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HOUSE OF LORDS

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N° IX

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Motion—Working Hours of Children.

No proofs of the Daily Reports are sent. Any corrections which Peers desire to suggest in the Report of their speeches for the Bound Volume should be indicated in this Daily Report, and the copy of the Daily Report containing the corrections suggested must be received by the Editor of Debates, House of Lords, within fourteen days of the Debate

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HOUSE OF LORDS.

Thursday, 26th March, 1942.

The House met, The LORD CHANCELLOR on the Woolsack.

LANDLORD AND TENANT (REQUISITIONED LAND) BILL.

Returned from the Commons, with the Amendments agreed to.

FREEDOM OF THE PRESS.

LORD NATHAN rose to call attention to the necessity of maintaining the freedom of the Press as an essential element in the successful prosecution of the War; and to move for Papers. The noble Lord said: My Lords, I rise to draw attention on behalf of my noble friends to the freedom of the Press as an essential element in the successful prosecution of the war. The very great importance which the nation attaches to the freedom of the Press is so widely recognized that normally it requires no emphasis. The liberty of the Press is so vital an element in our democratic system that we do well to guard it with a jealous vigilance and to examine with the most critical scrutiny any action which appears to threaten it. The freedom of the Press carries with it, of course, the essential corollary that it must be exercised at all times, and especially in time of war, with a due sense of responsibility. I do not question that at least during war the Government of the day must have at their disposal means to prevent the corruption of public morale. Not only do I not question that, I affirm it, and Parliament has so decreed. The Defence of the Realm Regulations contain four directed to the point at issue in relation to the Press. They are numbered 2C, 2D, 94A and 94B. To the last two I need not further refer, they are merely ancillary and supplementary to 2C and 2D.

The two main Regulations to which I would venture to direct the attention of your Lordships are 2C and 2D, and each of those Regulations has a history. It is desirable to consider their history, because it indicates the motive and objective underlying those Regulations, and also the manner in which it was proposed to apply them. Your Lordships will remember that at the end of October, 1939, the Government of the day tabled a complete Code of Regulations. They comprised Regulations designed to prevent the sabotage of the national war effort. A debate took place in another place. The criticism of a number of those Regulations, including those relating to the Press, was so great that an undertaking was given by the Government of the day to consult with representatives of all Parties with a view to substituting new Regulations likely to command general approval. As a result, ultimately, on the 9th May, 1940, Regulations emerging from these discussions were submitted by the then Home Secretary, Sir John Anderson. They included Regulation 2C.

That Regulation 2C created a new offence defined as the systematic publication of matter calculated to foment opposition to a successful prosecution of the war. It provided in the first place for a warning to the offender. It provided further, if that warning were disregarded, for a prosecution involving, if successful, penal servitude for seven years or a fine of five hundred pounds or both. But no such prosecution was to be undertaken except with the consent of the Attorney-General. Your Lordships will therefore observe that this Regulation, sponsored by the Government after all-Party consultations and accepted by Parliament, envisaged heavy penalties as deterrent and as punishment, but so rightly jealous is Parliament of the rights of the Press that it deliberately furnished a safeguard against capricious administrative action by the requirement of the fiat of the Attorney-General.

It is not without good reason that the Press of this country came to be known as the Fourth Estate of the Realm. So anxious, properly so anxious, was the then Home Secretary to remove any suspicion of a threat to the liberty of the Press that in presenting this new Regulation 2C he was careful to point out, and he assured Parliament—I quote his words—that

> "it is the firm intention of the Government to apply the criminal sanctions only in cases of real gravity where the national interests may be severely strained."

Your Lordships will see from that that the Government, as the result of deliberation and consultation, thus provided a

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carefully designed procedure for dealing with cases of real gravity. Scarcely had this Regulation 2C become effective when the Battle of France began, and Mr. Chamberlain's Government was displaced by that of Mr. Churchill. Dunkirk followed, and the threat of invasion became formidable. In this new situation, a few weeks only after the passing of Regulation 2C, a new Regulation 2D was issued. This new Regulation 2D refers to precisely the same offence as 2C and in the same terms—systematic publication of matter calculated to foment opposition to the prosecution of the war. But whereas in 2C there is to be a warning, followed, if the warning be neglected, by a criminal prosecution of the offender, under 2D the penalty is suppression of the offending newspaper by administrative action.

On 31st July, 1940, in explaining the necessity for this new Regulation, Sir John Anderson, reassuring the House of Commons as to the necessity for 2D in view of the pre-existence of 2C, said this:

> "The reason why it seemed . . . that a Regulation of this kind, admittedly very drastic, was necessary is this: the invasion, the overrunning, in a very short space of time, of Holland, Belgium and part of France brought home to us in a way it had never been brought home to us before that we in this country were exposed to perils of a kind that most of us had never before imagined. What we have to ask ourselves, and what the Government had to ask themselves . . . was whether, if the direst peril we can imagine were to come upon us, if we were to find ourselves undergoing trials never before experienced, it would be tolerable that there should at that moment, when the resolution of some of the weakest among us might be shaken or be in danger of being shaken, be allowed even for a short time the systematic publication of matter calculated to foment opposition to the prosecution of the war to a successful issue. How could we, in those circumstances "—

I ask your Lordships to mark these words—

> " we have to face the realities—be content with the procedure of Regulation 2C? "

Sir John Anderson went on to say:

> "What I was putting to the House was whether, in those circumstances of dire peril, we were to be content with the procedure of 2C, a Regulation for which I took full responsibility at the time and which I thought fully adequate."

That means, of course, that he thought it fully adequate, except in the new circumstances that had arisen of the immediate threat of imminent invasion.

I do not for the moment question, of course, the necessity for the Government to have in their hand the weapon provided by this drastic Regulation 2D as well as the instrument afforded by 2C, but Regulation 2D is only a supplement to 2C. There was no suggestion made by the then Home Secretary, in introducing 2D, that 2C was in any way jettisoned or even affected. Your Lordships will have observed that here are two Regulations of equal validity, both relating to the same offence, both including newspapers, though 2C has also a wider application. But whereas 2C, the earlier Regulation, provided for warning as a preliminary to prosecution, and for no prosecution save with the consent of the Attorney-General, 2D contains no such safeguard, but suppression can be imposed by the mere edict of the Home Secretary. It is obvious that no Home Secretary would, in a matter of such importance, act save on the responsibility, and as the mouthpiece, of the Government of the day. Indeed, in the case which gives rise to this debate, the Home Secretary has made it clear that the decision taken was a Government decision, and that he was the spokesman of the Government as a whole in regard to the matter.

I have thought it proper to remind your Lordships of the powers conferred on the Government by these Regulations and of the history lying behind them, since it is in relation to these Regulations and that history that I now ask your Lordships to consider the action recently taken by the Government under Regulation 2D. Your Lordships will be aware that a week ago the Home Secretary, speaking, as I have said, on behalf of the Government, announced that a warning had been given to the *Daily Mirror* arising out of certain matter recently published in that newspaper, and had informed that newspaper that if it persisted in publishing similar matter, Regulation 2D would be brought into operation against it—in other words— it would be suppressed. The immediate occasion for this announcement was the publication of a cartoon and a leading article. I do not know whether your Lordships have seen that issue of the *Daily Mirror*. The cartoon portrayed a distressed seaman on a raft and it carried

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the caption: "The price of petrol has been raised by a penny. (Official.)" It was suggested that the caption meant that seamen are risking their lives in order that bigger profits may be made, and that that is calculated to discourage seamen and readers of all classes from serving the country in its time of need, and is conducive to defeatism.

