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A Semi-Monthly Newsletter

THE

# Libertarian Forum

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## Notes On Repression

### I - JUDICIAL FASCISM

As the Nixon Administration bursts at the seams in its eagerness to move into all-out repression of dissent, some crucial implications of its current actions have gone largely unnoticed. Take, for example, the notorious "Conspiracy" trial of the Chicago 8. Many people have remarked that the law itself, which appropriately was passed by Congress as a "civil rights" measure, is unconstitutional, since it outlaws the crossing of state lines with "intent" to "incite" to riot, all of which vagueness clearly violates the First Amendment guarantee of freedom of speech.

Many more people have noted the unbelievable actions of Judge Julius Hoffman, who has made a continuing mockery of any meaningful principles of justice. Thus, Hoffman sent marshals across the continent in order to arrest two lawyers and drag them to Chicago as prisoners, for the sole "crime" of withdrawing from the case by telegram instead of in person. The judge proceeded to force Panther leader, Bobby Seale, to be represented by William Kunstler, even though Seale refused Kunstler's aid and in lieu of his ailing lawyer Charles Garry, preferred to defend his own case. Not only did Judge Hoffman force Seale to be defended by a lawyer not of his own choice, but Kunstler himself didn't want to defend Seale against the latter's wishes. What kind of a "free country" is it when a man is forced to accept an unwanted lawyer? Then, when Bobby Seale proceeded to defend his case anyway, Judge Hoffman had Seale gagged and shackled in court, to form a sight strongly reminiscent of Nazi or Soviet "justice". Finally, when Seale tried to escape his bondage and protest his treatment, Judge Hoffman quickly sentenced the prisoner to an unprecedented four years in jail for "contempt of court".

The point for libertarians to focus on is not the particular despotism of Judge Hoffman, but the evil of the system itself, the American legal and judicial system, that establishes federal judges as petty despots, free to dictate to people at will and virtually unchallenged. The judge is absolute ruler in his court, in practice really not subject to higher judicial review. Furthermore, the power to declare guilty and sentence someone for contempt of court totally violates the basic legal rule of separation between prosecutor and judge. The judge makes the charge of contempt against the defendant. The judge then "hears" his own case as he sees fit, and then the judge, without benefit of jury trial, declares the defendant guilty and pronounces sentence. There is no excuse for this kind of judicial proceedings, and it is high time that libertarians, always alive to the evils of tyranny in the moral and economic spheres, turn their attention to the legal field as well. Libertarian law must be a law shorn of all elements of tyranny and aggression against those not yet proven to be criminal invaders

of the person and just property of another man. Judicial despotism is a good place to begin.

### II - RADIO-TV

Vice President Agnew's ugly attacks against the news media, with their clear threats of censorship and their danger to the freedom of the press, have obscured the fact that the news media, and especially radio and television, are closely tied in with the Establishment, with the powers-that-be. Any one of independent mind has long discovered that fact about the American media. Agnew's seemingly radical attack on the media is a phony, a mere reflection of the deep split, especially over Vietnam, between the two major factions of the ruling class: the sophisticated corporate liberals and the relatively Neanderthal conservatives. Agnew did not care to attack the vast majority of the nation's newspapers, which are fiercely conservative; instead, he centered his ire on the two bastions of Eastern corporate liberalism: the *New York Times* and the *Washington Post*. The networks, which are solidly corporate liberal, came in for a far more roundhouse treatment.

Agnew's proto-fascist assault should not be allowed to obscure the fact that the networks are monopolistic, and also that virtually no one, certainly not Agnew, has zeroed in on the roots and essence of this monopoly. The original sin came in 1927, when Secretary of Commerce Herbert Hoover put through the Radio Act of 1927 which nationalized the ownership of air waves (and television channels); from then on, radio frequencies and TV channels continued to be owned by the federal government, which granted licenses to use these frequencies and channels, and set up a Federal Communications Commission to regulate their use. The result could scarcely have been other than censorship and monopoly. As Professor Coase writes: "The situation in the American broadcasting industry is not essentially different in character from that which could be found if a commission appointed by the federal government had the task of selecting those who were to be allowed to publish newspapers and periodicals in each city, town, and village of the United States." (Ronald H. Coase, "The Federal Communications Commission," *The Journal of Law and Economics*, October, 1959, p. 7). In particular, the networks have been able to use the FCC as their tool in outlawing the use of pay-TV, a potentially powerful competitor to the present system of advertiser-paid television.

