

THE INTERNMENT OF HORACE RATLIFF AND MAX THOMAS

By R. M. Crawford*

* Professor R. M. Crawford is a Vice-President and Member of the Emergency Committee of The Australian Council for Civil Liberties. This statement of his opinion of the internment in June, 1941, of Horace Ratliff, 46, laborer, 1914-18 soldier, and Max Thomas, 29, member of the Printing Industry Employees' Union of Australia, was given at a public meeting conducted by the Council at Unity Hall, Melbourne, on July 27, 1941. Mr. Maurice Blackburn, M.H.R., President of the Council, was chairman of the meeting, and besides Professor Crawford, the speakers were Mr. Brian Fitzpatrick, General Secretary of the Council, and Mr. J. Bergin, Acting Secretary of the Australian Tramway & Motor Omnibus Employees' Association, Victorian Branch, an Affiliated Society of the Council. The following resolution, moved by Mr. John V. Barry, and seconded by Mr. G. L. Dethridge, barristers-at-law, Vice-Presidents and members of the Legal Panel, was adopted unanimously by the 450 persons present at the meeting:—

THAT in the opinion of this meeting justice requires that Max Thomas and Horace Ratliff be released from internment immediately;

AND THAT to prevent the destruction of the fundamental democratic right that Australian citizens should not be deprived of liberty except by a sentence of a competent Court acting in accordance with known forms of law, Section 5 of the National Security Act 1939-1940 should be so amended as to deprive the Executive of the power to make Regulations under which Australian citizens may be interned on the arbitrary order of a Minister.

I am setting out here my views on the internment of Thomas and Ratliff. I would support entirely Mr. Blackburn's letter published in the Melbourne "Herald" on July 24th; and, believing that a general question of civil liberties is involved, I join in the protest as a Vice-President of the Council for Civil Liberties which is pledged to their defence.

Our concern, I take it, is **not** with the past activities of the two men, for which they have been tried and punished, but with the present situation, in which two men are detained by executive authority despite their undertaking not to hinder the war effort. So far as I understand their **past** line, I am not myself in agreement with it, although I am ready to respect their courage and their honesty in standing to it. My own view has been from the beginning of the war that there was no alternative to doing everything possible to defeat Nazism—and that meant, and means, the military defeat of Germany and Italy. But it does **not** mean unnecessary destruction of our civil liberties; and I believe that the present internment of Thomas and Ratliff is an unnecessary threat to those liberties.

The two men committed an offence against the National Security Regulations; they were tried and imprisoned for their action. On being freed, they were interned without trial. When they undertook a hunger strike, their case was examined by an advisory committee. This committee has only an advisory power, and its advice in any case of internment under Regulation 26 may or may not be accepted by the Minister. Since the committee can only advise, it cannot give citizens who may be wrongfully detained the protection which trial in a regular court of law might give. As far as civil liberties are concerned, that is the issue in this case—that an honest man may be interned because "**in the opinion of the Minister,**" he may otherwise commit an offence against the National Security Regulations; and against wrongful imprisonment under that power he has no adequate protection.

Such a power invites abuse.

In the case of Thomas and Ratliff, the two men gave, during the enquiry of the advisory committee, the following undertaking:—

"Our attitude to the war is as follows: 'We believe that every attempt must be made to ensure that Germany and Italy are militarily defeated in the present world war. We believe that in Australia, not only must Australia's war effort, as a nation at war with Italy and Germany, be continued and intensified, but military and economic assistance must be given to any Allies, and, in particular, to the U.S.S.R.

"Our future activities will be directed to carrying out this belief, and we undertake that we will not do anything, or engage in any activities, to prejudice or hinder the successful conclusion of the present war.'"

That was their undertaking. I believe that at least they should have been given the chance to prove that undertaking to be in good faith. The fact that they have not been given that opportunity makes their continued detention resemble all too closely a repression of political opposition.

In any case, the suspension of habeas corpus that is implied in Regulation 26 is to be distrusted by all believers in civil liberties in any circumstances. The only argument that would make it appear inevitable in time of war is the necessity of detaining people suspected of being enemy agents, and then only with more adequate security against abuse than exists at present. For such internment rests finally on the will of the Minister—and the right of appeal from executive action to the protection of the regular courts does not really exist in this case.

It is for such reasons that, as a Vice-President of the Council for Civil Liberties, I have agreed to support the protest, believing the matter at issue to be, **not** the rightness or wrongness of the actions of Thomas and Ratliff, but the general defence of civil liberties—in this case, that a man's liberty or imprisonment should not depend simply on the will of a Minister.

I should in conclusion make two points. There has been in general controversy some reference to 18th century precedents for the suspension of habeas corpus. Of course, there are many such precedents; but the bitter opposition they aroused and the general condemnation of them in later times, is just as important for us. These civil liberties, summed up in habeas corpus, have been earned with struggle and defended with difficulty; and there is no reason in past precedents to surrender them easily now.

And, secondly, protest against this continued internment of the two men is not, as it has been made to appear, an unpatriotic action. The hardest test of loyalty to the good of one's country is unpopular protest against undemocratic action. It is **not**, at root, this protest that hinders our effort in the war, but, rather, such use of the powers gained by the Government in the National Security Act, as to create distrust and disunity. A people conscious that its liberties are safe at home, will fight its foreign enemies with the more will and endurance.

I sincerely hope that the Government will reconsider its decision in this case, or call an early meeting of Parliament to do so.