

"We believe the bold dissenting opinions of Justices Douglas and Black will be reverently remembered long after the tortured phrases of Chief Justice Vinson, and the uneasy, agonized concurrence of Justices Frankfurter and Jackson have been repudiated and forgotten..

"To justify the decision Chief Justice Vinson was compelled to write his own perversion of the 'clear and present danger' concept. The Communist conspiracy, he said, has ~~xxxxxxx~~ 'created a "clear and present danger" of an attempt to overthrow the government by force and violence.'

"The weasel words are unworthy of a chief justice. He does not seriously contend that Communist propaganda has created the peril of an imminent uprising in the United States. No decision could be less American in spirit than that of the court majority---now <sup>that</sup> the court has given its blessing to heresy-hunting. Henceforth men's minds may be searched for ~~an~~ 'intent' and for daydreams. Never was it more vital for Americans to speak up against repression."

And here is what the editor of the S t. Louis Post-Dispatch had to say of the decision: "There is no greater right in all the world than the right to hold free opinions and to express them without fear of reprisal by those in authority. Chief Justice Vinson, speaking for himself and Justices Reed, Frankfurter, Burton and Minton, leads the gravest departure from the guarantee of freedom of speech in our history.

"These six justices say that the Communists, by 'organizing to teach and advocate the overthrow of the government of the United States by force and violence' created a 'clear and present danger' of an attempt to overthrow the government by force and violence.

"They cite no overt acts of force. They present no record of violence. They find no danger both clear and present through teaching and advocacy alone. Never before has such a restriction been

placed on the right to hold opinions and to express them in the USA. Six men have amended the U.S. Constitution without submitting their amendment to the states for ratification. That is the nub of this decision."

P Now why have these two great newspapers, each of them representing millions of dollars of invested capital, come out so quickly with such violent attacks upon the Supreme Court's decision? ~~ISXXXXXXXXXXXX~~ Do they scarify the Court ~~out of a worship of~~ <sup>because they are devoted to</sup> abstract justice? Do they condemn the Court because they are fond of the eleven convicted leaders of the Communist Party? No. Neither reason holds. They attack the court because they must! They attack the decision because ~~they understand~~ <sup>the</sup> ~~the decision attacks them!~~ They protest because ~~they must~~ <sup>for</sup> ~~they are to save~~ <sup>willy-nilly</sup> themselves. They make common cause with the eleven Communist leaders ~~willy-nilly~~ because they are all under attack by <sup>the</sup> common enemy. For the real attack is not and never has been against the Communist party; the attack is upon free speech, upon the right to communicate. The attack is upon the Constitution and the hundred and sixty million people that Constitution formerly protected. The attack is upon America.

In concluding his dissenting opinion, Justice Black said: "Public opinion being what it now is, few will protest the conviction of these 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 ~~place~~ place where they belong in a free society."

Now this is a justice of the Supreme Court speaking ---a very great and honorable justice of that court---and I ~~think there is~~ <sup>find</sup> curious significance in his words. Obviously he deplors the "pressures, passions and fears" which have destroyed the liberties of the First Amendment. And when he states that ~~by~~ <sup>by</sup> ~~the~~ ~~pressures~~

"public opinion being what it now is, few will protest" ~~I think~~ he clearly implies that he regrets this lack of protest. And if he regrets this lack of protest, then surely he <sup>considers</sup> ~~wishes~~ protest to be a good thing and wishes there would be much of it. I believe Justice Black has called upon the people to <sup>cry out against</sup> ~~protect~~ a decision of their own Supreme Court---to <sup>strongly</sup> assert their rights as citizens ~~before a~~ ~~speech is stifled.~~ *those rights are destroyed.*

~~And there is another justice of the Supreme Court, Justice Jackson of the majority, who ~~expressed~~ ~~his~~ ~~dissenting~~ ~~opinion~~ has also indicated that the whole people bear some responsibility for the decisions of their ~~Supreme~~ C court. It was some time ago, when Mr. Jackson's loyalty to the Constitution was greater than his fear of truth, that he wrote a dissenting opinion in the Murdock case, in which he declared: "Civil liberties had their origin and must find their ultimate guarantee in the faith of the people. If that faith should be lost, five or nine men in Washington could not long supply its want."~~

*For he well knows that*  
~~I think we have it from the lips of living justices that~~  
 the Supreme C court is not sacrosanct; that it derives its power from the whole people, ~~and~~ that the people have not only the right but the obligation in times of national crisis to correct ~~the~~ *the* Court, <sup>or</sup> ~~and~~ if necessary, to impeach it.

It would be folly---~~terrible~~ <sup>terrible</sup> folly---to underestimate the grave ~~exist~~ ~~ing~~ constitutional crisis into which this decision has thrown our country. We stand tonight on the threshold of Fascism. The Department of Justice openly plans ~~the~~ ~~mass~~ ~~arrests~~, not by the hundreds or the thousands ~~but~~ but by the tens of thousands. The Congress, the President and the Court ~~stand~~ ~~paralyzed~~ have lost confidence not only in themselves, but in the people whose servants they are. They see no solution to the problems which they themselves have



If we work together, ~~and~~ if we join our honest efforts with all others who have so suddenly been placed in jeopardy, we shall win. Th  
~~stream of~~ <sup>of American</sup> liberty ~~in America~~ <sup>shall not be dammed up</sup> ~~to be dammed in mid journey~~  
 by the judicial opinion<sup>s</sup> of six frightened men. ~~Next great task~~  
~~It's channel is too deep, its current is too swift.~~  
 It runs ~~in a mighty flood~~ <sup>has run</sup> from the Mayflower Compact to the Declaration of Independence; from the Bill of Rights to Lincoln's First Inaugural; from the Emancipation Proclamation to the war-time charter of the Four Freedoms. ~~No, this liberty~~ <sup>is</sup> ~~which has been cherished~~ <sup>led</sup> by all the cultures ~~of~~ all the peoples of the world, ~~is too deeply~~ <sup>is</sup> ~~rooted in America.~~ <sup>deeply rooted in America.</sup> It cannot ~~be~~ <sup>be</sup> ~~diverted now.~~ <sup>diverted now.</sup>  
~~and it will not die.~~ We will not permit it to ~~be diverted.~~

The struggle to ~~preserve~~ <sup>maintain</sup> it will not be ~~an~~ easy, ~~one~~. It will be attended both by tragedies and victories. But the final tragedy will be ~~the triumph of Fascism~~ for Fascism, and the final victory will be ~~the triumph of the people~~ <sup>of the</sup> the people---the united people---the 95% of the American people who man our industries, <sup>Care for our homes,</sup> produce our food and die in our wars.

~~Let~~ us, then, as we engage in this ~~new~~ <sup>new</sup> battle, not forget to lift our eyes occasionally ~~and look into~~ <sup>toward</sup> the inevitable future---  
~~the very near future~~ the very near future, if we are resolute--- in which the American people shall have peace; a future in which they shall work as they wish, organize<sup>d</sup> as they wish, speak as they wish, write as they wish and think as they wish without fear of the vigilante, the lynch mob, the secret police or the political prison; to a future in which this government of the people, by the people and for the people shall have been saved from destruction through the struggles of the people.

That future will come. It will come in our time---in this America---under our Constitution. And when we are in the midst of it