Radio and television frequencies were, when first discovered, analogous to the opening up of a new Continent. They should have been allocated just as the land of the American Continent was in the main allocated: on the

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# Letter From Washington

By Karl Hess

## Cults And Criticisms

One of the most recondite of Christian heresies is that of stercoranism in which proponents argue to the death over whether the sacred elements of the communion wafer are retained forever in the body or whether they are expelled excretally. This and all other such heresies gained headway, and popularity, rather long after Christianity had emerged as a revolutionary doctrine. In its revolutionary phase, Christianity had emerged as a revolutionary doctrine. In its revolutionary phase, Christianity split no such hairs. It was a thunderous on-my-side-or-against-me sort of thing and, in the houses on either side of that single division there were, as one well known Christian put it, "many rooms".

In the existential struggle between liberty and authority there also are many rooms, indeed, a thousand flowers bloom on either side of the dividing line.

My own summary of the matter is known as The Oink Principle. It states that if it oinks it is your enemy. If it does not oink it may not be your best friend but it is, at least, not your enemy.

I have consulted lately with my very dear friend, Murray Rothbard, on this matter and he tells me that although he will continue to criticize my, and others', left wing adventurism, that he has not detected a single oink from my room. I have not, in turn, heard any such sound from his.

There are others, however, who may take Murray's criticisms as some sort of anathema being pronounced upon them. They may mistake simple criticism for lethal exclusionism. This strikes me as a needless reaction. There are many anarchists who hold, for instance, that not even God is god. Why should they make the mistake of thinking that Rothbard is? He is a comrade, not a deity; a brilliant economist, not a burning bush; a revolutionary theorist, not an executioner.

It is clear by my actions, I am sure, that I do not agree with a substantial portion of Murray's recent criticism. I even disagree with the emphasis upon criticism itself which seems to have overtaken him. I would prefer, and hopefully expect, that his talents would be turned more to analysis of the political situation generally rather than to the personalities of our part of it in particular. Having even said that, however, I must admit that his latest criticisms of left wing adventurism, which did contain pointed comments about many of us, also contained a thoughtful commentary upon the possibilities of politicizing liberals. I am, as a matter of fact, in close and regular contact with several of the other adventurists criticized in Murray's commentary. Neither they nor I feel personally offended at all by what he had to say.

We simply disagree.

We say, in effect, "Well, that's Murray." We expect that, when all is said and done, Murray, similarly, will sigh and say, "Well, that's them."

In struggle there must be room for diversity or else what's a revolution for? But diversity need not mean bitter divisiveness. Let us divide, indeed, from those who do not stand with us against the common enemies--authority, reaction, counter-revolutionism, elitism, the state. Let us divide, indeed, from the pure theory pettifoggers who seek sanctuary from the state in their solipsism, who support

imperialism if it is profitable, genocide if it is by West-erners, and injustice if it is legal.

Of course, divide from them. They are on the other side anyway. But Murray, Clean for Anarchy, is not the enemy of those of us who are Dirty for Dope, Hirsute for Hedonism, Rowdy for Revolution, Randy for Rutting, or Pouring Down for the Weather Bureau. He is the critic of those things. Not the enemy of those things.

Parse not every subordinate clause for an offense. Don't look under every verb for a worm. Look at the heart of the man and not the varicose veins of his occasional prose. Maybe even then there will be those offended or discontented. So be it. Look then away from the single man there and to the single movement everywhere, the movement toward liberty. If we permit any one of us to so dominate our emotions as to defeat our purposes, then we offer to our enemy a nasty little victory on the platter of personality.

