

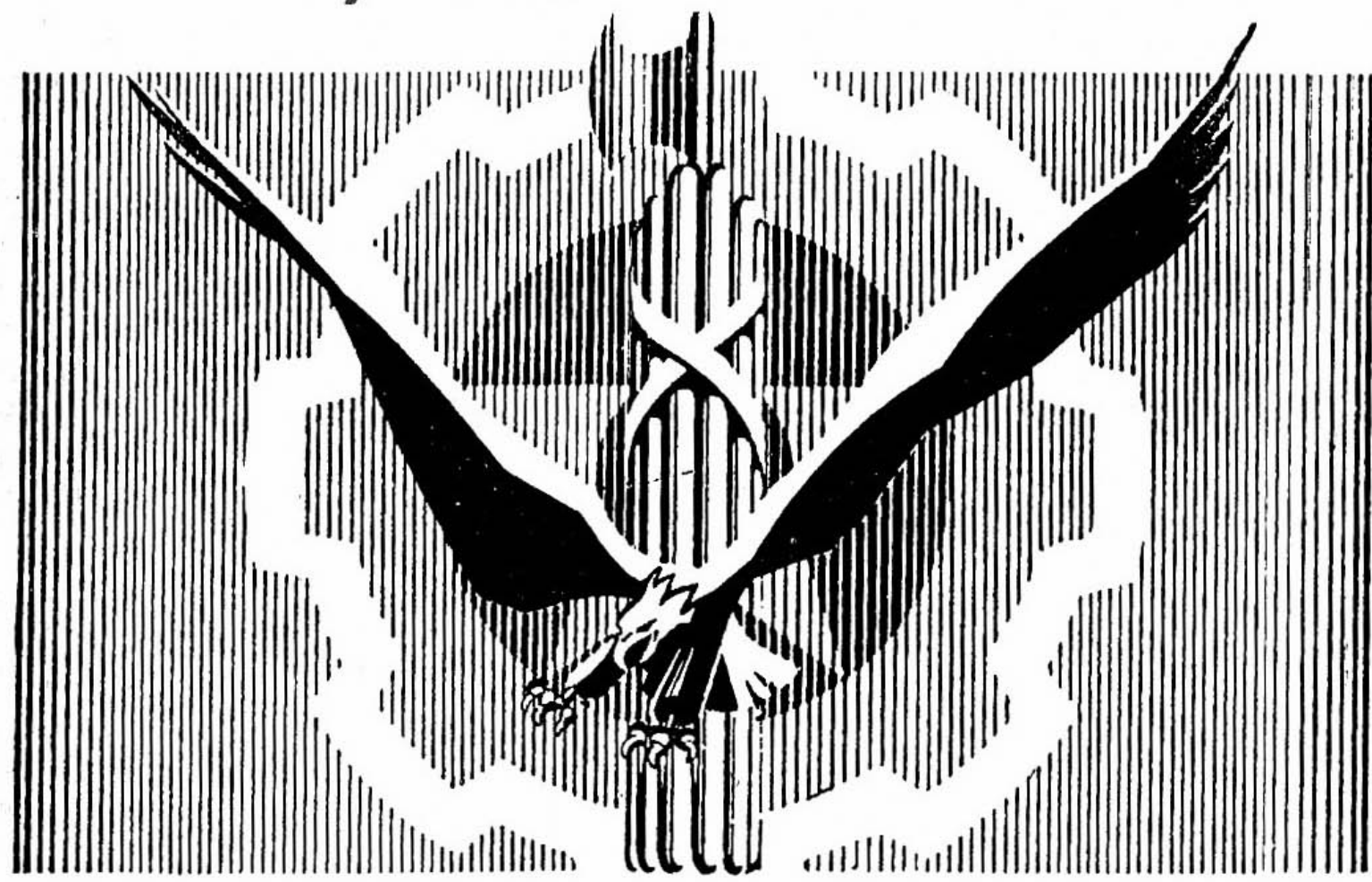
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DEATH COMES for the LIBERALS

by Cedric Fowler



Is the only control of the enemy alien the suppression of the Bill of Rights? The writer explores the future of such a method in the light of pending legislation.

