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CONSTITUTIONAL LAW—FREEDOM OF SPEECH AND PRESS—CONVICTION FOR CRIMINAL ANARCHY.—The defendant was part owner and business manager of "The Revolutionary Age" and had knowledge of the publication therein of the "manifesto" of the "Left Wing" section of the Socialist party. The manifesto advocated as a "direct objective" the "conquest by the proletariat of the power of the state," and that this be accomplished by conquering and destroying "the bourgeois parliamentary state," the weapon to be the "political mass strike." The defendant was tried and convicted under authority of sections 160-161 of the New York Penal laws (Laws of 1902, ch. 371), making the advocacy of criminal anarchy a felony. *Held*, that the conviction should be affirmed. *People v. Gitlow* (1921, N. Y. App. Div.) 65 N. Y. L. J. 93.

The decision repudiates the test urged by many authorities, that only agitation creating a "clear and present danger" of criminal acts may be constitutionally subject to punishment. See *Shenck v. United States* (1919) 249 U. S. 47, 39 Sup. Ct. 247; dissenting opinion of Mr. Justice Holmes in *Abrams v. United States* (1919) 250 U. S. 616, 40 Sup. Ct. 17; see COMMENTS (1919) 29 YALE LAW JOURNAL, 337. The doctrine of "constructive intent" is applied by holding that since the mass strike cannot be employed without force, violence and bloodshed, the defendants must be presumed to intend the use of such means.

This doctrine has been the subject of harsh and able criticism. See Chafee, *Freedom of Speech* (1920) 54 ff; but see *contra*, Corwin, *Freedom of Speech and Press* (1920) 30 YALE LAW JOURNAL, 48. It is further held that the jury was warranted in finding that "unlawful means" were contemplated, and that, while the guilt of the accused could not be declared as a matter of law, the court could well instruct that the advocacy of these doctrines violated the statute. See *Horning v. District of Columbia* (1920) 41 Sup. Ct. 53; (1920) 30 YALE LAW JOURNAL, 421. The instant case illustrates forcibly how strong a hold the policy of strict repression has now obtained. For recent legislative action see NOTES (1920) 20 COL. L. REV. 700. The jury might very well have convicted even though the court had not been so vigorous in its application of the statute. One may share the court's aversion to the defendant's views and yet doubt the corrective effect and the social desirability of the means of repression adopted. If a similar policy is applied to that most difficult of present problems, industrial warfare, i. e. in connection with strikes which are not "mass strikes," the misunderstanding and hatreds likely to result seem distinctly undesirable. See COMMENTS (1920) 30 YALE LAW JOURNAL, 280.