I do not believe in the organic reality of the state or of the movement. I do not believe in things of Man that exist apart from Man. Man's works are done by men's hands and heads. But I believe in cooperation. I believe in movements of men. I believe in orders of priority in those movements and in that cooperation. And I believe that not one of us is so important, influential, charismatic, or anointed as to form in and of ourselves a movement or even a focus for a movement.

Therefore, to take the criticism of one person, or the resentment of another, as somehow of an order of importance comparable to the movement itself strikes me as crucially bad judgment.

Let those with grievances discuss them, by all means, aggrieved with griper. Let a thousand memos blossom, a hundred thousand affinity groups flower, and let them carp and cavil--and grow.

But let us not mistake any such part for the whole of the movement. One man's criticism is one man's suggestions. But let two men's reactions overcome their other concerns and what should have been a suggestion may well become a psychosis. This is not to say that the persons criticized are most at fault. It is not to say that anyone is at fault. It is to say that when Rothbard rumbles all need not quake and similarly it is to say that Rothbard, rumbling, should realize that for many who feel him as their mentor, it is difficult to resist an over-reaction. Above all it is not to say that the tactics of the movement must not be debated, even if the debate inevitably involves personalities, life styles, etc. Of course there needs to be such debate.

What we need to do is to debate, disagree, decide, go ahead, often following different courses, sometimes with new comrades but not wasting our time just on making points. We want to make a movement, instead; we want to make our history, not feather our nests or feed our egos.

Murray is not the movement. I am not. You are not. We are. Anarchists are not the movement. Communists are not the movement. Utopian socialists or Utopian laissez-faire-ists are not the movement. Revolutionary nationalists are not the movement. Pacificists are not the movement. Retreatists are not the movement. Weathermen are not the movement. Fidel is not. Ho is not. Eldridge is not. Spock is not. Liggio is not. Abbie is not. They are. We are.

Take the Weathermen for just an instance. Some hate what they did. But how could you in all good conscience hate what they are? *They are your brothers.*

Murray may dislike what many of us do. He may dwell overlong on it and over loud. Is that an exorbitant price to pay, for instance, for his "Anatomy of the State"? I say it's a bargain.

Similarly, there are many who dislike what he does. But surely they must recognize that Murray cannot put them in jail, steal them blind, censor them, kill them--as can

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**CRITICISMS**— (Continued from page 2)  
agents of the state.

Finally, if there must be an ongoing debate about decorum among our little band then at least let it be open and even in the pages of this journal. Murray has raised points to which some, obviously, are dying to answer. Let them do it and let them do it promptly and precisely. Inter-personal notes or memos, as I suggested earlier, might be best of

all, but mutterings and rumors will not do at all.

Why don't I write such answers? Because, as Murray knows, I have heard his criticism, respectfully, and I have rejected it for myself alone. My heart truly does belong to the left. And it is an adventure. An adventure in liberty. And not even Clean Murray, I know, really considers that leprosy.

To my comrades: I love you all!

## The Military-Industrial-University Complex

As good as it is, there is more to the October *Ramparts* than Karl Hess' masterful "Open Letter to Barry Goldwater". David Horowitz (author, among other works, of *The Free World Colossus*) has a hardhitting piece on the universities and those controlling influences, the foundations; or, as Horowitz terms the two, "The Sinews of Empire". The esteemed editor of this newsletter has pointed out time and again how the rôle of the intellectual in the statist society is to act as apologist for the ruling class. Horowitz graphically demonstrates specifically how the kept intellectual of today's United States has in fact apologized for, influenced, and helped shape U. S. foreign policy.