While I do not think that the cartoon and caption can have only the meaning attributed to them to which I have referred, I agree that they are capable of that meaning, and in my judgment, that in itself would be sufficient in these times to condemn it as both ill-conceived and most deplorable. The leading article in question stated this:

> "... the accepted tip for Army leadership would in plain truth be this:—All who aspire to mislead others in war should be brass-buttoned boneheads, socially prejudiced, arrogant and fussy. A tendency to heart disease, apoplexy, diabetes and high blood pressure is desirable in the highest posts. ..."

That is a generalization so extravagant that I should have thought it would have carried its own refutation. It is, of course, false, abusive and unmannerly. It cannot be defended, and I am certainly not bringing this matter before your Lordships' House for the purpose of defending the indefensible. My position is rather, in the words of the classic phrase, if I may adapt them to present circumstances: "I detest your opinions, but I will die to defend your right to utter them, always having regard to the exigencies of the war." If the *Daily Mirror* has offended against the law, let them be brought to the arbitrament of the law. Let them be warned and let them, if need be, be prosecuted under the provisions of Regulation 2C.

That is not, however, what the Government propose to do. The procedure which the Government have threatened to follow is of vital concern to the whole nation, because it involves establishing a precedent in control of the expression of opinion in the Press, and that precedent carries a grave threat to our national liberties. That is the main reason why I bring this matter before your Lordships' House. It is my submission to your Lordships that if the Government consider that they should take action in respect of the *Daily Mirror*, they should take that action under Regulation 2C and not under Regulation 2D. There is, as I have pointed out, and I venture to emphasize this to your Lordships, a fundamental difference between the two Regulations. One provides for penalties if an offence be proved in the Courts of Law—the normal ordinary procedure deliberately devised and approved by Parliament. The other provides for summary suppression by mere administrative act—an exceptional procedure created for an emergency and justified to Parliament only as such.

That the difference between the two Regulations is very real, that it is widely appreciated, and that the public sense an approach to encroachment on the rights of free criticism, and expression of opinion, is evidenced by the fact, as your Lordships have doubtless observed, that the threat to suppress the *Daily Mirror* by virtue of Regulation 2D has called forth very general public comment, which, alike in the national and in the provincial Press, has been almost uniformly critical. I think, indeed, that the *Daily Telegraph* alone among the great national dailies has taken a different view. The note of warning has been sounded alike by *The Times* and by the *Daily Herald*, by the *Manchester Guardian* and the *Daily Express*. The general theme of these comments may be well summed up by the assertion in *The Times* that:

> "Anything that tends to impede or impair the free play of opinion may do grave disservice to the State, especially in time of war, and recoil disastrously upon the administration that imposes it."

This wide measure of agreement among organs of public opinion in expressing alarm and disapproval concerning the Government's statement, has more significance for this reason. It is a matter of common knowledge that the *Daily Mirror* is very far from being popular among its neighbours, or respected by them. If it were to die a natural death, few of the powers of Fleet Street would shed tears over its grave. It is not, therefore, from any affection for the *Daily Mirror* that so large a volume of protest and warning has been uttered by the Press of the country. The fact that, in menacing a paper so friendless amongst its contemporaries, the Government should have aroused this vocal opposition, is clear evidence that the course of action threatened by the Government is regarded on principle as dangerous to the public interest.

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[Lord Nathan.]

The power of arbitrary suppression is one which in a desperate emergency the Government may be compelled to employ; but it is a desperate remedy, so alien to the temper of the people that it should not be used, or even threatened, except in extreme emergency, to deal with some delinquency of the gravest character. However much we may dislike or even disapprove of the statements which were the immediate cause of Mr. Morrison's statement, no such urgency, no such gravity, has been alleged in this particular case; and I gravely doubt whether any adverse effect on the public mind would be caused by such vapourings as those cited in the case of the *Daily Mirror*. Indeed, I observe that last Friday, the day after Mr. Morrison's statement, the noble and learned Viscount on the Woolsack made a speech at Portsmouth in which he obviously referred to what Mr. Morrison had said; and, at a time when this criticism and comment upon Mr. Morrison's statement about the *Daily Mirror* was in everyone's mind—it was the following day—the noble and learned Viscount rebuked those who, assuming the air of vigilant criticism, indulged in virulent denunciation of everything and everybody connected with the carrying on of the war. Then, according to *The Times*, the noble and learned Viscount proceeded to assert this:

> " He did not believe that the steady pulse of British citizens, grimly facing setbacks and disappointments, could be disturbed by this belittling of British energy and British leadership."

If I may respectfully say so, that was well spoken. Those were virile words, and words to which I wish to subscribe—the steady pulse of British citizens, grimly facing setbacks and disappointments, will not be disturbed by such belittling of British energy and British leadership.

The Press has two main functions, the publication of facts and the expression of opinion, including in " opinion " both comment and counsel. When the nation is at war, the Press has to observe a self-denying ordinance in respect of its publication of facts; it is under an obligation not to publish information which may be of service to the enemy. To that end, the Press of this country has cheerfully submitted itself to a censorship control which secures that no information shall appear in its columns which is deemed by the authorities to be liable to convey to the enemy useful information which they do not already possess. On the other hand, as regards the expression of opinion, the limitations imposed on the Press by the fact that we are at war mean that no comment or counsel shall be published which is calculated to impair the national war effort by fostering defeatism, urging surrender to the enemy, or inducing citizens to cease working and fighting for victory.

That limitation is very far from being a limitation on criticism, either of our actual war activities or of those controlling them. Criticism, far from being calculated to impair our war effort, is essential to maintain it in health and vigour; and the constant criticism provided by an earnest public opinion is of immense importance for calling attention to mistakes, for correcting blunders, for stimulating efficiency, and for encouraging action by those in charge of our affairs. After all, this war is not the private concern of our rulers alone; it is a life and death issue for every citizen, for every one of us individually; and it is not only our right but our duty to put forward any useful comments or counsel which we are able to contribute. I adopt for myself words spoken by Mr. Brendan Bracken in his first speech after his appointment as Minister of Information, made when addressing the Foreign Press Association. This is what he said, and these are the words which I wish to adopt as my own and to commend to your Lordships' House:

> " The dictators hate a free Press, because they fear it; but a Yes Press is a menace to good government."

I beg to move.

LORD VANSITTART: My Lords, I rise to ask for some enlightenment and to venture a suggestion. I have seen and served many Governments, and they have all had one thing in common, and that is that, like one of Disraeli's characters, their idea of an agreeable person is a person who agrees with them. I think that that is exceedingly natural; roughly—or even not so roughly—it is most people's idea. Obviously the *Daily Mirror* does not fall within that definition, and obviously also there is much more to it than that; and the question is, how much more? The Government, I am sure, have no intention

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of fettering the Press, nor the Press any intention of being fettered. So far, so good; we are all agreed. I think we are all agreed that the Press has done a great work in great difficulties, and those of us who have occasionally contributed to it are, of course, even more emphatically of that opinion. All the same, I think that some people are inquiring whether the line taken in this instance constitutes a policy or an exception, and I think it well and wise that we have an opportunity to-day to clear up that point. I hope that nobody will dismiss the substance of this debate as a storm in a teacup, because that is precisely where, if we are wise, we should wish all storms to be.

