

THE SOCIAL CREDITER

FOR POLITICAL AND ECONOMIC REALISM

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6d. Fortnightly

Mrs. Edith Mary Douglas

We deeply regret to record the death at Aberfeldy on November 30, after a long and trying illness borne with great fortitude, of Mrs. Edith Mary Douglas, the widow of the late Clifford Hugh Douglas, whom she outlived by just over ten years.

Her expressed wish that she should not be publicly commemorated by a biographical article in *The Social Crediter*, is one which we must respect, however regretfully. We are not thereby precluded from expressing our admiration for an heroic life and deep sympathy with her step-daughter, Miss C. Marjorie Douglas, who shared Mrs. Douglas's last hours with her.

From "The Times"

GAUDIN.—On December 2nd, 1962, at Farnham, Surrey, Reginald Francis Boyd Gaudin, aged 78. Funeral at The Park Crematorium, Aldershot, at 12-30 p.m., on Thursday, December 6th. Please, no flowers.

Mr. Kenneth de Courcy

The *Daily Telegraph* Reporter (November 27) says as follows,

Mr. Kenneth de Courcy, 53, publisher and company director, said yesterday that he will stand as an independent Conservative candidate for Cirencester and Tewkesbury Division at the next election if the Government had entered or still intended to enter the Common Market. He agreed this might cause a split vote.

"The ineptitude of the present Conservative leadership is making a Socialist victory almost certain, anyway. The only way to clear up and restore the integrity of the Tory party is for the present leaders to be forced into resignation".

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The Common Law

Traditional Rights in a Collective Age

By the RT. HON. SIR HENRY SLESSER*

"The common law is nothing else but reason", declared the great judge Coke at a time when it was in almost as great a peril as it is today, though for different reasons. The then fashionable desire to exalt personal sovereignty, which arose in repudiation of the medieval idea that the law was over all, had resulted in the surrender of many libertarian notions in the administration of justice; the inclination to continental principles of Roman law was exemplified in the Star Chamber Court and in the resurrection of notions of royal prerogative. The defeat of the claims of James II, pointing in a similar direction, enabled England to maintain the ancient traditional system of jurisprudence, dating from Saxon times, that spread throughout the whole Anglo-Saxon world, to the United States, and to the British Dominions. For nearly two centuries the common law stood unquestioned as the guardian of English rights; even radicals such as Wilkes based their claims upon it; as did other men so different in political outlook as Cobbett and the Chartists. It was the one subject on which nearly all Englishmen were agreed.

Of late years, however, a change has come over the juristic scene; the desire to effect alterations in the social structure has led to a vast spate of legislation in every field challenging the old static notions of legal right. Courts of law have been said to be incompetent to deal sufficiently, with modern problems. In many departments of State activity tribunals of varying kinds, administered often by persons untrained in judicial determination, have been created by statute and even by regulation or order. The power of the King's Bench to control such quasi-judicial bodies when they err in law by the old machinery of *certiorari* or *prohibition* has in some cases been deliberately removed. Examples are to be found in housing legislation and in many other laws; the immemorial right of a man to appear by counsel or solicitor is often specifically forbidden; local authorities, elected for administrative purposes, with no necessary knowledge of the juridical art, have been entrusted with purely judicial duties, as, for instance, in the case of the determination of what constitutes an "extortionate rent"—decisions which may have legal and personal consequences to an impeached landlord. Over and above all,

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* This authoritative article originally appeared in *The Times*, August 9, 1946 and, with the permission of both the author and publisher was printed in these pages shortly afterwards. It was re-published on April 14, 1962. For new readers and because of its importance, it is printed again.

THE SOCIAL CREDITER

FOR POLITICAL AND ECONOMIC REALISM

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A Happy Christmas

to

All Our Readers

From Week to Week

“—wars occur in the face of the expressed desire of all but a small portion of the world’s population to remain at peace—”: C. H. Douglas, Preface, *The Brief for the Prosecution*.

Suppose that any reader of this journal decided that he would like to make war, and called a meeting of his friends and acquaintances to arrange to do so: how would he possibly do it? To put this very important matter briefly, it is only those in control of highly organised and centralised ‘Powers’ who could plan, let alone make, war (as opposed to tribal fights) in these days. Big Wars and Big Governments are completely interdependent, and Global Cold War is simply evidence of the operation of a Global (but concealed) Government.

