

I. F. Stone's Weekly

VOL. VI, NO. 4

JANUARY 27, 1958



WASHINGTON, D. C.

15 CENTS

Has the House Un-American Committee Been Abolished?

A week after the Watkins decision last June, the U. S. Supreme Court vacated the conviction of Lloyd Barenblatt for contempt of the House Un-American Activities Committee. The conviction was remanded to the Court of Appeals for the District of Columbia Circuit for reconsideration in the light of the Watkins ruling. The Court of Appeals, after an unusually long delay, has now reaffirmed the conviction but on the basis of a narrowly split vote, 5-4. Since this is the first Court of Appeals decision interpreting the meaning of the Watkins case, it has stirred a seismic tremble left of center. Can it be that the House Committee on Un-American Activities is still free to operate after the Watkins decision, and specifically to carry on that witch hunt in the field of education which Barenblatt, a former instructor at Vassar, defied on First Amendment grounds?

This breaks down into several questions. The first is whether the House Committee's enabling resolution, even if still valid, confers upon it any authority to investigate the field of education. The four dissenting judges, reading the Watkins ruling in the light of the companion decision the Supreme Court handed down the same day last June in the Sweezy case, assert that the House Committee has no power to investigate education. Both the Chief Justice, for the Court, and Mr. Justice Frankfurter concurring for himself and Mr. Justice Harlan, stressed (as the latter opinion said) "the dependence of a free society on free universities. This means the exclusion of governmental intervention in the intellectual life of a university." This would certainly seem to shut the door on any governmental witch hunt in the schools even if the enabling resolution of the House Committee did specifically include education, which it doesn't.

The Broader Question

The second and broader question raised by the new Barenblatt decision about the meaning of the Watkins ruling is whether Congress—in the light of what the Supreme Court said last June—can carry on *any* kind of a witch hunt. Two dissenters on the Court of Appeals, Chief Judge Edgerton and Judge Bazelon, contend that the House Committee has lost its sting altogether. The two other dissenters, Judges Fahy and Washington, say that the lack of authority in the field of education is so clear that "it is unnecessary here to go into the question whether *Watkins* holds the Committee to be without authority to compel testimony on any subject."

The majority on the Court of Appeals says otherwise. It holds that despite *Watkins*, the House Committee can go on punishing witnesses for contempt so long as they are "made fully aware of the subject under inquiry" and are "in a position to judge the pertinency of the questions relating to that

Yes, Virginia, There's Still A Red (Red Men, That Is) Menace

The Weekly has decided to establish an annual Bakunin award, commemorating one of the liveliest traditions of the enlightened Nineteenth century, and to confer it this year for distinguished public service on the Indians of Robeson County, North Carolina, who broke up a Klan segregation rally with buckshot and sent the Klan leader complaining to the police that he wanted the same protection—as he phrased it—"given Negroes at Little Rock." We regret only that the Indians, obviously corrupted by white civilization, took nightshirts but no scalps.

subject." But this, in our opinion, misreads the Supreme Court ruling.

The majority on the Supreme Court, the concurring opinion of Frankfurter and Harlan, and the dissent of Mr. Justice Tom Clark, all agree that the Watkins conviction was reversed on two grounds, not one. One ground was that the Committee had failed to make clear to Watkins just what was pertinent to any legislative purpose in inquiring about the membership of people he had known years before in the Communist party. The other reason was that where a legislative inquiry threatens to impinge on First amendment freedoms, it must be scrutinized with the utmost care by the Courts. But in the case of the House Committee, its charter was so "excessively broad," its standard—"un-American"—so vague, that the Courts could not possibly determine whether it was proper under the First Amendment. "It is impossible in such a situation," the Chief Justice said, "to ascertain whether any legislative purpose justifies the disclosures sought." The resolution falls not only because the witness cannot judge pertinency and constitutionality within its nebulous confines but because the Courts cannot either!

A Yes and No Answer

Will it then turn out that the Supreme Court decision in *Watkins* has put the House Committee out of business? The answer is both Yes and No. This is where confusion arises. The Court cannot void the action of Congress in establishing a Committee. That is the business of Congress. All the Court can do is to refuse to allow witnesses who defy that Committee to be punished for contempt. Trial is a judicial function and this is the Court's business. The House Committee can go on operating so long as it confines itself (as it has in recent weeks) to hearing assorted experts and screwballs who appear voluntarily. But it can no longer subpoena and punish an unwilling witness. In that sense it is out of business.

(Continued on Page Two)

The Witch Hunters Can Only Stay In Business by "Abolishing" The Committee

(Continued from Page One)

A Trap for the Unwary

Here lies a trap for those fighting to abolish the Committee. There are shrewd lawyers like its chairman, Congressman Walter, who are beginning privately to take up the abolition talk in order to establish a new committee which can exert compulsory process because it will have a new name and a new charter and it may take some time before the Courts catch up. Before the *Watkins* ruling, there might have seemed some lesser evil logic in "abolishing" the House Committee in favor of a new group, say a new subcommittee of House Judiciary, or a new joint committee. But today that represents the one way the witch hunters can stay in business a little longer and find a respectable mask. Walter is already saying in private that he himself voted against

establishing the original committee two decades ago and is in favor of its abolition. But he wants a new subcommittee in House Judiciary which he can dominate.

