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## POLITICAL IDEOLOGY AND THE JUDICIAL PROCESS: THE RESURRECTION OF SACCO-VANZETTI

ELLIOT C. ROTHENBERG\*

The 1921 conviction by a Massachusetts court of Nicola Sacco and Bartolomeo Vanzetti, for murder of two employees of a shoe factory, and numerous appeals culminating in their executions in August, 1927, constitute what may be the most famous criminal case in American legal history. More than half a century after the executions, critics were still publishing angry volumes condemning the administration of justice in the Sacco-Vanzetti case.<sup>1</sup> Perhaps unique among American court cases, the six volume transcript of all the Sacco-Vanzetti proceedings has been published and remains readily available in law and general purpose libraries.<sup>2</sup>

The executions have been condemned as a "tragic miscarriage of justice,"<sup>3</sup> and the founder of the American Civil Liberties Union charged that "these men were being tried for their political opinions and their activities, and for being foreigners in a hostile community."<sup>4</sup> A work of the New Deal's Federal Writers' Project in the American Guide Series remarked, "The injection into the trial of political considerations . . . aroused a worldwide storm of denunciation from pulpit and press."<sup>5</sup>

Particular reproach has been directed against Webster Thayer, the trial judge in the Sacco-Vanzetti case, for allegedly being openly prejudiced against the defendants for their politics. For example, Professor Morgan claimed that Judge Thayer's prejudice "permeated the proceedings from beginning to end with its vicious influence. The defendants had a trial according to all the forms of the law, but it was not a fair trial."<sup>6</sup> In November, 1924, after denying five motions for a new trial, the judge reportedly gloated to a friend, "Did you see what

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1. See, e.g., R. FEUERLICHT, *JUSTICE CRUCIFIED* (1977) and H. EHRMANN, *THE CASE THAT WILL NOT DIE* (1969).

2. *THE SACCO-VANZETTI CASE* (1928-29).

3. L. JOUGHIN & E. MORGAN, *THE LEGACY OF SACCO AND VANZETTI* 157 (1964).

4. Roger Baldwin quoted in R. FEUERLICHT, *supra* note 1, at 191.

5. FEDERAL WRITERS' PROJECT OF THE WORKS PROGRESS ADMINISTRATION FOR MASSACHUSETTS, *MASSACHUSETTS: A GUIDE TO ITS PLACES AND PEOPLE* 219 (1937).

6. L. JOUGHIN & E. MORGAN, *supra* note 3, at 157.

I did with those anarchistic bastards the other day. I guess that will hold them for a while.”<sup>7</sup>

In an impassioned attack on the justice of the Sacco-Vanzetti proceedings, Columbia Professor Karl Llewellyn spoke of the requirement, “of that law which is an integral part, in letter and in spirit, of the institutions we hold dear,”<sup>8</sup> that criminal trials determine guilt or innocence of a specific offense and not be based on “general social desirability.”

Angel or devil, he has a claim to a fair trial, not of his general social desirability, but of his guilt of the specific offense charged against him. Such is the letter of our law. Such also is our law’s spirit. . . .

It evidences the vitality of the policy of keeping the jury, the trier of fact, from being influenced by irrelevant “badness,” irrelevant “undesirability” of the accused, in passing on his guilt or innocence of a particular offense. Not only against the prejudices, the policy-views, of the official in power, but against the prejudices, the policy-views of the triers of fact does American law, in keeping with the best spirit of American institutions, set up its barriers—in favor of any man who is accused.<sup>9</sup>

To many, Sacco and Vanzetti were convicted of and executed for murder not because of responsibility for the criminal act but because of their radical and anarchist politics. If there is a lesson common to the massive outpouring of censure of the Sacco-Vanzetti case, it is that political ideology should have no role in the process of determining guilt or innocence of crimes.

Yet, the wall separating politics from the judicial process has been breached again in recent cases before federal and state courts in Minnesota, New York, and Pennsylvania. These decisions, in contrast to Sacco-Vanzetti, allowed defendants to avoid conviction or punishment. Nevertheless, they raise disturbing questions with respect to the role in judicial proceedings of political prejudices of judges and juries. The precedent of allowing political ideology into the judicial

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7. Testimony of James P. Richardson before Governor’s Advisory Committee, in 5 THE SACCO-VANZETTI CASE 5065 (1928-29), and Richardson’s affidavit before Massachusetts Supreme Judicial Court, *Id.* at 5418.