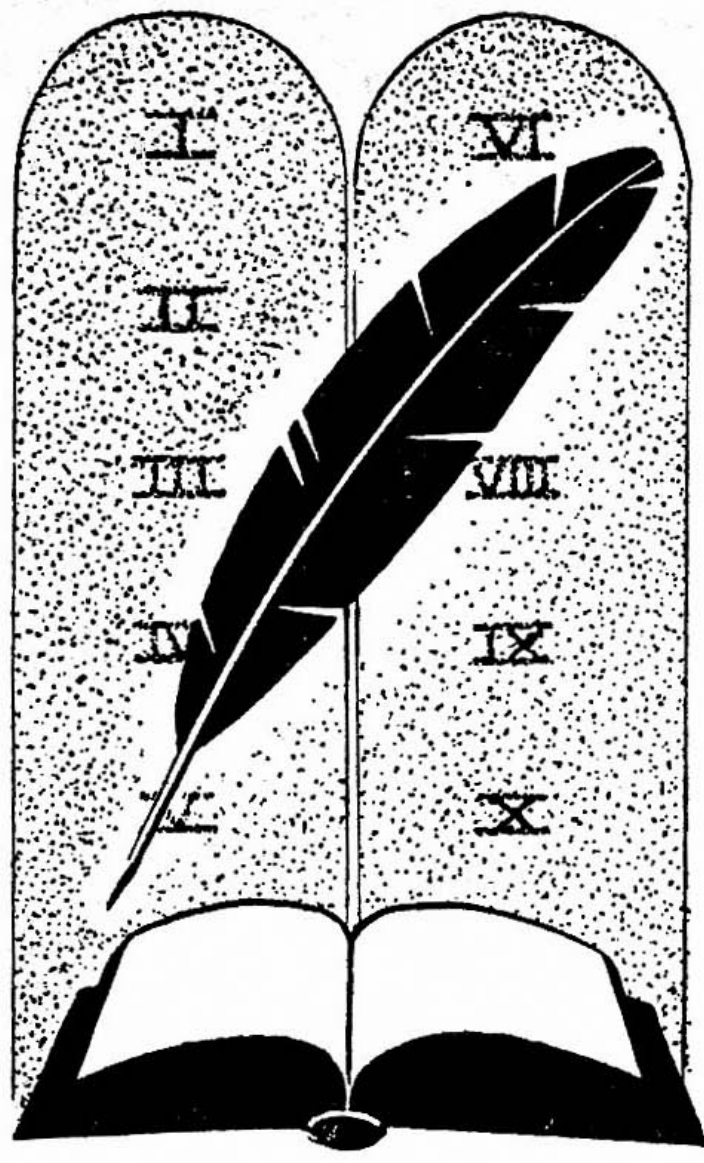
A CAMPAIGN, of a size seldom before seen in this country, to legislate back into oblivion, or at least into inactivity, that host of thinkers and workers who stand at all points Left of Center, and who were once again duped by the unfulfilled promises of the New Deal, is now under way. Its extent, its bitterness and in a measure its unfairness is in the largest sense an unreasoned reaction to unreasoned sanction of the earlier New Deal proposals.

We have had these campaigns before, these excursions into anti-radical and anti-alien terrorism. During and after the World War we had five years of governmental suppression of freedom the like of which had not been seen up to that time. During the Civil War a generation earlier the military was given power—which it used—to suspend newspapers and to imprison and execute civilians with hardly the formality of a trial. The Spanish-American War, though a much less unpleasant occasion, brought its quota of government interference with thought and word. In the difficult years following the Revolutionary War anti-sedition and anti-alien laws were passed which almost equalled the severity of the World War period a century and a quarter later. But the present campaign against free speech and free assembly is the most vigorous—and, as well as can be seen today, the most likely to succeed in its aims—of any we have suffered before.

The present campaign is not simply a thing in the minds of irresponsible reactionaries or free-lance Fascists. It is already under way, has already achieved considerable progress, and from all signs will achieve more even as these words are being written. The progress it has made in legislative form is on the record. In Congress and in the governments of forty or more of the forty-eight states, there is a series of bills and acts either passed or put forward which provides for the effectual abolition of most of the rights and liberties on which this nation was once built. Many of them bear a startling resemblance to the type of legislation which so angered our Colonial forefathers under George III. Others go far toward nullifying a century and a half of struggle on the part of labor and minority groups for the right to expression and even existence. Some of them passed or contemplated, both in Washington and in the states, rival the harshness of Fascist Italy or Nazi Germany. Added together, they indicate an open season of persecution of radicals and dissenters of all shades, ranging from reddest red to mildest pink, and with no holds barred—to the investigators. It is not a pleasant prospect,

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either for the intended victims or for innocent bystanders, since such laws have a habit of catching the most guiltless onlooker in the net as well as the evil characters they are meant to trap.

