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THE

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Free Bill Kunstler!

The infamous Conspiracy trial in Chicago has piled repressive horror upon horror: conviction under a patently unconstitutional law that sends people to jail not for any criminal actions but solely for "intent"; the dragging of defense lawyers across the continent under arrest because they withdrew from the case by telegram; the refusal to permit Bobby Seale to defend himself; the subsequent shackling of Seale and then his summary conviction by Judge Hoffman for contempt and being sent to jail for four years; the convictions and sentencing of the defendants by Hoffman for contempt; the willingness of the minority jurors to override their belief in innocence in order to get home; and finally and most infamously, the summary conviction of the defense lawyers for contempt, with the chief lawyer, William Kunstler, being sentenced for more than four years in jail, for the crime of zealous and militant defense of his clients.

The actions of Judge Hoffman have, as nothing else, exposed for all to see the despotic nature of the federal judicial system in America. The judge is a tinpot tyrant, and very little that he says and does has, in actual fact, been subject to the review even of other judges, let alone the public at large. Contempt convictions enable the judge, the allegedly aggrieved party, to "try" the case himself, without benefit of jury or defense counsel or the usual safeguards of the legal system, and then to declare guilt himself and to carry out the sentence.

All this is bad enough, and the contempt convictions of the defendants are bad enough, but the conviction of Bill Kunstler strikes at the heart of *any* chance that defendants, especially political defendants who are charged with the crime of dissent, will be able to get any sort of fair trial in America. For if Bill Kunstler is sent to jail, what lawyer is going to put his neck in a noose for any future defendants? Who is going to be active and zealous and try his very best on behalf of his clients? And that, of course, is the purpose of Judge Hoffman: to strike a mortal blow at militant legal defense, and thereby to deprive any further dissenters of the right to the best defense they can possibly get.

As in everything else, Judge Hoffman was brutally frank about his purpose. In the course of sentencing Kunstler, Hoffman said: "If crime is, in fact, on the increase today, it is due in large part to the fact that waiting in the wings are lawyers who are willing to go beyond professional responsibilities, professional obligations, professional duty in their defense." He added that the knowledge that such lawyers were available had a "stimulating effect" on potential criminals. Sure; if we eliminated defense lawyers altogether, it is still more sure that the conviction rate in

this country would skyrocket; and we would also be hip-deep into a totalitarian society. One of the glories of the Anglo-Saxon legal structure is that everyone is innocent until proven guilty after the best possible case has been put up in his defense; if we are going to scrap this elementary legal safeguard, then this country is really lost, and none of us are safe.

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Renew! Subscribe!

The *Libertarian Forum* is coming close to its glorious first anniversary, and the time for renewals is fast approaching. We are already the longest-lived, and the most important, libertarian organ in the country. Where else do you know that regularly, twice a month, you will receive news of the libertarian movement, analysis of events of the day from a libertarian perspective, discussion and critique of libertarian theory and practice? Furthermore, we have a nationwide circulation, and this means that each one of us, who tend to be isolated in his or her own community, can keep contact regularly with the broader, nationwide movement. The *Libertarian Forum* provides to each of us a sense of broader community which, at least so far, is the only one that we have.

So we urge each one of you to renew your subscriptions as they fall due. Furthermore, we are operating on a shoestring, and so any more subscriptions that you can get for us would be deeply appreciated. If each one of you found just one more subscriber for us we would be on a handsome footing.

We have only done as well as we have out of the generosity of our Libertarian Associates, who have earned our lasting gratitude by donating \$15 or more during this first year of our existence. Renewals, and expansion, of our Associates is vital to our continued existence and growth. Associates and potential Associates should realize that it is only their generosity that allows us to make the *Forum* available to students at a reduced rate, and students, of course, are by far the largest source of new libertarians.

We welcome the following to the ranks of the Libertarian Associates:

Roy Halliday, Saugerties, N. Y.

H. G. Jinrich, Mountain View, Calif.

Jack Montgomery, State University, Arkansas.

PEOPLE JUSTICE

A significant control element in the preservation of law and peace within a society is the potential criminal's fear of public exposure--not the imprisonment or fines he may suffer, but the humiliation and personal shame that results from the discovery and the publication of his delinquency. All criminals avoid, if they can, exposure to the censorious judgment of public opinion. By the same token, if a particular act is not judged criminal by public opinion, the State has great difficulty in capturing, prosecuting and convicting the alleged criminal successfully. Ultimately, in any society, a crime is any act that is not socially acceptable to the community as a whole, and the criminal is an isolated social deviant from the mores which the community by the widest social consensus determines to be "the law". This would be just as true in an anarchic society as it is in a society which has developed the instrumentality we call the State.