At the end of the Second World War, a new discipline, that of International Studies, with its numerous subdivisions of specific area studies, was inaugurated. Horowitz views this new discipline as a major weapon forged by the foundations in order to gain a great deal of control over major universities in support of ruling class interests. It is, after all, necessary for any ruling class to insure the perpetuation of views salutary to its interests, as well as the recruiting of new personnel to carry out these interests in policy rôles. Specifically, a rationale for the new U. S. global imperium was needed, and the foundations, mainly through the various new Institutes of International Studies, determined that the universities would come up with same (or at least those key universities which provide "leadership" to the academic community). The institutes soon became devices for insuring that those academicians who held the "correct line" were rewarded, and that those who did not died on the vine. Power in the affected universities shifted to a marked degree from the relevant departments to the new institutes. Advancement was fastest and most lucrative in these new fields. As anyone who understands the market process could have guessed, resources, talent and research went into the newly subsidized areas. But of course only "productive" (productive to the interests of the foundations, i.e., the ruling class) research would be rewarded. Small wonder that dissent is so lacking in the academic world--it literally was starved while establishment intellectuals prospered. Where would a young man in Harvard or Stanford go but where the money, power and prestige lay?

Who were the men who controlled the foundation money which went to universities after the war? To cite an example, the Russian Institute of Columbia, the first of this new breed of academic subdivisions, was first headed by Geroid T. Robinson, who had been head of the OSS Research and Analysis Branch, USSR Division. In 1945 the Rockefeller Foundation had made a five-year grant of \$1,250,000 for the purpose of setting up the institute. The man who was responsible for the disbursing of this money was one Joseph Willits who, like Robinson, was a member of the prestigious Council on Foreign Relations (as were, of course, David, Nelson and John D. Rockefeller). The man who succeeded Robinson in 1951, Philip E. Mosley, was also a member of the CFR, and a former state department officer. Indeed, of the five who headed the institute, only one--Robinson--had had any prior connection with Columbia. Four had been with the OSS or State Department, and three were in the CFR. The new academic discipline

had a membership with strange and curious credentials.

In 1948 Columbia received an East Asian Institute from the Rockefeller Foundation. In 1949 it was the Carnegie Foundation's turn to set up a Columbia institute--the European. The cast here was especially interesting. The European Institute was initially headed by Grayson Kirk--Columbia professor, Carnegie Corp. trustee, CFR member, and Mobil Oil Director. Next year Kirk resigned to become Columbia provost, and was succeeded by Schuyler Wallace, CFR member in good standing. The present head is . . . Philip Mosley, the second head of the Russian Institute. This basic pattern was repeated at Yale, Harvard, Princeton, Stanford, etc. As Horowitz puts it, "Like the Hapsburg Royalty, they like to keep the family small and intimate."

Anyone who thinks that academic freedom, or its offspring, intellectual honesty, can survive long in an atmosphere as described above is either terribly naive or rather stupid. Pressure for intellectual conformity can be as subtle as the lure of handsome grants. Or it can be as explicit as the guiding directive of the Hoover Institution on War, Revolution and Peace, wherein the purpose of the Institution is described as ". . . to demonstrate the evils of the doctrines of Karl Marx--whether Communism, Socialism, economic materialism, or atheism--thus to protect the American way of life from such ideologies, their conspiracies and to reaffirm the validity of the American system." If in fact communism, socialism and atheism (Does this make the non-theist, Henry Hazlitt, a conspirator in the promulgation of the evil teachings of Karl Marx?) are evil, such an institute is a very poor device for either discovering the evils, or producing effective counter-arguments (as can readily be seen from the Institution's output). *A priori* assumptions do not make for objective analysis. A university's function is not to produce propaganda but the truth. To do anything else is to cease to function as a center of learning. To function consciously as a "protector" is to become a tool of whomever one is protecting. To become a "protector" of, and to "reaffirm the validity of the American system", is to become a tool of the U. S. corporate state and its global imperium. This

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### ATTENTION, LIBERTARIANS

Many readers of the *Libertarian Forum* have expressed interest in finding other libertarians near them. Therefore, early next year, the *Forum* will begin to publish the names and addresses of people who would like to be contacted by other readers of the *Libertarian Forum*. If you'd like your name to be included, please fill out the coupon on the back of this notice.

**REPRESSION** — (Continued from page 1)

libertarian, homesteading principle of total private ownership to the first user. Radio and TV frequencies should be private just as land is private; only thus can the airwaves escape the blight of corporate-governmental monopoly. The homesteading principle applies equally to both cases.