What makes this present campaign particularly noteworthy is the extent of its legislative effect, already achieved or pending. Previous campaigns have not had nearly the amount of laws and regulations that

this one possesses or will possess. During the World War, the nation struggled through to victory with a tith of the protection now felt necessary. Spies and unfriendly aliens were cared for in a comparatively simple law which provided one punishment for offenses in either category. Today we have half a dozen bills proposed in Congress to save us from the foreigner within our gates, and an equal number of states have taken the same responsibility on themselves. All of these laws contain detailed descriptions of the crimes for which the alien earns a richly deserved exile from our shores. During the restive years of 1919 and the early 1920's it was left to the states to save themselves from revolution arising from industrial unrest within their own borders. This they did very effectively through the invention of a new felony known as "criminal syndicalism" and the ordering of severe penalties against all whom the prosecutor could manage to implicate under its vague terms. Incidentally, many of those criminal syndicalism statutes survived the post-panic decay of redhunting when liberalism and sense demanded their repeal, and are functioning again in the present crisis. Yet despite the fact that the states were considered strong enough in war time to stand on their own feet, today in peace time the Federal government on the initiative of Congress proposes to assist with new laws of national capacity. And at the same time the states with very few exceptions are hastening to renew and redouble their previous laws against the same dangers. Truly, the task of saving the nation from revolution is a difficult one.

Our Jittery Legislators

THE fact that these measures are proposed in a time of peace is another commentary on the strength of the new heresy campaign. Previously our legislators and organized patriots have waited for a war to demonstrate their repressive talents. The process then is more understandable. Fear dominates a war time atmosphere as much as a courageous will to victory. The alien, though he may have been lurking in this country for twenty years or more, becomes in war an unknown and therefore fearsome danger. A foreign name and a swarthy complexion hide sinister designs against the nation's bridges, railways and munitions plants. Advocates of peace, foolhardy enough to speak out in the midst of battle, are clearly both cowards and traitors to the land that has nurtured them. Particularly threatening are those who protest against enforced military service or find themselves conscientiously unable to take arms against their fellow men. Radicals who take advantage of war time industrial activity to promote strikes and demands for higher wages are saboteurs of the nation's military effort, and must be curbed. But none of these conditions exists today. In spite of the highest military expenditures of peace time history, we are not at war, and our statesmen both in and out of office have repeatedly declared peace on the entire world. We have no soldiers at the front who must be protected from the radical or alien stab in the back. We are not fighting to save the world from democracy. Consequently there seem to be no imperative reasons for the suppression of democracy now going forward in the nation's legislative halls.

Why this renaissance of an ancient habit, this re-

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vival of any old way of attempting to deal with a difficult, strained situation? Is it solely because we are in the fifth year of one of our periodic business cycles, with almost all the indicators still pointing toward the bottom? We have had depressions before, severe ones, without the repressive trimmings this present example seems to require. Is it because Europe is again facing us with the prospect of beginning another world war? We were not nearly so upset in 1914, when the symptoms of approaching conflict were even more clearly discernible. In fact up to the time we entered the World War in 1917 we were nothing like as suspicious of the potential traitor as we are today. It is true that we are looking for some cause and for certain individuals to blame for our present economic and social ills, but we have looked for scapegoats in troubled times before this, and not as frantically.

A Depression State of Mind

THE fact is, the new heresy and treason hunt is inspired by a mixture of all these motives, with some added of its own. They can best be found by an examination of the forms the new crusade is taking. In Congress alone there are some twenty-four bills aimed at seditious practices and at aliens considered to be undesirable. The alien measures range in degree from a bill providing for a tightening of the existing deportation laws to one providing that all non-citizens shall be prohibited from holding employment in this country. In the first measure, any sort of "subversive political agitation or conduct" is made mandatory grounds for deportation—the definition of such activity being left to the Secretary of Labor. This particular act, known as the Kerr Bill and in receipt of White House support, also provides for the seizure and detention of any alien that any Immigration official may believe to be a suspicious character—without the issuance of a warrant. It is an established custom of the Department of Labor, and one that has been upheld by the courts, to regard the promotion or leadership of strikes or demonstrations as "subversive political activity." The bill is therefore, aimed not only at alien revolutionaries, but at labor agitators interested in improving working conditions without thought of overthrowing the government. A conviction for "possession or carrying of any concealed or dangerous weapon" is further mandatory ground for deportation. Here again the police and the courts have proved it remarkably easy to find a "dangerous or concealed" weapon on the person of troublesome labor leader. The bill is cleverly drawn. Criminal grounds for deportation—such as sale of narcotic drugs and the like—are placed well in the front paragraphs. No one can object to their presence. The clauses directed against alien dissidents are placed nearer the end of the bill, where they are not quite so likely to be seen on a hasty reading. The arrangement, however, cannot hide the real purpose of the bill, which is to throttle at least the foreign element in working class discontent. It is a purpose at strange variance with the New Deal pronouncements on the freedom of labor to organize and the right to strike.