The answer is, and can only be, to make the operation of Big Government, anywhere and everywhere, impossible. Even Russian Big Government could be brought down, by intense and comprehensive assistance to the resistance movements of the peoples of the Russian colonies. And as Big Governments fell, the Global Government—the small fraction of the world’s population which *does* desire war—would be exposed and would fall.

Practically every subject of Big Government has complaints, and very good reasons for complaints. The complaints should be intelligently and effectively made—while it is still possible to make them. A sufficient volume of sensible demands directed

through the appropriate channels of the bureaucracy would make the bureaucracy unworkable as an instrument of government.

We must fight, and on as many fronts as we can find. Either individual initiative will wreck a centuries old plot, now at the point of culmination, or individual initiative as an effective force will be eliminated. It must be a fight to the finish.

From *The Social Crediter*, August 20, 1960:

“It appears most probably that the disorders in Africa inaugurate the final phase in the strategy of World Dominion. The reason is that it is unlikely that the same situation would be brought about twice.

“The objective of U.N.’s handling of the situation is not to restore order, but to prevent such restoration, and discreetly to increase disorder.

“The break-down in Africa will be an economic blow to Europe, and the effect of this will be exaggerated and intensified by financial policy to produce a situation in which Communists can seize power with the assistance of the Red Army.

“The coup is intended to be so swift and complete as to ‘prevent’ any effective U.S. intervention”.

From *The Guardian*, November 13, 1962:

“Sir Hugh Foot, British representative on the United Nations’ Trusteeship Council until his resignation last month, was asked on the B.B.C. television programme ‘Panorama’ last night about Africa, and said: ‘I believe that the future outlook in Africa is terrifying’.

“He thought that we had a prospect of ten years of the most terrible bloodshed. There was no realisation in this country that the skirmish, such as that in Southern Rhodesia, was the beginning of terrible conflict in which the whole of Africa would be involved.

“‘There is no realisation (he said) that we are on the edge of commotion, bloodshed and violence, not only in Southern Africa, but in East and West Africa, because once violence starts it spreads and you will find you have no moderate leaders in Africa’.”

In a recently published book, *To Katanga and Back*, of which extracts were published in *The Sunday Telegraph* in November, 1962, Dr. Conor Cruise O’Brien reveals that the United Nations—and particularly Mr. Hammarskjöld—issued a falsified version of the U.N. attacks on Katanga. The attack was made to appear to be in reply to attacks by Katangese, whereas the U.N. attack had been planned ahead for September 13, 1961, and was known by the code-name “Morthor” which, according to O’Brien, is a Hindi word meaning “smash”.

"The practice of our nation for centuries establishes the rule that, except for matters clearly of direct general and imperial interest, centralisation is unconstitutional".—*History of the English Constitution*, Sir Edward Creasy, p. 373, 16th Ed.

"Magna Carta is still in force and binding upon the Crown . . . and in particular by the Confirmation and Re-issue of 1297 (25 Edw. I Stat. I Ruff.) by which it was directed to be observed as the Common Law of the Realm, and *all judgments contrary to it were declared void*. [our emphasis, Editor, T.S.C.] These judgments must be regarded as . . . the fundamental laws of England".—*Halsbury's Laws of England*. (Butterworth, 1907-1917). Vol. 6.

Charm

The Publishers (John Lane The Bodley Head Ltd.) will, we trust, not object to the rather lengthy extract which follows, from the admirable essay "About Leisure" by Vernon Lee (pseudonym of novelist and essayist Violet Paget: 1856-1935) contained in a collection called ARIADNE IN MANTUA (The Week End Library—1930): to paraphrase or reduce the extract would detract from its excellence:

And here let me open a parenthesis of lamentation over the ruthless manner in which our century and nation destroys this precious thing, even in its root and seed. *Charm* is, where it exists, an intrinsic and ultimate quality; it makes our actions, persons, life, significant and desirable, apart from anything they may lead to, or any use to which they can be put. Now we are allowing ourselves to get into a state where nothing is valued, otherwise than as a means; where to-day is interesting only because it leads up to tomorrow; and the flower is valued only on account of the fruit, and the fruit, in its turn, on account of the seed.

It began, perhaps, with the loss of that sacramental view of life and life's details which belonged to Judaism and the classic religions, and of which even Catholicism has retained a share; making eating, drinking, sleeping, cleaning house and person, let alone marriage, birth and death, into something grave and meaningful, not merely animal and accidental; and mapping out the years into days, each with its symbolic or commemorative meaning and emotion. All this went long ago, and inevitably. But we are losing nowadays something analogous and more important: the cultivation and sanctification not merely of acts and occasions but of the individual character.