The coming Barenblatt decision will further undercut the House Committee's authority and prestige, as the ultimate disposal of the companion Harry Sacher and Abe Flaxer contempts of the Senate Internal Security Committee will irreparably damage that other Senatorial arm of the witch hunt. The fight for abolition of the witch hunt must not be diverted by booby-trap compromise proposals, especially from weak-kneed liberal members of Congress who are afraid of a real fight with Walter. The campaign for abolition must set its goal that of public education in the fact that under the First Amendment Congress has no right to abridge freedoms of speech, press and assembly by setting up pillories for those with non-conformist views.

Full Text Chicago Area Appeal for Abolition of the Un-American Committee

Because it has been given scant attention in the press and is available nowhere else; because it is a model that merits imitation (Why do New York, Philadelphia and Los Angeles lag behind Chicago?), and because of its distinguished signers, we give here the text of the petition sent by 61 Chicago residents to the 16 Chicago area Congressmen asking the abolition of the House Un-American Activities Committee:

"The Supreme Court's decision in the *Watkins* case makes imperative a prompt re-examination of the practices and purposes of the Committee on Un-American Activities of the House of Representatives. It is particularly important that this re-examination be made by members of the House of Representatives who, as the Court pointed out, collectively have the primary responsibility for the control and guidance of House committees.

"The Court now fully recognizes the serious threat to precious individual freedoms which the activities of the House Committee on Un-American Activities may entail. In the words of Chief Justice Warren:

A Pillory for Non-Conformists

"'Abuses of the investigative process may imperceptibly lead to abridgment of protected freedoms. The mere summoning of a witness and compelling him to testify, against his will, about his beliefs, expressions or associations is a measure of governmental interference. And when those forced revelations concern matters that are unorthodox, unpopular, or even hateful to the general public, the reaction in the life of the witness may be disastrous . . . Nor does the witness alone suffer . . . Those who are identified by witnesses and thereby placed in the same glare of publicity are equally subject to public stigma, scorn and obloquy. Beyond that, there is the more subtle and immeasurable effect upon those who tend to adhere to the most orthodox and uncontroversial views and associations in order to avoid a similar fate at some future time. . . .'

"The Court underscores that Congressional investigations must relate directly to a genuine legislative function and explicitly states that it is not the function of Congress to try individuals, to enforce the laws, 'to expose for the sake of exposure'. Such investigations can lead to 'ruthless exposure of private lives in order to gather data that is neither desired by Congress nor useful to it.'

"In finding that the House of Representatives failed to give appropriate guidance to the Committee on Un-American Activities, the Court says 'it would be difficult to imagine a less explicit authorizing resolution . . . Who can define the meaning of "un-American" . . . Combining the language of the resolution with the construction it has been given, it is evident that the preliminary control of the Committee exercised by the House of Representatives is slight or non-existent. No one could reasonably deduce from the charter

the kind of investigation that the Committee was directed to make. . . .'

"The decision of the Court has crystallized the considerable criticism which many segments of the American community have voiced against this Committee's indiscriminate investigations.

"We, therefore, now call upon members of the House of Representatives to recognize that its Committee on Un-American Activities operates under an indefensibly broad charter; that it too often has served no valid legislative purpose; that its activities imperil American values; that the result of its methods lessens the dignity and high office of our elected representatives.

"We urge that the standing committee on Un-American Activities of the House of Representatives be abolished."

The Signers

Dr. John A. Lapp, director, Roosevelt University, National Committee, American Civil Liberties Union; John B. Thompson, Dean, Rockefeller Chapel, Univ. of Chicago; A. C. McGiffert, Jr., President, Chicago Theological Seminary; David Riesman, Univ. of Chicago; and Nobel Prize Winner Harold C. Urey.

Professors Walter Johnson, Harry Kalven, Jr., Jerome Kerwin, Morton Grodzins, Malcolm Sharp, Kermit Eby, Maynard Kreuger, and C. Herman Pritchett, Univ. of Chicago; Professors Curtis Macdougall, Ray A. Billington, Walter B. Rideout, Rockwell C. Smith, John E. Coons, Stephen Love, Ernest J. Wrage, Carl de Schweinitz, Jr., Jacob Scher, Robert H. Strotz, Jules A. Marcus, Myer Dwass, Walter B. Scott, Lawrence Towner, Wm. M. Trumbull, and Robert Eisner, of Northwestern Univ.; Professors Frank Untermyer and George Watson of Roosevelt Univ.; Prof. Chalmer E. Faw of Bethany Seminary.

Wm. C. Davidson, Chairman, Atomic Scientists of Chicago; Miss Jessie F. Binford, Hull House; Rabbi George G. Fox, South Shore Temple; Rev. James Royston, Gospel Temple; Wallace Heistad, head of Olivet Institute; George Miles Gibson, McCormick Theological Seminary; Rabbi Eric Friedland, Beth Am Peoples Synagogue; Rabbi Jacob J. Weinstein, KAM Temple; Rev. David H. Cole, First Universalist Church; Rev. Alva Tompkins, Olivet Presbyterian.

Lawyers Earl Dickerson, Francis Heisler, Eugene Cotton, Richard Watt, Samuel Holland, Hans Lehmann, Wm. Rodriguez, Al M. Curtis, Leonard L. Leon and Elmer R. Segal.

Trade Unionists: Sidney Lens, Building Service Employees; Henry B. Anderson, Joint Board Retail, Wholesale; Willoughby Abner, UAW; Charles Hayes, Packinghouse; Tom Slater, Carpenters.

Lafayette Marsh, Friends Service Committee; Russell Babcock, Citizens Schools Committee; Rabbi S. Burr Yampol, Sovereign Kosher Nursing Home; Mrs. Wanda Babcock.