8. Llewellyn, *The Sacco-Vanzetti Case*, in J. MICHAEL & H. WECHSLER, CRIMINAL LAW AND ITS ADMINISTRATION 1085, 1090 (1940).

9. Llewellyn, *supra* note 8, at 1086, 1091.

process to exonerate those committing criminal acts can in the future, as allegedly was the case in Sacco-Vanzetti, be used by prosecutors and unsympathetic judges and juries to convict those innocent of wrongdoing.

The Minnesota federal and state court decisions concerned organized and deliberate acts of trespass and property damage directed against the state's two largest defense contractors, Honeywell and Sperry.<sup>10</sup> Since October, 1982, masses of protesters have staged periodic day-long blockades of Honeywell's Minneapolis headquarters, preventing employees and visitors from entering or leaving the building.<sup>11</sup> In August, 1984, two "peace" activists forced their way into a Sperry Corporation plant in a St. Paul suburb, destroyed a computer designed under contract with the Defense Department, and poured blood over the premises.<sup>12</sup>

The essential facts were not in dispute in these cases. The only question was the relevance of the given defendants' ideology regarding U.S. defense and foreign policy to the charges of violations of the criminal law. Even more than the Sacco-Vanzetti proceedings, which at least observed the formal requirements of a trial in accordance with the rule of law and kept political prejudices sotto voce, ideology was central to the Minnesota cases. Indeed, the Minnesota Supreme Court and the U.S. District Court for Minnesota not only allowed the introduction of, but gave paramount status to, the political opinions of the accused defendants.

At the many Honeywell blockade trials, which began in the spring of 1983, the arrested protesters have not denied the facts of their trespass on company property and harassment of the firm's employees. Rather, they have insisted in court that their political opposition to U.S. defense and foreign policy provides them with moral justification for criminal acts against those manufacturing defense-related products for the United States.

According to jurors interviewed by the media, juries in June, 1983, acquitted 36 of the first Honeywell protesters tried solely

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10. In 1982, Honeywell's and Sperry's Minnesota operations were awarded defense contracts of \$635 million and \$263 million respectively. Connery, *Guns and Butter*, 14 CORPORATE REPORT MINNESOTA 51, 52 (Sept. 1983).

11. Minneapolis Star and Tribune, Oct. 25, 1983, at 1A, col. 1; Rothenberg, *Heat's on Honeywell, and the Public Gets Burned*, The Wall Street Journal, Dec. 13, 1983, at 30, col. 3.

12. Minneapolis Star and Tribune, Aug. 11, 1984, at 1A, col. 5; Katt and LaForge, *A Sense of Duty Behind the Sperry Incident*, Minneapolis Star and Tribune, Sept. 22, 1984, at 15A, col. 3.

because of sympathy for their expressed political views.<sup>13</sup> In response to a request by Minneapolis city prosecutors, a special three-judge panel on October 25, 1983, ordered that testimony regarding political beliefs be excluded from subsequent trials as irrelevant to whether a crime had been committed.<sup>14</sup> The panel ruled that constitutional rights to a fair trial and rules of evidence do not "allow defendants to use the court as a forum to air their political, religious, or moral beliefs and appeal to the passions of the jury."<sup>15</sup>

On August 3, 1984, however, the Minnesota Supreme Court in *State v. Brechon*<sup>16</sup> reversed the special court's order and gave the Honeywell defendants the right to testify to juries as to their political opinions and why these beliefs supposedly provide justification for defying the criminal law and infringing the rights of those who work for defense contractors. Although appearing to acknowledge the irrelevance of the Honeywell protesters' politics to the question of guilt or innocence of criminal conduct, the court nonetheless declared that a trial judge could not exclude political testimony but only advise jurors to "disregard defendants' subjective motives."<sup>17</sup> The decision failed to address the question of whether the jury would be prejudiced by political arguments regardless of the cautions of the trial judge.

Since the *Brechon* decision, juries have acquitted many of the Honeywell defendants, even though virtually none have denied the essential facts relevant to the charge of criminal trespass.<sup>18</sup> Some juries have convicted other protesters despite their political arguments.<sup>19</sup> In several cases, however, Minneapolis city attorneys dropped the charges before trial, because, according to one prosecutor, they "did not think it wise to spend that much taxpayers money to allow defendants to get up and give their spiel about nuclear war."<sup>20</sup>

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13. Jury foreman Susan Kela said, "The jurors were unanimous on the moral issues. Who is not against nuclear war?" Minneapolis Star and Tribune, June 4, 1983, at 1A, col. 1; St. Paul Pioneer Press, June 4, 1983, at 1A, col. 4.