Loose Definitions

THIS bill, sure of Administration backing, may be taken as most likely to pass. It is the mildest of the anti-alien measures now before Congress. Others before the House are much more severe. The Dickstein Bill, drawn as a result of Congressman Dickstein's recent investigation of Fascist and Communist activities in this country, provides for the deportation of any alien who disseminates "propaganda instigated from foreign sources or who while in the United States engages in political activities." This measure makes it possible to deport foreigners who come to this country on any mission in any way connected with social or political conditions, whether here or abroad. Thus, a Mexican Catholic protesting against his country's policy to the Church would be deported. Several eminent Mexican prelates now living in Texas would be forced across the border under its terms. An exile from Nazi Germany found expressing his opinion

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of the Hitler tyranny could be returned to the concentration camp from which he escaped. A White Russian dreaming of overthrowing the Bolsheviks could be shipped across the world to the OGPU. In time of war our allies could send no representative here to plead their side of the common cause, unless this bill were repealed. A similar measure put forward by Representative Taylor, of Tennessee, requires the Secretary of Labor to deport any alien who seeks to "change the character of the government of the United States, or to influence its policies"—the last phrase offering the piquant obligation of deporting all foreign ambassadors caught inside the State Department building on business for their governments. Aliens who belong to any group or association which advocates "a change in the form of the government of the United States, or engages in any political agitation" must also be deported. Under this provision membership in such distinctly non-revolutionary organizations as the Progressive Party of Wisconsin, the Farmer-Labor group in Minnesota, would be prohibited to aliens, since those and similar groups work for changes in our form of government, though by peaceful methods. Here again the clauses of the bill are neatly arranged. The first six of eight sections are concerned entirely with narcotic sellers, gun carriers, habitual criminals and the like, with the last two clauses reserved for the political foreigner.

The New Deal For the Alien

PERHAPS the most astonishing of the anti-alien bills is one proposed by Congressman Dies, which would amend previous alien laws with the simple addition of "Aliens who are anarchists or Fascists or Communists," to those deserving deportation. The definitions which follow this phrase are interesting. In them, Communist and Fascist and anarchist are lumped together, though everybody (even Congressmen) must know their aims are wholly different. The usual belief in the overthrow of government by force is followed by clauses which would make any sort of public activity or participation impossible to foreigners. Most of them are aimed at alien labor leaders. Thus, anyone who advises "assaulting" officers of government must be deported. "Assaulting" is an elastic term. An alien advising strikers to stand their ground against company police or deputy sheriffs would be guilty. Belief in the "unlawful damage, injury or destruction of property" together with "sabotage" is further ground for considering the alien to be anarchist, Fascist and Communist. All of these definitions are extremely loose. What is "sabotage?" When vigilantes raid radical headquarters, as was done during the San Francisco troubles of last year, is the damage inflicted "unlawful?" Is a strike, which checks production and interferes with commerce, "sabotage?" If so is a lockout, which produces the same effect, also sabotage? It has long been held unlawful to damage another person's motor car, when the fault is proved to be yours. If you happen to be an alien, Mr. Dies would find this sufficient ground for your deportation.

In a final outburst of definitive effort, the Representative holds any alien guilty of believing in a "system based upon either common ownership of property and abolition of private property or social control of private property" *ipso facto* guilty of anarchism, Facism and Communism, and obviously ripe for Ellis Island and a swift trip back to wherever he came from. This last section of the bill is the most astonishing of all. Even with the most careful reading, one cannot escape the conclusion that Mr. Dies regards anarchism, Fascism and Communism as the same thing, and thinks it possible for an alien to be all three at once.



Though the alien ranks high in the list of

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national menaces, our unfortunate country is also afflicted with traitors and saboteurs of its own bearing. Chiefly their evil designs seem to center on the army and navy, judging from the bills which have been prepared to safeguard those forces against radical, pacifist or otherwise treasonable attack. One such bill put forward in Congress by Representative McCormack would make it a felony to urge soldiers or sailors to "disobey the laws or regulations governing military or naval forces," which would make, for example, a discussion of pacifism with a soldier or sailor illegal—or even a reading of the first of the Ten Commandments.

