

# Who Does the Constitution Belong To?

## Should the Working Class Celebrate Its Birthday or Prepare Its Funeral?

The Constitution of the United States is one hundred and fifty years old. Last week all the worshippers at the shrine of bourgeois democracy held birthday parties in its honor. The Republican presidential aspirant, Vandenberg, swore to defend this citadel of capitalist conservatism from all assault. The Democratic President rejoiced in "the wisdom of the Constitution" and pledged himself to defend it against its "misinterpreters." The most stalwart, the most belligerent champions of the Constitution were the Stalinists, who called upon "all liberty-loving Americans" to fight for this palladium of their rights against "the princes of privilege."

The monied and mercantile men, who together with the Southern planting aristocrats, framed the Constitution; the slaveholding oligarchy who employed it to extend and maintain their "peculiar institution"; and the industrial and financial bourgeoisie who have ruled the country since the Civil War, each of these governing minorities has found the Constitution adequate to ensure their sovereignty over the majority of the American people and a few subject peoples to boot.

### Undemocratic

For the Constitution is essentially an undemocratic document. It was the product of a period of reaction in the development of the first American revolution, the climax of a protracted struggle for power between the petty-bourgeois farmers and artisans, who composed the mass of the nation, and the Southern planters and Northern capitalists, who succeeded in suppressing them.

It is a truism for Marxists that such constitutions are always (as Marx put it) a compromise among "contending factions of the ruling class.... which allow them to continue the struggle between themselves and at the same time to keep the exhausted masses of the people out of it.... it sanctioned the monetary victory of the old society over the revolution."

The Constitutional Convention was a self-constituted group of large property holders, who had no mandate from the people.

They met to consolidate their victory over the masses; to safeguard themselves against further assaults from within and from without; and above all to promote and protect their own immediate and narrow social interests. This conspiratorial clique conducted its affair in the dark. No hostile intruders, no direct representatives of the farmers and artisans were admitted to the sessions held behind closed doors; no notes of the proceedings were allowed to be published. The final draft was forced down the throats of the states by gerrymandering, electoral frauds, and conventions with the most hasty and restricted representation. The whole procedure was in effect nothing but a coup d'etat. So much for the circumstances of the origins of the Constitution.

Could one expect that this bastard child of reaction, conceived by usurpation, brought forth in illegality, and adopted by main force, could be a democratic document?

### Some Features

A volume would be necessary to enumerate and describe all of its anti-democratic features. Let us limit ourselves to a few of the most important.

Vandenberg sees in the division of the government into three separate and autonomous branches,

the legislative, executive, and judicial, the greatest contribution of the Constitution to statecraft and to stable government. The Republican Senator has a keen class sense. The tripartite system of "checks and balances" was expressly designed to strangle legislation unfavorable to the governing group. What could not be maimed or miscarried in Congress might be vetoed by the President; what the Chief Executive (of the ruling class!) could not put out of the way, the Supreme Court could kill. No cleverer, no more efficient machinery for obstructing the expression of the popular will in a republic has ever been devised.

### Why Two Houses

An important cog in this system is the bicameral Congress with its upper and lower houses, so admirable a check that the French Republican bourgeoisie copied it. By requiring the concurrence of both houses for the passage of legislation and at the same time allotting two Senators to each state regardless of population, the control of the law-making machinery was concentrated in the hands of the masters of the upper house. Thereby the slave oligarchy prolonged their rule long after they had lost popular support. Moreover, biennial election of one third of the Senators not only facilitates clique control of the Senate through "rotten borough states" but also allows time for popular protest or indignation to expend itself or be extinguished before the Senate can be changed.

### Indirect Elections

Elections were as indirect as possible. The President was to be chosen by an electoral college. In case of tie or a disputed election the election was thrown into the House of Representatives where each state was given one vote. Judges were to be appointed by the President and ratified by the Senate.