Life has been allowed to arrange itself, if such can be called arrangement, into an unstable, jostling heap of interests, ours and other folks, serious and vacuous, trusted to settle themselves according to the line of least resistance (that is, of most breakage!) and the survival of the toughest, without our sympathy directing the choice. As the days of the year have become confused, hurried, and largely filled with worthless toil and unworthy trouble, so in measure, alas our souls! We rarely envy people for being delightful; we are always ashamed of mentioning that any of our friends are virtuous; we state what they have done, or do, or are attempting; we state their chances of success. Yet success may depend, and often does, on greater

hurrying and jostling, not on finer material and workmanship, in our hurrying times. The quick method, the rapid worker, the cheap object quickly replaced by a cheaper—these we honour; we want the last new thing, and have not time to get to love our properties, bodily and spiritually. 'Tis bad economy, we think, to weave such damask, linen, and brocade as our fathers have left us; and perhaps this reason accounts for our love of bric-a-brac; we wish to buy associations ready made, like that wealthy man of taste who sought to buy a half-dozen old statues, properly battered and lichened, to put in his brand new garden. With this is connected—I mean this indifference to what folk *are* as distinguished from what they do—the self-assertion and aggressiveness of many worthy persons, men more than women, and gifted, alas, more than giftless; the special powers proportionately accompanied by special odiousness. Such persons cultivate themselves, indeed, but as fruit and vegetables for the market, and, with good luck and trouble, possibly *primeurs*: concentrate every means, chemical manure and sunshine, and quick! each still hard pear or greenish cauliflower into the packing case, the shavings and sawdust, for export. It is with such well-endowed persons that originates the terrible mania (caught by their neighbours) of tangible work, something which can be put alongside of others' tangible work, if possible with some visible social number attached to it. So long as this be placed on the stall where it courts inspection, what matter how empty and exhausted the soul which has grown it? For nobody looks at souls except those who use them for this market-gardening.

Dropping metaphor; it is woeful to see so many fine qualities sacrificed to *getting on*, or independent of actual necessity; getting on, no matter why, on the road to *no matter what*. And on that road, what bitterness and fury if another passes in front! Take up books of science, of history and criticism, let alone newspapers; half the space is taken up in explaining (or forestalling explanations), that the sage, hero, poet, artist said, did, or made the particular thing before some other sage, hero, poet, artist; and that what the other did, or said, or made, was either a bungle, or a plagiarism, or—worst of all—was something *obvious*. Hence, like the bare-back riders at the Siena races, illustrious persons, and would-be illustrious, may be watched using their energies, not merely in pressing forward, but in hitting competitors out of the way with inflated bladders—bladders filled with the wind of conceit, not merely the beat of the lungs. People who might have been modest and gentle, grow, merely from self-defence, arrogant and aggressive; they become waspish, contradictory, unfair, who were born to be wise and just, and well-mannered. And to return to the question of *Charm*, they lose, soil, maim in this scuffle, much of this most valuable possession; their intimate essential quality, their natural manner of being towards nature and neighbours and ideas; their individual shape, perfume, savour, and in the sense of herbals, their individual *virtue*. And when, sometimes, one comes across some of it remaining, it is with the saddened feeling of finding a delicate plant trampled by cattle or half eaten up by goats.

Alas, alas, for charm! People are busy painting pictures, writing poems, and making music all the world over, and busy making money for the buying and hiring thereof. But as to that charm and character which is worth all the music and poetry and pictures put together, how the good common-sense generations do waste it.

THE COMMON LAW

(continued from page 1)

the tradition in which the common law has been nurtured, that of respect for previous decisions in order to find the principles to be applied to a particular case and to ensure certainty, has no established place in these new tribunals, which may or may not keep records of the previous determinations but certainly are under no obligation to follow them.

An outstanding illustration, soon to be tested in practice, arises under the new industrial injuries measure, which is to supplant the statutes dealing with workmen's compensation. Under the old law the Court of Appeal and the House of Lords have for years been concerned to lay down a *corpus* of principle whereby judges of fact may determine whether an accident "arises out of and in the course of the employment". A similar limitation of right, in similar words, applies in the new insurance statute. But will the new statutory tribunal be guided by the accumulated wisdom of the judges on this matter? We do not know, but there is no compulsion for it to do so.