14. *State v. Brechon*, No. 83094 (Dist. Ct. Hennepin County, Minn. Oct. 25, 1983).

15. *Id.* at 14.

16. 352 N.W.2d 745 (Minn. 1984).

17. *Id.* at 751.

18. Minneapolis Star and Tribune, Oct. 20, 1984, at 1B, col. 2; *Id.*, Nov. 9, 1984, at 10A, col. 2.

19. *Id.*, Oct. 16, 1984, at 2B, col. 4; *Id.*, Nov. 22, 1984, at 1B, col. 1.

20. William Korn quoted in Minneapolis Star and Tribune, Oct. 23, 1984, at 5D, col. 5; *Id.*, Dec. 12, 1984, at 31A, col. 1; St. Paul Pioneer Press and Dispatch, Apr. 6, 1985, at 7A, col. 1.

Similar organized mass trespass continues not only against Honeywell, but against other Minnesota defense contractors as well. Applying the *Brechon* precedent, a Ramsey County (St. Paul) Municipal Judge allowed 31 defendants on trial for trespass against a Sperry plant to seek to excuse their conduct on the basis of their political opposition to Sperry's production of missile guidance systems for the U.S.. Again, the facts were not in dispute. Still, a jury in April, 1985, acquitted all the defendants.<sup>21</sup>

A few months earlier, in October, 1984, Barb Katt and John LaForge, arrested in connection with the Sperry computer incident, were tried in U.S. District Court<sup>22</sup> on a charge of destroying property being manufactured for the U.S. government.<sup>23</sup> At their trial, the accused did not deny that they had destroyed the computer, but instead, used the same stratagem as the Honeywell protesters. Over the prosecutor's objections that "appeals to passion and prejudice" do not belong in a criminal trial, U.S. District Judge Miles Lord allowed them to argue their political motives. The defendants then proceeded to contend that what they regarded as international law justified their destruction of property which would be used for U.S. defense efforts.<sup>24</sup> The jury, however, did not accept their apologia and convicted them of the crime charged, for which they could have been sentenced to ten years in prison and a \$10,000 fine.<sup>25</sup>

The jury verdict notwithstanding, Judge Lord released the defendants with a six-month suspended sentence.<sup>26</sup> In a prepared statement read in the courtroom explaining his decision, the judge expressed sympathy for the political objectives of the defendants and attacked the defense industry in general as "warmongers."<sup>27</sup> He lauded, by contrast, the "more sanctified endeavor" of the convicted pair "who by their acts attempt to counsel moderation and mediation as an alternative method of settling international disputes."<sup>28</sup>

Judge Lord then excoriated Sperry employees for having allegedly "stole[n] \$3.6 million worth of property" by embezzlement from

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21. Juror Roger Green said the jurors agreed that Sperry's production of weapons presented an "imminent danger to the world. We felt that superseded the trespass law." St. Paul Pioneer Press and Dispatch, Apr. 6, 1985, at 1A, col. 1.

22. United States v. LaForge and Katt, No. CR-84-66 (D. Minn. Oct. 11, 1984).

23. 18 U.S.C. § 1361 (1982).

24. Minneapolis Star and Tribune, Oct. 11, 1984, at 1B, col. 1.

25. *Id.*, Oct. 12, 1984, at 1B, col. 2.

26. *Id.*, Nov. 9, 1984, at 1A, col. 2.

27. Record, United States v. LaForge and Katt, No. CR-84-66 at 15 (D. Minn. Nov. 8, 1984).

28. *Id.* at 14.

the U.S. government and for "wrongfully and feloniously juggling the books."<sup>29</sup> No one at Sperry was ever convicted of or even prosecuted for such an offense. The failure to punish Sperry officials for this alleged crime, said the judge, gave him a "clear conscience" in freeing the defendants.<sup>30</sup>

Finally, he condemned the American system of justice for providing "one type of justice for the rich and a lesser type for the poor."<sup>31</sup> With respect to the Honeywell and Sperry decisions, Judge Lord may have been correct, but not in the way he intended. No evidence was introduced of the comparative wealth and income levels of the protagonists, but the protesters, in contrast to the employees of Honeywell and Sperry, had the resources to pursue their cause in the courts.