It must be remembered that the Constitution was a compact between the slaveholders and capitalists. It therefore legalized slavery and although slaves were given no right whatsoever they formed part of the basis of representation and taxation. It required a revolution to root out slavery from the Constitution.

### Amendments Balked

The method of amendment was made as cumbersome as possible. Amendments could be made only by the consent of three fourths of the states. That means today that five percent of the population in thirteen states can frustrate the demands of ninety five percent of the population.

Witness the fate of the Child-Labor Amendment.

Finally, a most interesting article which we quote in toto: Article IV, Section 4. "The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence."

Washington and Hamilton used this clause to send Federal troops against the so-called "Whiskey Rebellion" in 1794, the first attempt of the bourgeois state to suppress its own citizens. It was used against the railroad strikers of the 1870's. It was used by Democratic President Cleveland to send Federal troops against

the striking railroad workers in 1893.

The Stalinist defenders of this "democratic document" forget that this article affords full legal warrant for a military dictatorship of the capitalist over the working class!

Such is the real character of the Constitution as it was, as it has been, as it is today. Republican in form, anti-democratic in essence.

### Bill of Rights?

But, the Stalinists expostulate, the Bill of Rights! True, it was offered as a bribe to dissident elements to facilitate adoption and initial operation of the Constitution. But the primary purpose of the Bill of Rights (i.e. the first ten amendments) was to safeguard state rights. They are limitations on the Federal government, but not on the states. Until the due process clause of the Fourteenth Amendment became the bulwark of reaction, Article IV—the most radical-sounding of the Bill of Rights—was the instrumentality for protecting property, especially slave property.

What did Article One, Section One of the Bill of Rights, guaranteeing freedom of speech and of the press mean to Eugene V. Debs in Atlanta prison? What did the right of the people to peacefully assemble, mean to the Southern Negroes, the abolitionists, the workers in company towns, striking workers, meetings broken up by the police? Almost every state has laws today restricting or denying Article Two: the right to keep or bear arms shall not be infringed. What did Article Four, asserting the right of the people to be secure in their persons, houses, property, and effects mean to the thousands involved in the Palmer raids? The whole Bill of Rights has been worth less than five cents on the dollar in wartime, as the Civil War and World War experiences demonstrate. And the formal political right of the people to "be secure in their persons, property and effects," remains a mockery during peacetime in a social system which condemns the masses to perpetual exploitation, periodic destitution, and deprives them of the opportunity of obtaining the material means of that security.

### Class Instrument

The point is that the Constitution must necessarily be interpreted and administered by the ruling class and in its interests. The Dred Scott decision which legalized the extension of slavery throughout the country was the most glaring instance before the Civil War. The Fourteenth Amendment did not give either social equality or political rights to the Southern negro. And for every decision the Supreme Court has rendered in defense of civil liberties under the Fourteenth Amendment, it has rendered ten to safeguard the rights of corporate property.

According to the Daily Worker, the Constitution of the United States and the Stalinist Constitution are "the two great juridical monuments that mark the progress of the human race at different epochal historical periods." But the Stalinists refrain from revealing all the traits of similarity between the two documents. Both were the offspring of usurping and reactionary cliques, granted to the exhausted revolutionary masses by their benevolent masters rather than formulated and adopted by the

revolutionary representatives of the people.

It would be foolish to take a purely negative attitude toward the Constitution, either from the historical or the practical political standpoint.

It accomplished the task that the popular masses proved unable to perform by themselves, the unification of the thirteen states into a single government. It legitimized a bourgeois-democratic republic and made impossible a monarchial restoration. For all its reactionary features the Constitution and the state system it set up was the most advanced of its day, and served as a model for the progressive and democratic forces of the early nineteenth century. Today, however, it is thoroughly obsolete. The Stalinists are guilty of criminal folly in idealizing, glorifying, and defending this document in competition with the outright spokesmen of the capitalist regime. The American Constitution is not "the property of the people;" it is the property of the reactionary bourgeoisie. It is no "bulwark of democratic rights," it is the ultimate legal entrenchment of the ruling class.