This suggests that libertarians might do well to turn their attention to the task of exposing the manifest criminality of the State and its lackeys--not only by decrying taxation as theft or in the generalized terms so common in libertarian literature--but in specific and concrete terms with names, dates, places, victims and the specific crimes committed.

In the early history of the Celtic and Germanic tribes from whom so many of us are descended, free men met regularly with their neighbors to denounce alleged criminal acts committed by members of the community and to demand justice in the form of compensation to the victim for his injury. The community as a whole heard the case and in various ways aided the injured party to achieve his rights. Henry II of England is given credit for "creating" the grand jury as a means by which crimes could be detected and criminals brought to justice. Actually his jury system was part of a successful attempt to transfer the prosecution and punishment of crimes from the hands of free men acting within the traditions and with the consent of their neighbors to the hands of the royal justices and the royal courts imposing royal law for royal profit. The primitive but effective people's courts were coopted and transformed into State courts, imposing legal rules and penalties unknown previously, and creating a State monopoly over the means of securing justice. As is well attested, this monopoly became the chief instrument by which the medieval state was strengthened and the profits of the courts were a most valued source of its income. In our own times, the grand jury has become an instrument of State oppression, controlled by judges and district attorneys, and selected from a narrow, unrepresentative panel of citizens. It is notorious that prospective jurors are selected from lists of property holders, chambers of commerce, and other highly select groups. This selectivity is used to ensure that the grand jurors reflect and protect the interests of the local ruling elites--racial, social and economic. In some areas, the grand jurors have openly acknowledged their group role by forming permanent "grand jurors' associations" which perpetuate their collective self-identity and enhance their social solidarity. Thus the grand jury system is an important agency for the ruling elite who wield the power of the State, and monopolize the processes of justice. It seems to me that libertarians must find a way to reverse this process. We must take the law into our own hands once again like our ancient forefathers. We do so already in many ways--for example, we usually punish those who fail to pay their debts by publicizing the fact, thus alerting the community at large and greatly limiting the debtor's future opportunities for delinquency. Newspapers publish the names of persons arrested, convicted or even suspected of crimes, thus open-

ing them to public shame and ostracism. We regularly ask prospective employees, tenants, borrowers for letters of recommendation as to their character, and general reputation. A good reputation is still among a man's most valued possessions.

Since we no longer possess the power to attain justice by threat or use of violent force upon those who have aggressed against us, deprived us of rights or property, (the State having seized and monopolized this power)--we must seek justice by the only means still readily available to us--the mobilization of public opinion. The criminals must be identified, their crimes exposed to the public eye, their reputations in society blackened until they are overtaken by remorse and offer to submit to justice and make compensation to the victims of their crimes.

Is this just another Utopian libertarian scheme? Another moral tract on what might be if we can "smash the State" in an apocalyptic moment? I believe it is not. Let us look for a moment at the Song My massacre and the Vietnam war as a whole. It is very likely that the immediate perpetrators of this atrocious crime will never be tried and punished by the courts of the United States, military or civil. The technicalities of the law, the pre-trial publicity, the lack of jurisdiction of military courts over ex-soldiers, and of civil courts over acts perpetrated outside their jurisdiction, the general political nature of the whole episode make it unlikely that much will come of the case. What would be valuable, however, is for some means to be found to determine the actual scope of the massacre, the names of those responsible and the degree of their guilt. If the men involved were so ruined in reputation that they were driven to retire from the army, or even forced into exile--the cause of justice would be served and the next time an officer led his troops into another Song My he would think more than once about murdering its population. If the government cannot perform this service, it could and should be done by *private* citizens who could constitute themselves as a Commission of Inquiry and set about the task of publicizing the nature of the crimes and the identification of the criminals.

In fact, on a broader scale, this job has already been done. In 1967 Bertrand Lord Russell, the distinguished British mathematician and philosopher, convoked an international panel of famed writers, historians, lawyers and scientists to sit as a tribunal to inquire into charges that the United States government had perpetrated a series of war crimes in violation of specific international treaties on the rules of war and a host of common crimes against the Vietnamese people. Two sessions were held, in Stockholm and then in Copenhagen, in which expert witnesses gave testimony in vivid detail as to the enormity of U.S. criminal acts in the Vietnam war. Though invited to testify, American officials refused to answer the charges and confined themselves to harassing the members of the tribunal and its staff, and demanding that their NATO allies cooperate in the task. The testimony was completed *four months before* the Song My massacre--but the American people were kept unaware of its findings. It documented in the most damning detail a record of human bestiality that places the United States among the all-time greats as a criminal State. (The full record of the testimony before the tribunal is available in paperback from O'Hare Books, 10 Bartley Road, Flanders, New Jersey, Price \$5.75, appropriately titled *Against the Crime of Silence*.)