Sperry defendants Katt and LaForge have stated that they were inspired by the thought and actions of Daniel Berrigan<sup>32</sup> who, along with his brother Philip and several others, was convicted of burglary and other offenses for illegally entering a General Electric plant in King of Prussia, Pennsylvania, damaging hydrogen bomb components being made for the U.S. government, and pouring blood on the premises. Like the Honeywell and Sperry defendants, the Berrigan group did not dispute the facts relative to the criminal charges against them but sought to justify their violation of the law on the grounds of their disagreement with U.S. defense policies. The trial judge allowed them to testify as to their political views. Defendants claimed on appeal, however, that they should have been permitted as well to present the testimony of purported experts on the consequences of nuclear war. In February, 1984, *Commonwealth v. Berrigan*<sup>33</sup> accepted their argument and ordered a new trial.

The Minnesota and Pennsylvania cases involved crimes against property. There is nothing in the reasoning of these decisions, however, which would limit the types of crimes for which defendants could seek exoneration on the basis of their expressed political motivation. If, for example, defendants have what is deemed by judges or juries acceptable political aims for trespass or property damage against private businesses, would not the principle established permit these same lawbreakers or others to commit violent crimes against the persons of the beleaguered firms' employees and executives? At least one court appears to have answered affirmatively.

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29. *Id.* at 16-17.

30. *Id.* at 21.

31. *Id.* at 19.

32. Northern Sun News, Nov. 1984, at 3, col. 1.

33. 325 Pa. Super. 242, 472 A.2d 1099 (1984).

A month after Judge Lord's decision in *LaForge*, New York U.S. District Judge John E. Sprizzo extended the applicability of the cases discussed above beyond property offenses. *Matter of Doherty by Gov. of United Kingdom*<sup>34</sup> refused to extradite a Provisional Irish Republican Army (PIRA) member who was convicted by a British court of murdering a British army captain in an ambush and subsequently escaping from prison. Judge Sprizzo found these crimes "political" and thus not subject to extradition under the relevant treaty with Great Britain.<sup>35</sup> The court did not even view the matter as doubtful, holding that "the facts of this case present the assertion of the political offense exception in its most classic form."<sup>36</sup>

*Doherty* ruled that the use of violence is not "in itself dispositive" of whether an act is political or criminal in nature.<sup>37</sup> Neither is the use of terrorism.<sup>38</sup> In resolving the question, the court said it must consider as well "the context in which it is committed, the status of the party committing the act, the nature of the organization on whose behalf it is committed, and the particularized circumstances of the place where the act takes place."<sup>39</sup> Applying his test, Judge Sprizzo held that the PIRA was engaged in a "sporadic and informal mode of warfare" against the British, and that the killing of the British officer would not have been criminal if it had "occurred during the course of more traditional military hostilities."<sup>40</sup> Further, the PIRA had the requisite "organization, discipline, and command structure that distinguishes it from more amorphous groups such as the Black Liberation Army or the Red Brigade" so that "the act of its members can constitute political conduct."<sup>41</sup>

34. 599 F. Supp. 270 (S.D.N.Y. 1984).

35. Treaty of Extradition with the United Kingdom, 28 U.S.T. 227, T.I.A.S. No. 8468 (effective Jan. 21, 1977). Article V(1) (c) (i) provides for denial of extradition if "the offense for which extradition is requested is regarded by the requested Party as one of a political character."

36. *Matter of Doherty by Gov. of United Kingdom*, 599 F. Supp. 270, 276 (S.D.N.Y. 1984).

37. *Id.* at 275.

38. The Court is not persuaded by the fact that the current political administration in the United States has strongly denounced terrorist acts and has stated that to refuse extradition in this case might jeopardize foreign relations. The Treaty vests the determination of the limits of the political offense exception in the courts and therefore reflects a Congressional judgment that the decision not be made on the basis of what may be the current view of any one political administration.

*Id.* at 277, n.6.

39. *Id.* at 275.

40. *Id.* at 276.

41. *Id.*



Judge Sprizzo, like Judge Lord in *LaForge*, cast blame upon the victim of the crime. "The death of Captain Westmacott, while a most tragic event, occurred in the context of an attempted ambush of a British army patrol. It was the British Army's response to that action that gave rise to Captain Westmacott's death."<sup>42</sup> Indeed, any concern for the victims of the respective crimes was conspicuously absent from all the decisions discussed above. On the contrary, individuals and businesses engaged in activities that were entirely lawful but regarded as unacceptable by lawbreakers were in effect deemed unworthy of protection by the law.

These decisions raise other legal and moral questions as well. *Doherty* has demonstrated that even homicidal terrorists can successfully evade punishment by claiming a "political" objective for their acts. Is any crime, any brutality, perpetrated for a professed "political" end to be immune from legal penalties? Judge Sprizzo himself recognized the problem.