Now, if this is a matter of policy it gives us food for thought; if, on the other hand, it is an exception, exceptions are particularly invidious when they are not exceptions. I could quote a number of instances to illustrate my point, but one will suffice. In the March issue of the Duke of Bedford's organ—I am using too sonorous an expression—*The Word*, there is an article which goes far beyond anything attributed to the *Daily Mirror*. On page 89 your Lordships will find an article which intimates that the Prime Minister's strategy has reduced us to a desperate plight. He calls the Prime Minister a grave-digger, and says that retired officers affirm that it is a choice between Churchill and the loss of the Empire; that " a Parliament " —that is us, my Lords—" or nation possessing even the rudiments of sanity could ever have reposed confidence in a man with Mr. Churchill's record is indeed astonishing." I think it was Hume who said that an incapacity for astonishment is a sign of a low intelligence, and His Grace is perhaps concerned to defend himself from such a charge. And if Hume did not say it, I do, and I hope your Lordships will agree that that is a manly attitude to adopt towards quotations.

But I am afraid that charity is not one of His Grace's long suits, because he continues that the Government is a prize ass that sacrifices people's lives to cover up its mistakes. He intimates that Russia will probably be unable to resist the German spring offensive, and that the United States are too rotten with graft and corruption to be reliable. Well, only three days ago, on March 23, at Hove, a widow very properly received one month's imprisonment for saying precisely that about Russia, and it goes without saying that there is not one law for a widow and another for a Duke. He continues, to make quite certain of giving offence, that Hitler is not a selfish politician who values war as a means of hanging on to power and office. There is, he says, no reasonable doubt that Hitler in his heart is impatient to see the end of the slaughter, and longs for the day when he can begin the post-war reconstruction of Germany. " We shall have to overcome our objection to trusting Hitler and accept him as a feature of the post-war world."

One cannot measure sin by circulation. The Home Secretary once said that he had his eye on the Duke. Why has he taken it off? Is it on the ground that the Duke has never grown up? And I think there is some justification for that view, because this same issue begins with a parody of " Onward Christian Soldiers," a piece of grubby doggerel that any third-form boy would disown, but which His Grace proudly signs. But in any case that line will not do, because if the Duke is dismissed on those lines why does he get paper? On the other hand, if he is to be ranked as a witting advocate of Hitler, why has he not been suppressed long ago? Now if the Government take that action, we are discussing a policy; if they do not, we are discussing an exception, and an exception by its very nature and necessity is akin to caprice, and caprice is catching.

Thus, in the *Evening Standard* Mr. Frank Owen, a leading protagonist of the hilarious notion that the Germans would stop fighting if only anybody knew the truth about them, has twice recently suggested that I should be suppressed: I am not Mr. Owen's idea of an agreeable person. On the other hand, I most definitely do not suggest that Mr. Owen should be suppressed, and I trust that this magnanimity will be taken as an expression of my preference for policy. Mr. Owen, of course, is not my idea of an agreeable person. He has no notion of fair play, but I think that in small matters as in great, the British Press can be trusted to resist any habitual lowering of its standards, and that if machinery could be devised for bringing its censure into play, this might afford a preferable alternative, at least sometimes, to disciplinary action by the Government. In

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any case, I wish to express my confidence that the Government will be extremely cautious in applying their definition of an agreeable person lest, contrary to the desire of all concerned, you get on to a slope which might end more sharply than it began.

VISCOUNT CAMROSE: My Lords, I do not propose to follow the noble Lord who has just spoken in his references to the noble Duke; I leave that to be followed up on another occasion in the hope that he will not be suppressed himself. With regard to the Motion moved by the noble Lord opposite, with the idea I am in the fullest sympathy. It is inconceivable that anyone who believes in the cause for which we are fighting to-day should not believe in a free Press. But I submit that the freedom of the Press in this country has been largely achieved and maintained because the newspapers of the country have been conducted with a proper sense of responsibility and independence. They have been conducted, in the words used by Mr. Asquith in the last war, with vigilance and outspokenness combined with patriotic self-restraint.

The right to criticize is a fundamental part of a free Press; in fact there could be no such thing as a free Press without it; and all Governments, even Coalitions of all the Parties, are better for it, even though they do not always appreciate it at the time. Recently, events have been tempting to the critic. I cannot help feeling that he has been a little too active, and that we have done too much to discourage our own people and to cheer up our enemies. I believe that too much blame has been laid on those in authority for reverses which they have not had it in their power to avoid, and there has been too little allowance for troubles beyond their control. I believe that there has been too much discouragement of men carrying large and trying responsibilities and faced with great difficulties not of their own creation. We are not going to win this war by carping at our leaders all the time. That is a point of view, and while I am of that opinion I do not contest the free right of the critics to make their remarks, and I do not for one moment concede to this or to any other Government the right to interfere with them.

But there are certain limits beyond which few English papers would go, or indeed should go. There is the question of the leaders of our Armed Forces, of our leaders in the field, and of the holding up to contempt of our officer personnel who are training our Army at home. There is a limit to criticism there. It is indeed a form of criticism which only the utmost urgency could possibly justify. And it is largely in this direction, as I understand it, that the Home Secretary has issued his warning to the *Daily Mirror*. As a newspaper proprietor myself, I do not want to say too much on the conduct of other journals, but I do not hesitate to state that in my opinion the policy pursued by the *Daily Mirror* is calculated to place in jeopardy the reputation and respect which is felt for the British Press and upon which the freedom of the Press in this country is based.

In that connexion I should like to say that the noble Lord who moved this Motion seems to be at one with me. He deplored certain things in the *Daily Mirror* himself, and he went on to say that the *Daily Telegraph* was the only London paper which had taken a view in support of Mr. Morrison's application of Regulation 2D. That is correct up to a point. I believe there are seven London morning papers besides the *Daily Mirror* itself. Two did not comment on it and four commented on it in the way described by the noble Lord. But the noble Lord's reading of the English newspapers has not gone quite far enough. There are not so many provincial papers which have commented on this matter, but I am going to read to the House extracts from two of the most serious-minded papers in the country. One is the *Birmingham Post*, which said:

"The methods of criticism which the *Daily Mirror* has systematically employed make every newspaper ashamed that such things should be done in the name of the Press."

It goes on to say:

"In any event, since the national interest must be a paramount consideration, it would be quite proper for the Government to put a stop to mischievous sensationalism by invoking its powers under the Defence Regulations to suppress the paper that habitually offends."

The *Yorkshire Post* said something of the same sort. It said in the first part of the article:

"We welcome this attitude by the Government"—

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"We welcome this attitude by the Government"—

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that is the attitude expressed by Mr. Morrison—

"and we think it should have been declared and put into effect long ago. . . . We are bound to say that, in our judgment, the *Daily Mirror*, whatever the chief motive of its directors may be, and however patriotic may be their attitude to the war, has done more harm than good and is no credit to the country."

