bridges v. California*, 314, U.S. 252, 263.

So long as this court exercises the power of judicial review of legislation, I cannot agree that the First Amendment permits us to sustain laws suppressing freedom of speech and press on the basis of Congress' or our own notions of mere "reasonableness". Such a doctrine waters down the First Amendment so that it amounts to little more than an admonition to Congress. The Amendment as so construed is not likely to protect any but those "safe" or orthodox views which rarely need its protection. I must also express my objection to the holding because, as Mr. Justice Douglas' dissent shows, it sanctions the determination of a crucial issue of fact by the judge rather than by the jury. Nor can I let this opportunity pass without expressing my objection to the severely limited grant of certiorari in this case which precluded consideration here of at least two other reasons for reversing these convictions: (1) the record shows a discriminatory selection of the jury panel which prevented trial before a representative cross-section of the community, (2) the record shows that one member of the trial jury was violently hostile to petitioners before and during the trial.

Public opinion being what it now is few will protest the conviction of the Communist petitioners. There is hope, however, that in calmer times, when present pressures, passions and fears subside, this or some later Court will Restore the First Amendment liberties to the high preferred place where they belong in a free society.

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