The real point of Mr. McCormack's bill comes later, where any person who "publishes or distributes any book, pamphlet, paper, print, article, letter or other writing which advises, counsels, urges or solicits" such disobedience to the laws and rules of war is made liable to a punishment of two years imprisonment. Nothing is said about distributing such matter to soldiers or sailors. It is enough to have published it. Obviously this provision would make the possession or sale of much of literature's finest work a crime. Since the last World War, a whole body of anti-war writing has grown up. Much of it urges resistance to war measures. Other works describe war in terms of such horror that resistance or disobedience to militarism's dictates is implied, if not urged. In this country, for example, something like half a million copies of *All Quiet on the Western Front* were sold. Are the owners and librarians possessing them to be held guilty of suborning the military forces of the United States? The possibility is not fantastic. During the World War, it was held that any pacifist writing which *might* reach soldiers or sailors was illegal, at no matter what point it was distributed.

Search On Suspicion

THE McCormack bill, which seems likely to pass, has one feature which goes directly contrary to the history and tradition of American democracy. This is the legalization of house search under the suspicion of the presence of seditious writings. To quote again; "Any book, pamphlet, paper, print, article, letter, or other writing of the character described in Section 1 of this Act may be taken from any house or other place in which it may be found." Not only house search, but personal search as well is provided in the phrase, "or from any person in whose possession it may be." Under this act no one's home would be safe from violation. Suspicion that it contained seditious matter would be enough for a raid. An enormous force of secret police would be required to carry out this bill. It is, to say the least, doubtful that the American people want the services of a Gestapo or a Blackshirt Militia added to their present contacts with the law. And another question arises; are Mr. McCormack and the Representatives backing his bill so fearful of the government's ability to justify a future war that such stringency is required, and in advance of the event? The war of 1914-1918 for democracy and freedom did not require so much help from the law. Surely a future war for the same high ends could carry on well enough without house and personal search.

The imminence of revolution, either in peace time or during war, receives thorough attention in several bills now before Congress. The best supported of these measures is one put forward by Representative Kramer. Under its provisions, ten years imprisonment (or \$10,000 fine, or both) await any person who "by word of mouth or in writing advocates, advises or teaches the duty, necessity, desirability or propriety of overthrowing or overturning the Government of the United States, or . . . of any state or subdivision thereof . . . by force or violence." Under this measure, visiting English lecturers of radical bent would find no difficulty in remaining in this country—in fact, a whole decade would be put at their disposal. More seriously, the bill would be used against Communists, Socialists and radicals of all shades. They need not be directly advocates of revolution. "Propriety" is a vague word. It could be made to mean almost anything. To an unfriendly court, a belief simply in the inevitability of revolution might be considered

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to uphold the "propriety" of overthrow by force and violence. It has been so held before.

Mr. Kramer's bill also looks out for danger on the literary front. Any person who "circulates, sells distributes or publicly displays any book, paper, document or written or printed matter in any form containing or advocating" revolution is also liable to ten years imprisonment. This clause is almost breath-taking in its inclusiveness. Logically enforced, it would imprison publishers and booksellers dealing not only in contemporary Left Wing literature but in works on American history and the writings of the Founding Fathers as well. Librarians, from those in charge of the Library of Congress down to the humblest small town Carnegie incubent would also be liable, if only for displaying the Declaration of Independence or the works of Thomas Jefferson. A final warning to reds and traitors is embodied at the end of the bill, where any person "attempting to commit" the prohibited acts, whether successfully or not, is punished by five years imprisonment, or \$5,000 fine, or both.

The Oath For Teachers

FOLLOWING the model set by New York State in its recently enacted Ives Law, a Joint Resolution brought before Congress by Representative Kenney urges all states to exact a loyalty oath from teachers in public schools and other educational institutions. This measure, while harmless enough on the surface, contains repressive implications. An oath of loyalty to the Constitution and Government of the United States is very readily interpreted as a prohibition of criticism of existing social or governmental conditions. It can become a constant threat to progressive or critical teaching methods. Teachers whose jobs depend on satisfying an elected Board of Education that they are "sound," or sufficiently patriotic to be trusted with children will hesitate to give them anything but the most perfunctory instruction in such subjects as civics, sociology and history. The children will be compelled to accept every word that comes from the standard, approved texts of patriotic flavor as gospel truth. They will not be encouraged to ask questions, since the answers might get the teacher into trouble with a Board sitting in judgment on each word.

