treats and its deals. As the architect of the old *cartel des gauches*, he hoped at the beginning that the Radicals would have the courage and the Communists the tolerance to bring to the task of rebuilding France the unity and fervor of the Resistance.

When he saw that internal divisions and the exigencies of foreign policy made this impossible, he limited his activities to presiding over the National Assembly and directing the annual conventions of his party. He did not want the Radicals to fall completely under the reactionary influence of Edouard Daladier, his long-time rival for the leadership. Then at the beginning of this year his apathy suddenly disappeared in the face of a new challenge. He was aroused by NATO's plan to base European defense on the projected German divisions, and he decided to oppose publicly a policy which he thought disastrous for France and likely to bring on a third world war.

He first expressed himself on the subject in an address at the Sorbonne—scarcely noticed in the American press—congratulating Léon Jouhaux on having been awarded the Nobel peace prize. Other notables spoke that night, but Herriot was the wittiest and most effective, and also seemed the youngest; he was clearly in the full vigor of his intellectual powers. A few weeks ago, at the Radical Socialist Party congress, he gave political form to his remarks at the Sorbonne, and demanded that France refuse to support a German policy which might lead to war with Russia. In this the president of the Assembly is in full accord with the president of the republic, Vincent Auriol, who in recent months has constantly urged a Big Four conference on Germany.

At eighty, Edouard Herriot has inaugurated a new phase of his memorable career: he has become the spokesman of the universal demand for peace.

Negro Rights and the Supreme Court

BY EARL B. DICKERSON

THE astute Mr. Dooley's often quoted remark that "the Supreme Court follows the iliction returns" is peculiarly applicable to the court's civil-rights decisions, as Professor John Frank has recently pointed out. In one of his annual summaries of the court's work Professor Frank said:

> In the past, it has been political action rather than Supreme Court majority decisions which has brought the country out of its repressions. The victory of Jefferson and not the accession of John Marshall [as Chief Justice] ended the Alien and Sedition laws. . . . The Supreme Court has seldom been in the civil-rights vanguard when the tensions were strong; indeed, it was Supreme Court decisions that sent the Negro part-way back to bondage after the Civil War.

The present witch-hunting period provides additional proof that the court has often not merely refused to check the movement toward repression but contributed to its force.

The tide of New Deal liberalism reached its crest in Congress and the White House in the late 1930's. In the Supreme Court the crest came in the first year or two of the next decade. The court in which Justices Black, Douglas, Murphy, and Rutledge joined forces was the one that most widely extended the constitutional safeguards of the right to picket, to distribute leaflets, to hold public meetings, and to express unpopular views. Certainly between the years 1937 and 1943 the court gave the Bill of Rights new breadth and depth and came close to restoring to the freedoms of the First Amendment the spirit and meaning the Founding Fathers intended it to have.

The decline of the New Deal ended the era of liberalism. The cold war and the rapid development of a war psychology sent the Bill of Rights into a tailspin. The first manifestation of the change in the political climate appeared, as usual, in Congress. In 1940 the Smith act was passed, in 1943 the Smith-Connally anti-labor act, in 1947 the Taft-Hartley act, in 1950 the McCarran "concentration-camp" act. Now Congress has just passed another McCarran law against aliens and is debating new Smith legislation directed against labor.

In the meantime the Supreme Court has also steadily whittled away at the Bill of Rights. Decision after decision has imposed limitations on the very civil rights which before 1945 the court had protected and extended. Loyalty oaths have been given the stamp of judicial approval. Men have been imprisoned for the crime of conspiring to "teach" and "advocate." Lawfully resident aliens have been held deportable for their espousal of unorthodox political views even if they had re-

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nounced those views before passage of the laws under which their deportation was ordered. Dissemination of opinions by the use of sound trucks—an important medium of communication to minority groups now that most mass-communication media are in the hands of the wealthy—is frowned upon where once it was protected. When the police have considered a speech potentially provocative of violence, they have been upheld by the court in their attempt to preserve order by silencing the speaker instead of by controlling the violence. The court's decision sustaining the Taft-Hartley requirement of a non-Communist affidavit from union officials represented, as Professor Frank has said, "the first case in American history in which belief as such, completely unrelated to individual action of any kind, has been made the basis of limitations on the rights of a citizen."

ALL these developments in Supreme Court doctrine restrict the right of protest against the status quo, effectively deterring the unpopular, the oppressed, the minority from speaking up in favor of change. For Negro citizens, who as the major victims of discrimination have the most vital interest in preserving the broadest freedom to protest, they carry a special threat. In an atmosphere of restraint of free speech only individuals of great courage will speak out vigorously against Jim Crow laws, poll-tax restrictions, and failure to prosecute those who take part in mob violence against Negroes. In short, the attitude of the court casts a shadow of fear even over areas which its decisions do not literally cover.

Paradoxically, however, the same court which has thus emasculated the Bill of Rights has also denied injunctive enforcement of the restrictive covenant. And it has refused to allow the states totally to exclude Negroes from the benefits of higher education made available to other races. Unfortunately, the undeniable progress reflected by these decisions creates the danger that Negroes may look to the court to save them from the evils of an era of repression. That they would find its decisions a slender reed to lean on is apparent from the record.

After the "emancipation" which Negroes thought they had gained from the Civil War, the court soon found formulas for keeping them "in their place." In 1875 the Cruikshank decision construed the civil-rights legislation of the Reconstruction era so restrictively that it was rendered almost meaningless. In 1883 the decision that the Fourteenth Amendment applied only to action by the state and not to action by individuals made the Negro fair prey to a host of discriminations which plague him to this day. And soon the court evolved a mechanism for permitting state governments to discriminate. In 1896, in *Plessy* v. *Ferguson,* it enunciated the "separate but equal doctrine," allowing segregation so long as the separated races were given "equal" treatment. The struggle against discrimination which Negroes have carried on in the courts for the past fifty-six years has been largely a struggle to erase Plessy from the statute books.