Surely the atrocities at Dachau, Aushwitz, and other death camps would be arguably political within the meaning of that definition. The same would be true of My Lai, the Bataan death march, Lidice, the Katyn Forest Massacre, and a whole host of violations of international law that the civilized world is, has been, and should be unwilling to accept. Indeed, the Nuremberg trials would have no legitimacy or meaning if any act done for a political purpose could be properly classified as a political offense.<sup>43</sup>

In attempted resolution of this issue, *Doherty* concluded that the determinative factor would be whether "the nature of the act is such as to be violative of international law and inconsistent with international standards of civilized conduct."<sup>44</sup> Yet, this merely begs the question. There is no judicial authority to elevate international law in general over federal and state constitutions and laws. Further, there is little agreement as to what constitutes international law; and therefore, the vague standard thus offered is an invitation to wholesale judicial discretion. For example, in Judge Lord's statement releasing the Sperry computer defendants was the comment that there is a "plausible argument that international law prohibits what our country is doing by way of manufacturing mass weapons of destruction."<sup>45</sup>

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42. *Id.*

43. *Id.* at 274.

44. *Id.*

45. Record, United States v. LaForge and Katt, No. CR-84-66 at 14 (D. Minn. Nov. 8, 1984).

Moreover, the dubious value of international law in controlling the use of "political" justifications for crimes was illustrated in *Doherty* by its failure to proscribe the crime of murder.

The rulings discussed above thus establish no effective restrictions on the types of crimes for which defendants could seek to avoid conviction or punishment based on ostensible political or ideological motives for their conduct. Furthering a political cause has been allowed to justify trespass, property damage, and even murder; the same defense presumably would be available for everything in between.

Another issue raised by these decisions is whether there is to be any differentiation between the substance of political or moral beliefs in determining whether defendants espousing them can seek to excuse criminal behavior. If "peace" protesters and PIRA terrorists are to be exonerated because of their political opinions, why should others not have the same opportunity? Will these rulings enable all who claim to be acting because of ideological or moral motivations to evade the consequences of their illegal conduct, or only those whose political philosophy is shared by sympathetic judges and juries?

How should the decisions be applied, for example, to illegal activity against abortion clinics by persons opposed on religious and moral grounds to abortion? Equal protection would seem to require that they be extended the same rights granted the other defendants. *State v. Brechon*,<sup>46</sup> however, implied that not all political and moral beliefs could be introduced to exonerate lawbreakers' crimes. The Minnesota Supreme Court declared "distinguishable"<sup>47</sup> *Cleveland v. Municipality of Anchorage*<sup>48</sup> which barred anti-abortion protesters from excusing violations of criminal trespass laws by virtue of their moral and religious beliefs. Incidentally, the *Cleveland* concurring opinion of Dimond, J., cited<sup>49</sup> a Minneapolis Municipal Court decision<sup>50</sup> excluding all evidence of a medical, religious, or philosophical nature offered by abortion opponents to justify their trespass at an abortion clinic.

This is not to argue that those disapproving of abortion, any more than "peace" protesters or PIRA terrorists, should be immune

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46. 352 N.W.2d 745 (Minn. 1984).

47. *Id.* at 751, n. 3.

48. 631 P.2d 1073 (Alaska 1981).

49. *Id.* at 1084.

50. *State v. Rasmussen*, No. 1010575 (Hennepin County Mun. Ct. Oct. 5, 1978), 47 U.S.L.W. 2331.

from the consequences of their criminal acts. On the contrary, all should be judged by the same law. The enforcement of the law should not depend upon the existence or nature of a given defendant's (or judge's or jury's) political ideology.

In addition to their other defects, the decisions in each of the cases discussed above ignored the challenge to democratic and constitutional processes represented by the conduct of the respective defendants. The judges failed to acknowledge that, even if one concedes the sincerity of the political motives of the defendants, there are many legal methods in democratic societies to seek changes in public policies. In the U.S. (and in Britain as well) those advocating disarmament, changes in the status of Northern Ireland, or any other political position have ample opportunity to speak out, engage in lawful demonstrations, and influence the electoral process through financial contributions and political organizing. There is no need or justification to commit murder or violate the rights of others in lesser ways in order to express one's viewpoint. To condone such conduct is to sanction the use of illegal and undemocratic actions against policies and laws adopted through the democratic process. Comparable efforts to justify trespass at abortion clinics have been upbraided on the grounds that they would "interfere with constitutional rights" by permitting "defendants to choose what laws they will obey based on their own moral code" and "to violate the laws in order to enforce their own ideas."<sup>51</sup>

*United States v. Quilty*<sup>52</sup> emphasized the availability of "reasonable, legal alternative[s] to violating the law"<sup>53</sup> in rejecting an appeal by defendants convicted of illegally entering military property to stage an anti-nuclear demonstration. An earlier seventh circuit decision, *United States v. Cullen*,<sup>54</sup> regarded the use of purported political and moral objectives as exacerbating rather than justifying violations of the criminal law.