Having said that, I should like, in fairness, to clear up one matter relating to the *Daily Mirror*, and that is concerning its ownership. It is a paper which, for reasons I need not go into now, has been the subject of much discussion both at the present time and before the war. Prejudice has sometimes been introduced into these discussions by the suggestion of mystery in its proprietorship and the idea that the real owners had cloaked their identity under the names of bank nominees. The facts are that the late Lord Rothermere, who at one time owned the control, sold his shares on the market. That happened a number of years ago, and the result is that there are now some tens of thousands of shareholders, and no combination of 50 or more could be large enough to give control. In other words, the paper is owned by the public and is controlled by the working directors, and it is these working directors who have the responsibility.

Whatever opinion one may have as to the quality of the *Daily Mirror*, the real argument lies in another direction. What is at issue here is whether the Government should possess the powers conferred on it by Regulation 2D of suppression of a paper which it deems guilty of systematically publishing matter calculated to foment opposition to the successful prosecution of the war. It is a very great and very serious power. It is argued that Parliament only intended this Regulation to be used in the case of invasion. It is difficult to see how, in such circumstances, any newspaper would have the opportunity to publish "systematically" matter of this kind. But leaving that on one side, it is worth noting that the power was used by the Home Secretary in the case of the *Daily Worker*, and that when the matter was debated in Parliament, the voting was 323 to 6. On that occasion the Home Secretary specifically asked the House to give him authority to use either Court proceedings under Regulation 2C, or the more drastic powers of 2D, according to what he deemed expedient in the national interest. I cannot find, with perhaps one or two exceptions, that those newspapers who to-day are attacking this Regulation had anything to say on the subject either then or when the Regulation was debated in Parliament previously. It seems to have been accepted by the Press previously as a power which Parliament would naturally take in time of war.

It is possible that, under the Defence Regulations generally, the Government has the power, in certain circumstances, to suspend or suppress a newspaper without the use of 2D at all. There was the case of the *Globe* evening newspaper in the last war. The *Globe* persisted in the publication of a statement concerning Lord Kitchener which the Government had declared to be false, and under authority from the Government the military authorities seized the newspaper's plant and suspended its publication. It was permitted to resume publication a fortnight after, on apologising for its misstatement. I remember that two other smaller papers were similarly dealt with under Mr. Lloyd George's Administration. The matter of the *Globe* was raised in another place, and the view of the Government of the day was stated by the noble Viscount who now sits on the Woolsack. I understand he is to reply to this debate, and perhaps he will say something on this point. It must be generally conceded that some protection against sustained or systematic perversive publication is essential in war-time. If a Government, for instance, received a report from its military advisers that the matter being systematically published in a newspaper was causing disaffection in the Forces, Court proceedings would be quite ineffective in dealing with the matter. It would require something much more decisive, and I do not see that you can possibly deny the Government's power to deal with a case of that kind.

But there is one definite safeguard of the proper freedom of the Press, which is perhaps the most effective of all, and that is this, that no Minister or Government which used the powers of Regulation 2D to strangle the free expression of opinion in this country could possibly last. The belief of the people in a free Press is so fundamental and so deep that they would react immediately to any improper or political use of an extraordinary power only entrusted to the Government for the

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[Viscount Camrose.]

purpose of the effective prosecution of the war. As a newspaper conductor, I say quite definitely that I do not consider that the liberty of the Press or the right to free criticism is endangered in this matter. The two things—honest criticism and the kind of policy for which the powers of the Regulation 2D can be invoked—are as far apart as the poles. In the present instance the Home Secretary has issued a warning, and has not used the more drastic powers which he possesses. I venture to think that that will be sufficient for his purpose, and that, on the other hand, it will not cause the reservoir of honest criticism to show the slightest signs of running dry.

THE MARQUESS OF CREWE: My Lords, the House has reason to be grateful to the noble Lord who introduced this question, because it is one of greater importance than might appear at first sight to be the case. We all know and all agree that the liberty of the Press is one of the matters of which this country is proud. I think we can say that the Press here has for a very long period been more free than in any other country in Europe, and we agree it is an essential feature of any democracy that there should be a free Press and a free expression of public opinion. It is worth recalling, perhaps, that before this country could, in any sense, be said to be a democracy, the same view was held by the people of England. To use the old phrase, as every schoolboy is expected to know, there was the case of Wilkes and the North Briton, and the verdict of the Court which was appealed to against the action of the then Government has been considered to be the charter of freedom for the Press ever since. Then the Government of the day tried the issue on what was called a general warrant—that is to say, a warrant to prosecute everybody who might be concerned, without specifying any person, and I believe, if I remember aright, some fifty people were put into prison. That was declared to be illegal. It was also declared that no right of search and the taking away of papers existed in a case of that kind. Since then the Freedom of the Press has been what is usually called the palladium of British liberty.

At the same time we all recognize that in time of war strict limitations have to be placed upon the freedom of the Press. Everything is rationed these days. Liberty has to be rationed as much as mutton chops, and the Press has to understand —and I believe with the noble Viscount who has just spoken does agree and does understand in the main—that severe limits have to be set to freedom of discussion either in speech or in print. The result is that these two Regulations 2C and 2D exist. There has many times been quoted a statement made by the then Home Secretary, Sir John Anderson, in another place, which appeared to imply that the drastic provisions of 2D would only be used in case of invasion. To my mind that is somewhat overstating the case even if it may have been in Sir John Anderson's mind at the time. I can conceive cases in which it would be necessary to apply the provisions of 2D rather than to open a case in the Courts of Law.

For instance, consider one matter on which the public mind has been greatly exercised of late—namely, the unhappy discrepancies which exist between the salaries and wages that some people are able to obtain in civil employment compared with the pay of those who are members of the Fighting Forces. That is a most difficult and delicate subject, and is one on which prudent discussion may be necessary, but it is easy to conceive a series of articles published by some paper consciously intended to court popularity with a view to advertisement, which would be of the most mischievous kind, and the circulation of which might do infinite harm to the effort of the country in the war. In such a case as that it appears to me that immediate suppression would be the only reasonable course. I do not believe that the starting of an action at law would by any means meet the case, because the proceedings in a Court of Law, if published—and supposing they were not published it would be contrary to our traditions of freedom of publication—and the biased speeches which might be made in such a case, might redouble the harm which was done. Therefore, I should never dismiss the possibility of action having to be taken under 2D rather than by having recourse to the Courts of Law.

As regards this particular instance, I think that altogether too much has been made of it. There was a saying of the Duke of Wellington, in respect of some action which he was invited to take, that it would be like shooting a sparrow with

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a great gun, and the industrious warrior added, rather superfluously, " That is not wise nor an action which is well taken." I think it may be that, although the proceedings of the *Daily Mirror* are certainly not such as to attract the commendation of anybody, so far as I am aware, it might have been possible to proceed rather more slowly and to have avoided the appearance of interference with the free expression of public opinion of which some people are anxious to accuse the Home Secretary. On that I would say that nobody who knows Mr. Morrison could suppose for a moment that he would welcome the chance of taking arbitrary action if he could possibly avoid it, and, therefore, if the proceedings have not been managed in a way to avoid all public criticism, it must be regarded, I am sure, rather as a misfortune than as a matter of blame to His Majesty's Government.