So far we have considered only the Federal salient of the attack on civil liberties. The offensive in the state legislatures is at once more diversified and more extreme. The very number of repressive bills now in progress towards enactment in forty of the forty-eight states defies close analysis. It is sufficient to take one example for consideration—the state of California. At the present writing, there are no less than twenty-four measures proposed or pending at Sacramento which, if enacted into law, will effectually Hitlerize one of the largest and wealthiest states in the union.

The Threat to California

ASSEMBLY BILL No. 108, for example, would set up a state-wide espionage system, providing weekly reports to the Bureau of Criminal Identification on all radical, labor and even mildly liberal organizations which express dissatisfaction with the present order of society—non-revolutionary groups would be included with Communists, anarchists or Left Wing Socialists. Assembly Bill No. 109 declares all radical meeting places to be public nuisances, subject to abatement by the police. Assembly Bill No. 107 would make the possession of any books, pamphlets or other writings which advocate changes in government a felony, bringing prison sentences and the destruction of such matter wherever found. Bill No. 41 declares that the advocacy of pacifism is also a felony, with heavy fines and prison sentences for punishment. Bill No. 3 orders that no teacher, whether publicly or privately employed, may teach Marxism, or "shield" any other person so doing—a measure which would add spying to the teachers' present duties toward the young. An amendment to the state constitution would deprive the jury in criminal libel trials of the right to determine the law and the fact of the alleged libel. This measure, if passed, would nullify a century or more of

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struggle for a more liberal and humane interpretation of libel, thus denying newspapers, magazines and other publications the right to criticize effectively the government in power.

California has been selected because the number of repressive measures proposed in that state exceeds the number proposed in others. Reactionary elements in the remaining states are not much less undemocratic in intention. Connecticut, now on its tercentenary being hailed as the "mother of Constitutionalism," has a bill proposed which would outlaw the creation or publication of any picture which tends to advocate changes in governmental forms. A bill already passed in three states and pending in seventeen would bar all Left Wing political parties from the ballot. Others provide for sweeping increase in repressive measures against radical labor movements or individuals.

The dangers of this new campaign against civil liberties are apparent. Some of the bills proposed are more openly threatening than others. Thus, it is easy to see that the McCormack Bill to protect the army and navy from seditious writing would cramp all expression of opinion in war time, and make heavy punishments mandatory for even the most innocent breach of its provisions. Congressman Taylor's anti-alien bill would make it impossible for this country to receive even a foreign ambassador. Representative Dickstein's contribution to the safety of the nation would isolate us almost as effectively as Tibet is cut off from the world. Other measures, especially those aimed against Communists and other radicals, conceal a real menace to democracy under the commendable front of preventing violent revolution. It is almost axiomatic that the attack on fundamental liberties begins with an attack on radical and labor organizations. Hitler's first decrees were aimed at Communists and Socialists. The moment they were suppressed, the Fuehrer moved on to the annihilation of every democratic form that Germany possessed.

This is not to say that the Congressmen mentioned by name are disguised or potential Fuehrers. No one could be more explicit than they in praise of our democratic institutions. Their conduct however, and the conduct of their assistants and collaborators, does indicate a concerted attempt to stifle the flow of criticism directed against the present state of affairs in America. It is an extremely dangerous policy for the representatives of government to undertake. Not only does it liquidate the liberties and privileges of a century and a half of national independence, but it puts those people responsible for its inception in the position of confessing failure. Two years of the New Deal, with an overwhelmingly Democratic Congress and Senate, have not produced a tithe of the prosperity and contentment that were promised to the voters. Congress, in retreating to repression, shows its inability to face the discontent that is the natural outcome of this failure. Discontent expresses itself in the rise of radical or progressive organizations, in an increase in labor struggles, and in greatly stimulated discussion of governmental and social change. These things are symptoms of an underlying complaint. The present campaign against thought and opinion simply attacks the complaint at its surface appearance, as though a doctor were to prohibit a fever-ridden patient from showing a temperature.

But in spite of faulty logic and legal absurdities, the offensive against freedom of expression and association is under way. Most of Europe and all of Asia is already in the grasp of a paralysis of censorship and repression. The first wave of reaction has reached the United States. Europe and Asia, as the outcome of the new tyranny, are shaking on the edge of revolution and war. Are we preparing ourselves for a similar destiny?

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