One who elects to serve mankind by taking the law into his own hands thereby demonstrates his conviction that his own ability to determine policy is superior to democratic decision making. Appellant's professed unselfish motiva-

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51. Note, *Necessity as a Defense to a Charge of Criminal Trespass in an Abortion Clinic*, 48 U. CIN. L. REV. 501, 515, 516 (1979).

52. 741 F.2d 1031 (7th Cir. 1984).

53. *Id.* at 1033. The decision held that the defense of "necessity" was cognizable only in the absence of reasonable alternatives to violating the law.

54. 454 F.2d 386 (7th Cir. 1971).

tion, rather than a justification, actually identifies a form of arrogance which organized society cannot tolerate. A simple rule, reiterated by a peaceloving scholar, amply refutes appellant's arrogant theory of defense: "No man or group is above the law."<sup>55</sup>

Finally, as was illustrated in the Sacco-Vanzetti case, allowing political ideology to infect the judicial process can be a double-edged sword. It can just as easily be used by politically prejudiced prosecutors, judges, and juries to persecute innocent persons as to free otherwise guilty defendants from conviction and punishment.

The successful interposition of political motives by those accused of criminal conduct depends upon a sympathetic judge or jury or both. The support enjoyed by the defendants in the Minnesota, Pennsylvania, and New York cases discussed above should be offered by fewer judges and juries in the future. By the end of President Reagan's second term, it is probable that more than half the members of the federal bench will be his appointees. It is rather unlikely that many of these new judges would share Judge Lord's view that persons convicted of destroying computers built for U.S. defense purposes are "friends of the people"<sup>56</sup> or would, like Judge Sprizzo in *Doherty*,<sup>57</sup> excuse terrorist acts directed against officials of democratic, allied governments. The electorate, too, is becoming more conservative, and this will be reflected in the attitudes of juries. It will be recalled that the juries in *LaForge*<sup>58</sup> and *Berrigan*<sup>59</sup> rendered guilty verdicts.

If the decisions reviewed in this article are to be the opening wedge to allowing political ideology free rein in our courts, there is every possibility that its use in future cases could lead to convictions in otherwise doubtful cases or to stiffening the punishment of political activists convicted of crimes. Where the claims of "peace" protesters to political and moral superiority went unchallenged in previous cases, conservative prosecutors could subject to critical scrutiny the "peace" movement's perceived increasing propensity to engage in organized illegal conduct, its arguable double standard vis-a-vis policies of the U.S. and the Soviet Union and its Third World and terrorist allies, and

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55. *Id.* at 392.

56. Record, United States v. LaForge and Katt, No. CR-84-66 at 18 (D. Minn. Nov. 8, 1984).

57. Matter of Doherty by Gov. of United Kingdom, 599 F. Supp. 270 (S.D.N.Y. 1984).

58. United States v. LaForge and Katt, No. CR-84-66 (D. Minn. Oct. 11, 1984).

59. Commonwealth v. Berrigan, 325 Pa. Super. 242, 472 A.2d 1099 (1984).

the impact of its program on U.S. national security.<sup>60</sup> The adherence by defendants to controversial ideologies could be a powerful weapon in the hands of prosecutors in obtaining convictions and severe sentences. Future opponents of U.S. defense and foreign policy, in lieu of being lauded by judges and jurors for their political and moral motivations for breaking the law, could be placed in increased jeopardy because of these same ideologies.

Some may find good sport in the prospect of hoisting the left with its own petard. Whatever one's political predilections, however, it would only compound the damage suffered by the judicial process by the rulings giving precedence to political ideology over the law. The cure for the decisions favoring "peace" protesters and terrorists is not a succession of new Sacco-Vanzetti type cases but a restoration of primacy of the rule of law. Politics should be banished from the courtroom.

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60. *See*, for an example of such criticism, R. & E. ISAAC, in *THE COERCIVE UTOPIANS* 141-165 (1983).