It is in the light of that struggle that such recent "advances" as the restrictive-covenant decision and those opening up graduate schools and eliminating "curtained-off" tables in trains must be evaluated. The Sweatt decision in 1950 required admission of Negroes to a white law school in a community where the hastily created Negro school was in fact not equal; the McLaurin decision in the same year compelled equal treatment of the Negro student once he was admitted to the white graduate school. In both cases the court, although strenuously urged to do so, refused to meet the Plessy doctrine head-on and once for all strike it from the law books. Having been allowed to survive for fifty-six years this doctrine has spawned a multitude of laws in the Southern states compelling segregation in schools, libraries, railroad facilities, hospitals, theaters, playgrounds, beaches, restaurants, penal institutions, welfare institutions, voting places, and even telephone booths and lavatories.

AT THE basis of the court's failure to protect Negro rights is its refusal or inability to recognize that due process of law and equal justice are impossible in a climate of opinion which accepts and even exalts segregation. Illustrations of its apparent blindness to this fact are found in the Martinsville Seven and McGee decisions. In both these cases the court was presented with substantive historical evidence that while many Negroes had been put to death following convictions for rape in the prosecuting states, no white person so convicted had ever been executed. It refused, however, to review the sentences, and the Negro defendants were executed.

Clearly the court must be made to see what is becoming increasingly evident to the American people—that the promise of equal justice for all will remain a fiction as long as segregation is tolerated. And as long as Negroes can obtain only unequal justice, the Fourteenth Amendment is deprived of a large part of its intended substance as a guarantor of the rights of national citizenship.

Another challenge to the court to strike Plessy down is presented by two cases awaiting argument in the fall —one from Clarendon County, South Carolina, and one from Kansas. The issue in both is elementary-school segregation, and it will be interesting to see whether a

majority of the justices will be able to devise a new technique for perpetuating the segregation pattern.

Any action the court has ever taken to protect Negro rights has been slow and grudging. It barred the restrictive covenant only after it had rejected a long series of attempts to have it review the question. Last year it again showed its reluctance to act in timely fashion on issues of long-range importance for the Negro by its refusal to review the Stuyvesant Town decision of the New York Court of Appeals. The lower court had permitted racial discrimination by the private owner of a housing development which had been subsidized with public funds and aided by the state's power of eminent domain. The significance of the refusal to review looms large in the light of the fact that housing developments of this kind are being constructed throughout the country and will constitute an important part of the national housing supply in the next decade. If in some similar situation in the future the court rules against the owner, the decision will represent an empty victory for a Negro population which has been effectively excluded from completed housing.

Many Negro leaders—following Mr. Dooley—believe that the position of the Supreme Court will be determined by the growing political significance of the Negro, both nationally and internationally. On the domestic scene the Negro vote may be decisive in Northern urban centers and is potentially a factor to be considered in some areas of the South. On the international scene American injustice to the Negro has propaganda value for the Kremlin and must therefore be condemned. The Negro is compelled to recognize that he can place less reliance on the good-will of a few appointed justices than on his strength in the political arena. For the development of that strength he must have freedom to organize and freedom to voice his discontents.

The Negro cannot afford, therefore, to isolate his fight for his people's rights from the broader struggle to preserve the protections of the Bill of Rights. He cannot afford to limit his demands to F. E. P. C. legislation, anti-poll-tax measures, anti-lynch laws, and the abolition of segregation, but must join, for his own interest, in the fight for repeal of the Smith act, the McCarran act, and the Taft-Hartley act. Only when there has been created an atmosphere of political liberalism in which men cannot be imprisoned for their political views will the overturn of the *Plessy* v. *Ferguson* decision become inevitable.

Japan—Danger Ahead

BY HIROO MUKAI

THOUGH the peace treaty has become effective and Japan has regained its sovereignty, many Japanese hope that the United States will remain alert to the threat not only of communism but of ultra-nationalism in Japan. Japanese who truly believe in democracy are alarmed at the speed with which the country is returning to its pre-war form and at the influence the ultra-nationalists have already regained. And they are perplexed by the seeming indifference of most Americans, for they know that the revival of ultra-nationalism will be disastrous to Japanese-American relations.

Nearly two thousand rightist organizations are registered today with the Attorney General's Office in Tokyo. This figure proves the right's remarkable comeback, for most of its organizations were dissolved after the nation's defeat in accordance with the government's decision to "exterminate ultra-nationalistic forces," and others dwindled away under the unfavorable conditions then prevailing.

Rightist groups are still careful not to display ultra-nationalism in their platforms; some even use the word "democracy" to camouflage their true objectives. Most of them explicitly support the Emperor system without attempting to revive the mythology of the Emperor's divinity. Many advocate the establishment of a third force in Asia and the development of the Greater Asian doctrine, call for full independence and self-defense, and stress the need for absolute neutrality. Their propaganda is directed especially to the younger generation, emphasizing the important role youth can play in recovering the nation's glory. The current nationalist movement as a whole is said to be more anti-American than anti-Communist; indeed, some organizations have economic platforms which are definitely Marxist. And like the Communists, the nationalists are eager to oust the American troops from Japan. This common aim worries pro-American Japanese, who foresee the possibility of a coalition between the two forces.

The ultra-nationalist elements have benefited by the so-called "depurge," which toward the end of the Occupation restored full freedom of action to more than 90 per cent of the 206,000 former army and navy officers, government officials, politicians, industrialists, jour-

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