Indeed, the same technique is being used by former Justice Arthur Goldberg and Roy Wilkins of the NAACP to investigate the nationwide crackdown on the militant Black Panther Party. Since J. Edgar Hoover described the Panthers as the greatest single threat to the internal security of America (whatever happened to the Communist Party?), local police across the country have slain 28 Panthers, wounded, arrested and harassed hundreds of others, and

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Doctors And Drugs

Two recent medical reports on drugs make an important contribution to the raging controversy over the endemic use of drugs among the "now" generation.

I. The Canadian Report

Canada has appointed a commission of inquiry into the spreading use of drugs, headed by Dr. Keith Yonge, president of the Canadian Psychiatric Association. A memorandum by Dr. Yonge, summing up what will be concluded in the report, has been published in the *Toronto Globe and Mail*. Dr. Yonge's findings lend scientific confirmation to the empirical impressions of many of us who have observed friends and acquaintances becoming absorbed into the "drug culture". Dr. Yonge writes:

"... the use of these drugs [from marijuana on up] does indeed induce lasting changes in personality functioning, changes which are pathological in so much as they impair the 'mental and social well-being' The harmful effects are of the same order as the pathology of serious mental illness (psychosis), namely in distorting the perceptual and thinking processes and in diverting awareness from reality, impairing the individual's capacity to deal with the realities of life.

"The argument that marijuana is no more harmful than alcohol is specious The primary action of alcohol is that of a relaxant. Impairment of mental functioning occurs when intoxicating quantities are taken. Marijuana, as with all the psychotropic drugs, on the other hand, acts solely as an intoxicant, its effects being primarily the distortion of perception and reasoning.

"In psycho-social development man grows from the prevalence of self-gratification and dependency, with little regard for reality, to the prevalence of self-determination and . . . involvement in his society. Against this progression, the trend toward 'instant' self-gratification and artificial self-exploration (by the use of psychotropic drugs) is distinctly regressive--a reversion to the immature, the primitive. The regression is further evidenced in the other trends in group behavior with which the non-medical use of drugs tends to be associated--reversion to the crude or primitive . . . however much these may be rationalized as emancipation from socio-cultural oppression."

Right on, Doctor!

II. The Berger Report

A remarkably keen insight into one of the major causes of the spreading drug abuse was contained in an article in the December issue of *Medical Times*, by Dr. Herbert Berger, chairman of the Committee on Drug Abuse of the Coordinating Council of the City of New York, and associate professor of clinical medicine at New York Medical College. Reporting on a study of 343 teenage drug addicts and their families over a seven-year period, Dr. Berger found one striking factor common to all these youths: "an absolute hatred of 'Compulsory Education'", a hatred that came upon them early in primary school and had become fully

Postal Note

We have been hearing from several subscribers that they have not received some issues of the *Forum*, or that an issue has been severely delayed. The fault, dear reader, lies not in us but in our beloved Post Service. So if any of you should fail to get any issue, let us know, and we will try to send you the missing copy.

developed by the age of 12. As Dr. Berger writes: "These are often uneducatable individuals. They believe that we arbitrarily deny them their freedom and insist on their attendance in school. Like all who are jailed they resent both the jailer and the jail. Society has incarcerated them in school--against their will. This is, in their eyes, an unjust punishment, therefore they feel within their rights to retaliate by breaking school windows, by criminal activity and by disrupting classes."

Dr. Berger concludes that if education were made voluntary, some students would go eagerly to school, while "others would embrace apprenticeship in trades where they are sorely needed Left to their own devices these adolescents may develop at their own pace: some quicker, some slower than that which an arbitrary society has chosen for them. Their goals may be vastly different from those which we have established. They are not necessarily wrong. Who would dare argue that a good carpenter is not a greater asset than a poor lawyer!"

Dr. Berger's findings independently confirm the writings of Paul Goodman and others on the crippling effects of compulsory attendance laws on the nation's youth. The youth are now indeed being imprisoned in the vast jailhouse of our public schools merely for the "crime" of being under 16 or 18 years of age. To liberate them the compulsory attendance laws must be repealed.

PEOPLE'S JUSTICE—(Continued from page 2)

subjected them to such violence that their white attorney has described it as "genocidal". While the Goldberg-Wilkins Commission is clearly not sympathetic to the Panthers' political views, its own prestige as part of the American Establishment, its very existence as an independent focus of public scrutiny of the police and their repressive tactics, ought to make the State and its lackeys more cautious in their continuing repression, and awaken those many Americans who still believe "It can't happen here!". The Russell Tribunal and the Goldberg-Wilkins Commission of Inquiry offer libertarians excellent models for future action. Serious thought should be given to the possible creation of private commissions of inquiry, local or national in scope, to expose the criminality of the State and its minions, to arouse the public against the vile and dastardly invasions of personal privacy by the FBI and other wiretappers, to inform them of the political and economic links between various special interests and the officials of the State, and of the rampant criminality of the police themselves. There is already a widespread suspicion that the cause of justice is deflected for reasons of State. When a respected member of the Warren Commission, Sen. Russell of Georgia, publicly admits that he thinks Lee Oswald was part of a conspiracy whose other members are still at large, how can the public believe in the integrity of justice under our State? When the admitted assassin of Martin Luther King publicly disputed the judge who sentenced him, insisting that he was not the sole murderer, the court silenced him and the case was closed. As Tom Wicker pointed out in the *New York Times*, (Dec. 16, 1969):