Another disquieting feature is to be found in the curtailment of the independence of the judicial office. The reduction of the salaries of the judges in 1931, not by Act of Parliament but by an Order made under statute, caused much perturbation among jurists. It was pointed out that such a procedure invaded the principles of the status of judges laid down by Acts of William III and George I, which latter status purported to secure that the salaries of the judges were absolutely to be safeguarded. The age-long principle that the senior judge should preside in the Court was sought to be overthrown by a recent Act empowering the Lord Chancellor to appoint a Vice-President of the Court of Appeal, notwithstanding that he is not the senior Lord Justice, and still later the Lord Chancellor was given power to "direct" into which division of the Supreme Court a judge should be ordered to perform his duties.

Thus, little by little, both the functions and the status of the judiciary are being impaired. One is tempted to ask where and when will the process end. That the Crown is immune from suit is no new thing, but, as the ambit of the activity of the Crown extends, a further curtailment of the processes of law, unless something be speedily done to make the Crown responsible for the wrongs committed by its agents, is almost inevitable.

Next, to deal with the rights of the subject rather than the powers of the Court, apart from certain specific doctrines of public opinion (such as restraint of trade or immoral intention), the subject at common law was ever deemed free to make such contracts as he would—for he was a free man. But under the plea, good or unsound, of economic justice and necessity this right has been drastically curtailed of recent years. Combinations which were formerly only made illegal by statute—as under the Statute of Labourers or the Combination Acts—are once more to be controlled; we hear much of the control of monopolies and the complementary restrictions of the activities of trade unions. The old common law right of a citizen to end his contract by due notice, either individually or in concert, is no longer acceptable to the modern legislator, be he of one party or another.

The final question arises: Is it possible to maintain the old traditional common law in this collective age? The impact of continental notions from the Roman laws or from Communist sources in these days of international tribunals and the abatement of the claims of national sovereignty are not to be discounted. Only in the greater part of the British Empire and in the United States has the common law found favour; an old practitioner in the common law may be excused if he points out the coincidence that only in those countries has that peculiar blend of liberty and order of toleration and duty, found a permanent footing.

"The Common Law of England is in its origin a Christian system of law", writes Mr. Richard O'Sullivan, K.C., an acknowledged authority on the subject. Speaking of one of the fathers of the common law, Henry Bracton, he continues:

Taking a text, now from the Old Testament, and now from the New Testament, anon from the writings of the Roman Civil lawyers or from the Canonists, who were the ecclesiastical lawyers of the Church; again, from a master of Jurisprudence of the Law School of Bologna, or from the precedents set by his predecessors of the English Bench, Bracton passed them all through the fires of justice and hammered out a set of legal principles which gave to the world, in the language of a famous Judge of the United States Supreme Court, "a far more developed, more rational, and mightier body of law than the Roman".

These rules and principles of the English Law were constantly being refined and polished in the law schools of the Inns of Court, and by the Clerks of Chancery, who gave us English equity. They were carried by the King's Judges, going the circuits, to the great towns and cities of England, and to all the shires. In the course of time the Common Law was carried beyond the realm, to Ireland, to what are now the great Dominions, and to most of the Colonies; and to the plantations and States that now form the American Union. And so the tradition of the Common Law is to-day a bond of Commonwealth and Empire, and a link which unites the English-speaking peoples all over the world.

The future of the Common law is plainly much more than a matter for lawyers. The Law of England is a unique contribution to Christian civilisation; its decay may prove to be one of the greatest tragedies of our age.

"The Department of Circular Relations"

"It was in about the year 1800, we believe, that a public spirited American legislator decided to confer a tremendous boon on mankind. He introduced into Congress a bill to change the value of π from 3.1416 to an even 3. And this effort to legislate the ratio between the circumference of a circle and its radius into a more convenient number still stands as a splendid example of the willingness and ability of Congressmen to look out for the best interests of their constituents.

"Unfortunately, this genius was more than a hundred years ahead of his times. He reaped only ridicule for his progressive Liberalism. Whereas by the 1930's John Maynard Keynes would have welcomed him as a kindred spirit; Harvard University would have given him a LL.D. degree; and he would have been promoted from Congress, by any one of the past four Administrations, to Cabinet rank as head of a new Department of Circular Relations".

—*American Opinion*, October, 1962.