The noble Viscount, Lord Camrose, to whose speech we all listened with great pleasure, mentioned the case of the *Daily Worker*. There again I am not quite sure that too much has not been made of the offence committed by that organ. I am inclined to ask the noble and learned Viscount whether His Majesty's Government do not consider that the offence committed by that newspaper might not now be regarded as purged and the paper be allowed to be reissued. I speak without any kind of prejudice, because I have never seen a copy of the newspaper, and I imagine it is not regularly subscribed to by most members of your Lordships' House, but speaking in general terms I am inclined to ask whether His Majesty's Government might not be prepared to readmit it to the company of newspapers. I can only say once more that I am glad this discussion has been initiated by the noble Lord because I think it will tend to clear the air and remove a good many misconceptions.

VISCOUNT TRENCHARD: My Lords, I must apologize to the noble Lord who introduced this Motion for not being in my place at the beginning of his remarks, but that was due to unavoidable circumstances. I am not speaking on behalf of the Services but as an ex-member of two of the Fighting Services, the Army and the Air Force. I believe that it is the opinion of a great many in the Services that the placing of this Motion on the Paper is most unfortunate. Especially am I surprised, because I understand that the noble and gallant Colonel Lord Nathan is in charge of welfare in the London District. The object of welfare, surely, is to foster morale in the Services. Therefore I am surprised that the noble Lord should be so out of touch with all the Services as to criticize the action of the Government in this case of the *Daily Mirror*. What I believe the Services think is that that action was long overdue. Surely we all realize the seriousness of the situation as it is to-day. The one desire of the Services —and after all they, and not the newspapers, are the first line of defence—is to get to grips with the enemy and to get away from all the aspersions and innuendoes on everybody above the rank of a private soldier or a Second Lieutenant or a Pilot Officer or Midshipman. Nobody is attacking the freedom of the Press. What they are attacking is the freedom of licence.

THE LORD CHANCELLOR (VISCOUNT SIMON): My Lords, I think this debate is reaching its conclusion and I would venture to occupy your Lordships' attention for a short time in making a reply on behalf of His Majesty's Government. With one observation at any rate that has fallen from my noble friend Viscount Trenchard I think the whole of your Lordships' House will be in agreement in principle and in fact. All serious people will understand that nobody is attacking the freedom of the Press. The general question hardly needs debating, interesting as it is. The particular instances which have brought this matter to the notice of the public and of Parliament may require some special treatment. My noble friend the Marquess of Crewe in the interesting speech which he made referred to some historical matter. It is tempting to spend a few moments on that aspect of the question and the more so because this phrase " the freedom of the Press " is constantly misunderstood.

For my part I think I should go back a little further than the noble Marquess, and remind your Lordships that what is called the liberty of the Press is not something that attaches to newspapers as distinct from other forms of publication. " Press " in that connexion means the " printing press," not " Fleet Street." Moreover, the liberty of the Press in the wide sense does not mean that newspapers

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[The Lord Chancellor.]

or any other form of publication may print and circulate without rebuke whatever they like, however false, and however injurious to the national cause. That is not the historical side of this matter at all. The liberty of the Press is the liberty to print, whether in book, or pamphlet, or newspaper form, without asking the previous permission of anybody. That is what it is. Milton's famous pamphlet, the *Areopagitica* has got as its alternative title "A speech for the liberty of unlicensed printing." It was published, I would remind your Lordships, in 1694 after an ordinance of the Long Parliament which, continuing a long tradition, required what was intended to be published to be submitted first to authority. I rather think that the Lord Chancellor and the Archbishop of Canterbury combined in the agreeable occupation of certifying whether it was fit to be put out. Milton was protesting against the continuance of the system which, until then, was universal in the countries of Europe—a system which was rigorously enforced by the Roman Church through the Inquisition and which after the Reformation in this country was continued by King, by Star Chamber, by Parliament—the detestable principle, namely, that you must get the formal leave of the necessary authorities (it was called the *Imprimatur*, "Let it be printed,") and only when you had got that were you at liberty to put out from the printing press that which you thought fit to publish.

Let nobody belittle the immense service which that prince of Liberals, John Milton, conferred on us all and on mankind by that magnificent protest. Possibly some of your Lordships may recall that in Macaulay's History it is pointed out that all this fine language by John Milton did not immediately achieve its purpose. It was left to the Parliament of, I think, 1695 to refuse to continue to give a further lease of life to what was called the Licensing Act. The House of Commons presented to your Lordships' House a long document explaining the reasons why they did not think the Act should be continued. The reasons, as Macaulay points out, were mostly trivial and detailed. No one seems to have realized the enormous fundamental character of the change to be introduced. By that change, the Licensing Act was no longer law and from that time forward everybody has been free to use the printing press for the purpose of putting forward what he was minded to publish without previously requiring the consent of anyone.

Nobody, of course, nobody in his senses, nobody with any respect for British history, nobody who understands the most elementary thing about British liberties, would ever dream of impeaching or attacking the liberty of the Press. But, my Lords, I have had the curiosity to look through Milton's pamphlet to see whether it really could be used in criticism of the action of the authorities, after matter has been published, if what was published was found to be gravely against national interests or public necessities, and I venture to read to your Lordships one sentence only from John Milton's pamphlet. In the midst of his argument for the freedom of the Press, he uses this sentence:

> "I deny not but that it is of greatest concernment in the Church and Commonwealth to have a vigilant eye how books demean themselves as well as men; and thereafter to confine, imprison and do sharpest justice on them as malefactors."

Milton never confuses the principle that the Press is a free instrument of expression of opinion with the totally different suggestion that there is some unlimited licence given to those who edit publications to say whatever they like in all circumstances, whatever be the extent of the danger to the State itself which might be involved in their publication.

I was very glad to know that the noble Lord who introduced this matter to your Lordships to-day—and I must say that he presented what he had to say in very moderate terms—does not dispute that proposition. Nobody can. It is manifestly and absolutely essential that there should be power somewhere to prevent, in time of war, the fearful injury which might be inflicted, which, in the view of the noble Viscount who last spoke, is in danger of being inflicted, on discipline, confidence, energy and unity, if what is published strikes too deeply at these essential national requirements. I, therefore, am saying nothing at all which can be set in contrast with the principle in which I have been brought up, one of those Liberal principles, in the true sense, which, like many other Liberal principles in the course of time, have become part of the practice and gospel of the whole

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people. May I remind your Lordships what Lord Macaulay said about this very volume *Areopagitica*, and not indeed in his history, but in his essay on John Milton? When he came to John Milton's treatise he called it: "That sublime treatise which every statesman should wear as a sign upon his hand and as frontlets between his eyes." It has been pointed out in the debate with much force and truth that even if there were a Government so blind to every principle of British life as to treat lightly or to undermine this principle of the freedom of the Press, it would very soon know it, for Parliament is the guardian of the liberties under which we have lived, and which, by the Grace of God, we will maintain and live under hereafter. But it may be that when we are fighting for those very liberties, as the noble Marquess said just now, we have to accept some temporary restrictions, necessitated by the circumstances of the times, as the one and only means of preserving those liberties complete and unspotted for the time that is to come.