By now it is almost established practice for the Government to look outside existing institutions for a remedy or an explanation when serious crimes or shocking situations become too apparent to ignore. (This) derives from a developing mistrust of the official institutions and agencies of American justice --a mistrust, most seriously, of their motives, their very willingness to be fair and impartial, and a growing skepticism about their ability to function.

If Wicker is correct, the American people may be waiting for us to act!

— J. R. P.

FREE BILL KUNSTLER! — (Continued from page 1)

If we are going to prevent total fascism in this country, if we are going to save the vestiges of American freedom, then all of us must make the freeing of Bill Kunstler a central concern. Here is a cause which surely our entire libertarian spectrum, regardless of other differences, should be able to back without stint or qualification. As Jerry Tuccille has urged, let us worry less about the oppression meted out to a non-existent fictional character, and more about the *real* oppression going on around us. One leading young writer, who calls himself a "philosophical anarchist", has complacently and smugly declared: "After all, America is 95% free." Well, Bill Kunstler is soon going to be zero free, and if his conviction for defending dissenters is allowed to stand, if he is going to be incarcerated for that sort of "crime", then make no mistake, none of us is free.

The Great Society

"What, then, is the productive contribution of government?"

—Murray N. Rothbard

The distant, leveled ground is stubbled with the stumps of trees.

The masons holler to teams of workmen on the slope
Pushing boulders by twos and threes.

The masters, waiting on the raised catwalk,
Shrug their stooping shoulders,
The stonecutters lay their chalk and chisels down.

Nimrod has come today.

To put an old crone to work.

Sweeping up.

—James D. Davidson

Recommended Reading

Benjamin Quarles, *Black Abolitionists* (Oxford Univ. Press, paper, \$1.95). The neglected story of the role played by Negroes in the abolitionist movement.

Ronald Radosh, "The Bare-Knuckled Historians", *The Nation* (February 2, 1970). Excellent report on the fracas at the December historians' convention.

Peter Dale Scott, "Tonkin Bay: Was There a Conspiracy?", *New York Review of Books* (Jan. 29, 1970), 11 pp. (Available for 50¢, annual sub. for \$10, at 250 West 57th St., New York, N. Y. 10019.) The best work yet on Tonkin Gulf Revisionism, showing not only that there was *no* North Vietnamese attack even after severe U. S. provocation, but also that lower echelon intelligence officials undoubtedly fabricated the attack to induce the President to attack the North.

A. J. P. Taylor, *The Origins of the Second World War* (Fawcett, paper, 95¢). The great revisionist work on 1939, now out in a second edition, in which Taylor effectively answers his critics.

Stanley Diamond, "Who Killed Biafra?", *New York Review of Books* (Feb. 26, 1970). Excellent pro-Biafra article by a distinguished anthropologist. Edmundo Flores, "Land Reform in Peru", *The*

Nation (Feb. 16, 1970). The story of the only relatively thoroughgoing land reform not put into effect by Communist-led governments.

Peter Michelson, "Fictive Babble: Review of Ayn Rand's *The Romantic Manifesto*", *New Republic* (Feb. 21, 1970). Slashing critique of Rand's latest book, including the point that the Rand of 1969 has begun to write like the villains of her own novels.

Murray N. Rothbard, "The Guaranteed Annual Income", *The Rational Individualist* (September, 1969). (Available for 50¢, annual sub. \$4.00, at 800 Hillsboro Drive, Silver Spring, Md. 20902.) A critique of the Nixon welfare program.

Robert Z. Aliber, "Gresham's Law and the Demand for NRU's and SDR's: A Reply", *Quarterly Journal of Economics* (November, 1969), pp. 704-05. Points out that the SDR "paper gold" will not necessarily cure the U. S. balance of payments. Gresham's Law will induce foreign countries to prefer SDR's to dollars, not just to gold.

(In general, the *New York Review of Books* is a brilliantly edited, scholarly bi-weekly tabloid eminently worth reading.)

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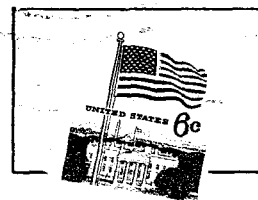
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