### How to Fight

While it is necessary to fight for the maintenance of all those political rights that have been wrested from the ruling classes in a century and a half of struggle, and to support any genuinely democratic reform of the constitution, the workers must always remember that these can be obtained under contemporary conditions only as the result of the most intransigent struggle and direct mass action, and that all together they will not solve

the social and political problems that confront the working class under capitalism.

When the capitalist and slaveholders, the original authors of the Constitution, could no longer live together in the same house, and contended for its exclusive possession with arms in hand, the Constitution was nullified. The Confederacy wrote a new one; the Union suspended its own, and then amended it to insure the dictatorship of the bourgeoisie.

When the combat between the reactionary bourgeoisie and the revolutionary American workers matures, the capitalist reaction will scrap the Constitution and the proletarian revolution will write a new one.

### Our Constitution

The new Constitution of the worker's state will not sanctify private property, appropriation, and accumulation; it will eliminate them entirely and forever. It will not be based upon a parliamentary form of government designed to frustrate the will of the majority but upon a flexible system of workers and farmers councils, democratically elected and controlled, sensitive to the needs, demands, and interests of the masses. It will not create a national state but will envisage itself as one among a federation of world socialist republics.

Not to defend the outworn Constitution that will be the first victim of the coming revolution, but to mobilize the forces in a struggle for a new socialist constitution and society. Such is the task and the outlook that revolutionary Socialists set for themselves on this birthday of the bourgeois Constitution.

## LaGuardia for Harvey

(Continued from page 1)

out of the city. He has time and again openly praised Mussolini and Hitler, and declared that strong arm methods are the only ones to use in dealing with "communists". Probably no man in the country can point to a more consistent anti-working class record.

The endorsement of Harvey brought immediate howls from the La Guardia "Communists", the La Guardia "Socialists", and the La Guardia Laborites. Israel Amter, C. P. State organizer, and Alex Rose, A.L.P. secretary, were "keenly disappointed". Norman Thomas, in anguish, told the press that the news "will come as a great shock".

These gentlemen, apparently, are shocked and keenly disappointed when one capitalist demagogue endorses another.

### Thomas to Withdraw

No doubt, however, Thomas will have time to get over his "shock" by Saturday. As is known, the La Guardia "socialists" have already decided to withdraw Norman Thomas as the party candidate for Mayor in order that they may be able to complete their sell-out to the A. L. P. bureaucracy and the La Guardia machine.

The withdrawal—the Appeal is in a position to state—will go through on schedule and will be effected in a particularly shameful manner. Thomas is to be nominated by his clique as candidate for the delegate-at-large to the State Constitutional Convention, a move which, according

to the New York State Election Laws, automatically eliminates his name from the ballot as candidate for any City Office. The "La Guardia Socialists" do not even have the courage of the Stalinists in presenting in a forthright and unambiguous manner, the Republican-Fusion-Progressive-A. L. P. candidate as their very own. They have decided instead to give him their full support in the most apologetic and hypocritical manner conceivable.

Despite Thomas' withdrawal from the ticket, the revolutionary socialists are determined to carry on the best tradition of the class-conscious labor movement, and to make sure that in this election, the New York workers will have the opportunity of expressing their class position by a vote for a working class candidate for Mayor.

### SOCIALIST APPEAL

Vol 1. No. 7 Saturday  
September 25th, 1937

Published every week by the  
Socialist Appeal Pub. Assn.

Published at Room 1609  
100 Fifth Avenue, New York

Subscriptions: \$2.00 per year;  
\$1.00 for 6 months. Bundle  
orders 3 cents per copy. Single  
copies 5 cents.

All checks and money orders  
should be made out to  
the Socialist Appeal.

Application for entry as  
second class matter is pending.