Now the noble Lord who raised this question made some observations on these two Regulations—Regulations 2C and 2D. I think it is to that part of his speech only that I might be tempted to offer some friendly criticism. He, of course, explained the difference between the two Regulations, but I do not think that the considerations which he mentioned by any means exhaust the importance of the matter as regards 2D. With regard to 2C, the elaborate machinery not only requires that there should be a previous warning after habitual misconduct, but it requires that there should then be a period of waiting to see if the warning has effect, and it then provides—and this is a very important point—that if there is a prosecution instituted it cannot be instituted before magistrates, which is a fairly summary process. It cannot even be instituted at Quarter Sessions, but it must be instituted at the Assizes. So far as London is concerned, the Old Bailey, which takes the place of Assizes, sits fairly frequently, but even so, it would be obvious to any of your Lordships, or indeed to any sensible man who knows our system of justice, prompt as we try to make it, that Regulation 2C could never be used effectively unless you had a very considerable stretch of time in which to make quite sure that it can be effectively applied. There is the use of the Court of Criminal Appeal to be considered, the obtaining of the leave of the Attorney-General—all sorts of things—the whole paraphernalia of the British Criminal Law.

Where I do not quite agree with Lord Nathan is in his account as to the justification for the new Regulation 2D, as it was given by Sir John Anderson. He said in effect, and it has been said outside this House—or at any rate I think has been implied—that Sir John Anderson was describing as the occasion on which 2D could be applied, only the occasion of imminent or actual invasion. It may be that I have misunderstood the noble Lord, but I hope he will agree with what I am saying now. Sir John Anderson did no such thing. What he said was in effect: "We have got 2C already and you might think that is enough. But," he added, "2C was adopted before the mind of the country was turned to the imminent danger of invasion, as it is now turned, in view of what has happened in Belgium and France." "Therefore," he said, "we need a new and swifter instrument," and he proceeded to say (I refer to column 1320 of the Official Report of July 31, 1940), that we must, therefore, have a very drastic Regulation—I am paraphrasing his words without reading the actual sentences—which, as he said, might be used if "the direst peril which can be imagined were to come upon us."

I put this question to your Lordships, and I venture to address it also to those outside who seem to think that Regulation 2D is being taken out of the armoury and exhibited to, although not used upon, the *Daily Mirror* at a time when it is quite inappropriate to do so. Is anybody going to say that this country is not, or may not be, in the direst peril? Is anybody prepared to say if and when an invasion will begin? Is anybody going to say "You must not touch the Ark of the Covenant until the invasion has actually begun"? There has been a great deal of use in other connexions of the word "complacency." I should have thought that anybody who at this time of day urged that we did not want the most summary and effective process, if a case for action was made out, was taking a much too cheerful view of the immediate situation; and I am sure that the noble Lord would not wish to be one of those who did so. Regulation 2D, therefore, is

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[The Lord Chancellor.]

a perfectly appropriate remedy at the present time, if the case is made out.

Here I should like to say a word on something which was said by the noble Marquess. He has, I know, followed this matter closely, and his devotion to public duty is the admiration of us all; but I am not sure that the noble Marquess has appreciated that the particular incidents which caused the Home Secretary to warn the *Daily Mirror* are not the beginning of publications by that organ which are open to the very gravest rebuke and, I think, censure, but the culmination of them. The Regulation speaks of " systematic " publication, and I can assure the noble Marquess—because I have had the duty of examining the matter, with other Ministers, pretty closely—that there was what would be called in France a whole *dossier* which goes back, with various illustrations, for a considerable time. Let nobody suppose that this is the first moment that the Government have heard, let us say, from the military authorities, that they are seriously alarmed at the effect which some of these publications may have.

My noble friend Lord Vansittart, in his very entertaining speech, almost implied that the Government, in taking action of this sort, were actuated by the view that the particular newspaper was not what he called " an agreeable person." Of course, that is the agreeable way in which my noble friend speaks; but he does not seriously believe that the Government, in considering whether they ought to take action in this matter, are indulging their collective likes or dislikes. They are forming a judgment which, of course, like other judgments is liable to be criticized. Even lawyers' judgments are criticized sometimes! They are forming a perfectly serious judgment, on what they think are quite adequate grounds. I do not know that we need come to a conclusion whether these particular incidents which have been referred to are as grave as some people think, and I do not want the debate, or the thoughts of noble Lords, to be distracted too much by that consideration. At the same time, I should like to state quite bluntly my own view.

There was this cartoon in the *Daily Mirror*. I do not know how many noble Lords saw it, but I must say I thought it a cruel and deplorable publication. It depicted a merchant seaman, in the last extremity of agony, clinging to some planks in an angry sea, away from all possible hope or help, and there was this caption underneath about the price of petrol. My Lords, we have lost a good many tankers lately, and the essential service of bringing petrol to this country, not for the indulgence of motorists but for the service of our Fighting Forces, is known to everybody. Suppose that on the morning that the *Daily Mirror* was delivered at some little house, the mother or the wife or the daughter had opened that telegram which arrives sometimes with the news that the tanker was torpedoed and that her man, serving on the tanker, had been drowned at sea. What do you think would be the effect of this horrible cartoon thrust under her door as a contribution to confirming her constancy and courage? When one remembers that it is essential to keep up the courage and spirit of those at home, and to encourage them to bid their menfolk go on facing danger and risk on behalf of us all, I must say that my personal judgment is not that the artist and the publisher of that cartoon may be regarded as merely displaying their enterprise or their talents.

As for the letterpress, I am sure that my noble friend Lord Nathan must have felt as he read it that it was not a very encouraging publication. Suppose that the noble and gallant Lord was actually in command of a battalion at this time, and suppose that he found that a pamphlet containing words of that sort was distributed to every private in his regiment, and that they were all reading it: is he quite sure that he would not think that this, I agree, grotesque and exaggerated description of those who are on the Staff, the " brass hats," might not seriously undermine the confidence and discipline of the troops? I am not so satisfied at all; and I think, therefore, that it is exceedingly improbable that the Home Secretary—who, as far as he has any prejudices at all, is certainly moved very much in favour of giving every liberty to criticism—and the other Ministers who decided that something must be done were doing so without warrant. The Minister had no call to give a warning; it was done for the very purpose of making sure that no injustice would be committed. We shall see whether that warning is not effective.

I must, on behalf of the Government, make special reference to the speech made just now—a speech which I am sure

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impressed us all—by my noble friend Lord Camrose. It was a dignified speech. It was, if he will excuse me for saying so, a sensible speech, and the speech of a real leader of the Press. I have always understood that there was a rule in Fleet Street—it is rather vulgarly expressed, but I hope that I may be forgiven—that dog did not eat dog, and that, however different the tone and standing of different newspapers might be, there was a strong and natural tendency collectively to defend the extremity of their rights. I do not think that the reality of those rights has been in the least diminished by the speech which has just been made by my noble friend, and, indeed, it must be extremely trying to responsible conductors of newspapers to find to what miserable lengths a different kind of sheet is capable of going. If I may for a moment continue my canine metaphor, I recall the lines of Oliver Goldsmith:

> " And in that town a dog was found
> As many dogs there be—
> Both mongrel, puppy, whelp and hound,
> And curs of low degree."