There are two common arguments against private property in airwaves. One is that different radio and TV stations would be able to interfere and drown out each other's signals, thus causing "chaos". This ignores the crucial

**COMPLEX** — (Continued from page 3)

is what Stanford has done. This is what most universities have done.

It is especially tragic that conservatives, who have talked so much in the past about the "liberal establishment", should be so cold towards the findings of such scholars as Horowitz. For what is the "military-industrial-university" complex but the "liberal establishment" writ large? The only difference is that the rather ridiculous assumption of conservatives that men like Roosevelt and Rockefeller were (are) crypto-socialists has been replaced by the reality of their being proto-fascists. Of course the reason for this shift in the thinking of conservatives is quite obvious, as can be seen strikingly in the case of their chief spokesman, Bill Buckley, the man whom Gore Vidal has so charmingly referred to as a "pro-crypto Nazi". Buckley, the "liberals' conservative", has, like so many of his followers, become part of this establishment. Now that conservatives are in power (even if they have to share it with their partners in the welfare/warfare system, the liberals), and have their man, Strom Nixon, in the White House, they want no more anti-establishment talk. Also explained is why conservatives have reacted so strongly against all recent attempts to carry out one of their former lofty ideals--smashing the statist educational power, be it Columbia, Ocean Hill-Brownsville, or whatever.

No, if the New Right has joined the Old Left, and if the Old Right is literally almost dead, then it is clear that libertarians can turn only to the New Left in their opposition to statism. It is not a question of whether they will make good or bad allies, but that the New Left are the only possible allies. Not to ally with them would be to ratify the existing statist oppression, together with its infrastructure (e.g., the universities). Besides, as can be seen from a little study, the New Left has been correct all along on most major issues (e.g., the universities). The New Left is essentially correct in both theory and practice. They are for "Power to the People". Damn it, Mr. Conservative, *whom* are you for power to?

— Gerald O'Driscoll, Jr.

historical fact that the American common-law courts were, in the 1920's, working out the perfectly sound doctrine that one station's interference with a previous station's signal is an invasion of property rights, and can be prevented on that basis. Thus, as Coase says, "In the case of *Tribune Co. v. Oak Leaves Broadcasting Station* [Circuit Court, Cook County, Illinois, 1926]... it was held that the operator of an existing station had a sufficient property right, acquired by priority, to enjoin a newcomer from using a frequency so as to cause any material interference." (Coase, p. 31n.) Hoover and other statist-monopolists, knowing this full well, rushed through the Radio Act of 1927 so as to prevent the development of competition and private property rights in the airwaves. As Professor Milton Friedman writes in an excellent and lucid article on the subject, "The owners of these rights [in the airwaves] would have private property in them, which they would protect from trespass as you and I protect our land from trespass, through the courts. They could buy and sell the rights, subdivide them, recombine them, as you and I do with our land. They would have the full protection of the Bill of Rights just as the press now does." (Milton Friedman, "How to Free TV", *Newsweek*, Dec. 1, 1969, p. 82).

The second popular argument against private property in the airwaves is that air frequencies are "limited" in supply. Such an argument can only stem from profound economic ignorance. All resources, all goods are "limited": that is why they are owned in the first place, and that is why they command a price on the market. If a good were unlimited--as, say, clean air in the days before pollution--there would be no question of owning it or pricing it, since the good would be superabundant in relation to human desires. It is precisely goods that are limited in supply that must be owned by someone--whether by private persons or government--and thereby allocated to their most productive uses through the price system. Iron mines are limited; land is limited; labor is limited; raw materials are limited; capital goods are limited; Rembrandts are limited. Must all these be nationalized therefore?

Now that government has preempted and retained its "domain" over the airwaves, the precise path of getting from nationalized to private airwaves is far less important than getting rid of the present abomination. There are two cogent alternatives: one is the Coase-Friedman plan of the FCC's selling the existing frequencies to the highest bidders. The trouble with this is that the money for the sale goes to an illegitimate recipient: the federal government. The other path is more in accord with homesteading principles: simply granting private property in fee simple to the existing stations. In either case, the FCC would then go promptly go out of existence. Governmental monopolizing of the airwaves would at last be at an end.

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