I feel very grateful to the noble Lord that on this occasion the dignified, well-conducted and benevolent mastiff should have administered a slight nip to the ill-conditioned and ill-bred specimen whose yelpings are the cause of the present debate. I observe that the articles in the *Daily Mirror* which in some quarters have roused most offence, are signed by the *non de plume* of " Cassandra." I do not need to remind those of your Lordships who maintain a memory of the Greek tragedians that Cassandra came to a very sticky end.

I think, therefore, that this debate has merely shown that on the matter of principle there is not the smallest difference between any of us. This very speech of Sir John Anderson to which my noble friend referred began with some observations of a general kind which I would venture to reproduce in effect here, because they put the whole thing in its true perspective. I am not actually quoting, but this is what he said. He said the general principle is that the fullest possible liberty consistent with vital national interests should be allowed to the Press. So say we all. He said, after all what is the war being fought for? It is being fought to maintain and establish the doctrine of liberty, as opposed to the doctrine of despotism and repression. He said expressly on behalf of the Government, and I reaffirm it, that we hold that freedom should be exercised by the Press to criticise the Government and to advocate ideas which may not be acceptable to the majority. But, he said, the question is—and, my Lords, it is the question—whether freedom for the expression of opinion should include freedom to assist the enemy by the systematic publication of matters calculated to foment opposition to the prosecution of the war to a successful issue. That is the question, and on that there can be no doubt in any quarter or corner of this House.

The noble Viscount, Lord Camrose, gave some very interesting quotations from other newspapers, which have also not shown themselves too hesitant in criticizing what they felt was a very dangerous publication. I can add to his list. I noticed a leading article—no doubt many of your Lordships did—last Sunday in the *Sunday Times*, which contains a couple of sentences which I should like to quote. It says:

> " The country is fighting for its life in a desperate war, in which our beleaguered island, already ravaged from the air, may be invaded on land also. In such circumstances the ordinary ' freedoms ' cannot function in quite the ordinary way; that is, people cannot be allowed to abuse them recklessly, subject only to correction in a law court after the event."

Is not that extremely good sense? Is not it absolutely consistent with every notion of British liberty? May it not be the necessary condition upon which British liberty may be maintained? The other passage is this:

> " Can it be sufficiently neutralized by an action in the Courts? No one with experience will be unaware that, whatever the merits, the mere holding of such a trial would take effect in the very opposite way. Consistently with public safety, there seems, in fact, no alternative to some such action as Mr. Morrison has taken."

The noble Lord made a reference to an incident of the last war, the shutting down of the *Globe* newspaper, and gave us an account of it. In one single particular, if he will excuse me for saying so, his account was not quite accurate. I do not know whether to be relieved or offended by the error. It was not I think the military authorities that went down and stopped the issue of the *Globe*; it was the Home Secretary's officials and, my Lords, I was the Home Secretary. That lively pink sheet, which in those days

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[The Lord Chancellor.]

many of us often read with pleasure, persisted in repeating that Lord Kitchener, who was then a member of Mr. Asquith's Government, had resigned. They were warned that this was a statement which was not true and must not be made. They printed it again the next day. By this time communications were coming to us from our Allies, greatly disturbed to hear —for of course they were immediately informed that the news was about in London—that Lord Kitchener had abandoned the Government. Then, I think, the statement appeared for the third time.

Whether what we did then was lawful or not I do not know, but I know what happened was that the then Attorney-General, my predecessor on the Woolsack, Lord Birkenhead, and myself met in the Home Office. We gave orders that a police van was to be procured and a sufficient number of policemen were to get inside, including somebody who understood what were the really vital parts of a printing machine, and that they should descend on the offices of the *Globe*, where they were to perform a surgical operation on the machine which I politely describe as evisceration. That they did, and the *Globe* never appeared again. I saw them in the Home Office a little time afterwards, and I told them we were sorry we had to do these exceptional and drastic things, but I thought that after a fortnight they might start again. The *Globe*, however, did not do so. I thought it my duty, even at this distance of time—not forgetting that no interval is sufficient to defend me from prosecution—to give to your Lordships this accurate account of what in fact I did in the days of my hot youth.

Now we have reached the conclusion of the debate I think in a very happy spirit of union. Nobody, of course, dreams of assailing the essential liberties of the Press. Everybody, I apprehend, agrees, and especially in these critical days, that it is absolutely necessary that there should be a resource in the hands of the Government by which in case of need they may promptly prevent the continuous publication of matter which is fatal to the safety of the State. No action under that Regulation has been taken because the warning, as far as I know, has proved effective. I wish to make it entirely plain to your Lordships' House that the Government do not retract from their position in this matter in the very least, and that we will certainly use this power if a case arises in which it becomes necessary to do so. But, I hope not.

I could not end without paying a sincere tribute to the high standard of caution, public spirit, and responsibility which the press of this country as a whole has displayed throughout the war. It is not the Press of this country, treated as a whole, which is at all likely to let the country down, and indeed the free publication of public opinion, criticism, and advice is not merely a thing that ought not to be objected to, but is one of the essential ingredients of victory itself. We should be losing the war before we had fought it out if we were to sacrifice these things which are in our bones and in our blood. All I ask is that it should be recognized that liberty carries with it responsibility. One of the most horrible things about slavery is that the slave has no responsibility for his actions and can only do what he is told. We live under a better system, and I look with very great confidence to the newspapers of the land to give their assistance freely, unflinchingly, fairly, courageously, with such honest criticism as they feel they ought to make until the day of victory dawns.

THE MARQUESS OF CREWE: May I ask the Lord Chancellor if he will say a word on the subject of the *Daily Worker*?

THE LORD CHANCELLOR: I regret I am not myself really informed on the subject, but I shall see that the attention of the authorities is drawn to what my noble friend has said.

LORD NATHAN: My Lords, I feel it would be expected of me—and indeed I propose—to take note of what I will not say was the attack, but the animadversions cast upon me by the noble and gallant Viscount below the Gangway (Viscount Trenchard). I do not know whether the noble and gallant Viscount was present at the material parts of my speech. In his observations he said quite frankly he was not here for the whole of it. It seems to me he cannot have been here because if he were he could not have so completely misconceived the purpose and object of the speech I addressed to your Lordships' House. He would also have known that, when speaking of the

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Daily Mirror and of the attacks that had been made by it, I used these words:

"That is a generalization so extravagant that I should have thought it would have carried its own refutation. It is of course false, abusive, and unmannerly. It cannot be defended, and I certainly am not bringing this matter before your Lordships' House for the purpose of defending the indefensible."

I do not know how in face of that statement, if he heard it, the noble and gallant Viscount can suggest that I was in any way backing the statements in the *Daily Mirror*. On the contrary, in the most unqualified and unambiguous terms, I repudiated them, and I do so again now.

I must say this, that if the noble Viscount, speaking for himself and, as I understand from him, senior officers in His Majesty's Forces, really holds the moderate or even low opinion of the intelligence of those serving in His Majesty's Forces, he does them a great deal less than justice, and he knows a great deal less of them than does the noble and learned Viscount on the Woolsack. Indeed, I have adopted the Lord Chancellor's words when he said, with reference to these attacks, that he did not believe that the steady pulse of British citizens could be disturbed by this belittling of British energy and British leadership, and of course, that is the truth.

THE LORD CHANCELLOR: I do not want the debate to end with a misunderstanding. Perhaps the noble Lord will take it from me that the observation he was good enough to quote from the speech I made at Portsmouth, and which he quoted quite accurately, was not referring to this matter at all. It was referring to general indiscriminate attacks, not to this particular matter.

LORD NATHAN: I must, of course, accept the Lord Chancellor's explanation. There is nothing in the speech in the least inconsistent with—on the contrary it is entirely applicable to—the case of the *Daily Mirror;* but there are other statements to which I can well understand his observations also applied. Let me remind or inform the noble and gallant Viscount (Lord Trenchard), not only that my regard for the morale of those serving in His Majesty's Forces is in every degree as great as his own, but the object of this Motion and the purport of my speech was not in the least to justify what was said. On the contrary, as I have said, I expressly repudiated it. My object was to draw attention to the choice of procedure on the part of His Majesty's Government in dealing with this matter—the manner in which it should be dealt with, not the quality of the statements made. I hope I have disabused the mind of the noble and gallant Viscount of any misunderstanding on that point.

The noble and learned Viscount on the Woolsack has referred to the speech made by Sir John Anderson on the occasion of Regulation 2D being brought forward. Of course I agree that, though what Sir John Anderson and the House of Commons had in mind at that time was the imminent danger of invasion, the arguments advanced by Sir John Anderson were, of course, equally applicable, and were intended to be applicable, to any like circumstances, involving peril or danger to the public safety. But there was nothing in Sir John Anderson's statement which indicated in the very least that it was intended to by-pass Regulation 2C and that with Regulation 2D coming into existence, Regulation 2C would disappear. There was no suggestion of that kind at all.

Before I sit down, I might perhaps be permitted to make this observation. I believe that the action that His Majesty's Government has taken in this matter might far better have been taken under Regulation 2C. I am not at all convinced by the arguments advanced to the contrary; though, naturally, I study them with respect. The argument of speed has been used. It has not, however, been pointed out to your Lordships before that, whereas this warning given by Mr. Morrison to the *Daily Mirror* was a warning given on March 19, this offending matter appeared in an issue of the *Daily Mirror* as early as March 6. An interval of 13 days was allowed to elapse during which, had the peril been so great, had the fomenting of opposition been so serious, one would have suspected that the Regulation would have been put into force far earlier.

But on the general question of the effect upon the British public of various statements that may be made, however much we may disapprove of them—and no one disapproves more emphatically than I do of the statements which appeared in the *Daily Mirror* in that relationship—I would draw the attention of your Lordships and of the noble and

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gallant Viscount (Lord Trenchard), who I see is no longer in his place, to these words which I quote from column 1849, House of Commons Official Report, October 31, 1939:

" To seek powers whereby you can suppress truth as various people see it will be doing harm and not good. If we leave them free to express their opinion which sometimes is alarmingly similar to the propaganda which Dr. Goebbels himself puts out, nobody is going to be harmed . . . After all, the British people are not sheep. They do not need to be told what they are to believe. They are capable of forming their own judgment . . ."

Those are not my words, they are the words of Mr. Herbert Morrison, the Home Secretary. The British people are not sheep. They are capable of forming their own judgment. That is the answer which I would give to the noble and gallant Viscount.

I would say, finally, to your Lordships that it is disturbing to the public mind if steps be taken under a penal Regulation unless the necessity is so obvious and the offence so glaring that it commends itself to public opinion without the necessity for argument, debate or justification; and it is upon those grounds that I hold, notwithstanding the powerful argument advanced by the Lord Chancellor, that the Government would have been better advised to have adopted some other procedure. But, naturally, I do not propose to carry this matter any further; I therefore ask your Lordships' leave to withdraw the Motion.

Motion for Papers, by leave, withdrawn.

House adjourned during pleasure.

House resumed.

ROYAL COMMISSION.

The following Bill received the Royal Assent:

Landlord and Tenant (Requisitioned Land).

WORKING HOURS OF CHILDREN.

LORD GAINFORD had the following Notice on the Paper: To ask His Majesty's Government whether any young persons under the age of sixteen are now working in the Potteries over fifty hours per week, and whether it is intended to withdraw the Order of December 23rd, 1941, permitting such children to be thus employed, and whether another Order has been recently issued to permit a somewhat similar extension of hours being worked by children under sixteen years of age in the cotton industry; and to move for Papers.

The noble Lord said: My Lords, I feel that an apology is due to your Lordships and also to the Government for my raising this topic which was dealt with some six weeks ago and this time without giving adequate Notice. It was, however, only yesterday that I happened to be informed that the extension of the hours of child labour, to which I have taken exception in the potteries, has also been introduced into the textile industry and the spinning section of the cotton industry. If I had deferred calling attention to this matter until after the Recess, the great object which I have of trying to stop an excessive number of hours being worked by children of tender years would be frustrated to a very large extent. I do not wish to travel over the same ground which I covered on February 10th, when, by only three votes, your Lordships failed to pass a Resolution expressing regret at any increase of hours of employment of children in the potteries, but I would like to remind your Lordships that the noble Lord, Lord Snell, who replied to me on that occasion, did, to a very large extent, condemn what has been done.

The noble Lord said that the Ministry of Labour and National Service would " closely note what has been said " and the noble Lord expressed the hope that the need for the Order in question would shortly pass away. He admitted that the Government did not say that the Order was desirable or even that it was unobjectionable. The Order in the potteries has now been in existence since December 23 and, as Mr. Bevin said in another place that the Order would be reviewed, I think I am entitled after three months to ask what has been the result of that review, and whether there are many young children still employed up to fifty-three hours a week in the potteries. That is one of the questions which I have upon the Paper. I would like also to remind your Lordships that the noble Viscount, Lord Wolmer—now the noble Earl, Lord Selborne—who spoke in that debate said:

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"I am quite sure that your Lordships' House would not view the principle of extending the hours of child labour with anything but disfavour."

The noble Lord also said that he had no doubt that the subject would receive further consideration in the light of what had been said that day. That is one of the reasons why I am bringing the matter again before your Lordships' attention so that the opinion of the House may be expressed, if not to-day then at a later sitting.

My complaint against the Labour Department is not that it is seeking to increase production. I am devoting all the time I can to increasing the production of coal and electrical energy, and I believe that everybody else, or nearly everybody else, is doing his or her best to try to produce as much as the country requires to meet the emergencies of this terrible war. But it is not essential, in my view, that the overstrain which is being placed upon young children under sixteen years of age should be continued. I think that the Government are pursuing a very short-sighted policy in pressing children to work very long hours in order to help older people who are having to work longer hours in the interests of production at the present time. My further objection is that this increase of hours is, apparently, being systematically extended, and that without consultation with the parties concerned. For instance, the Order which I now hold in my hand concerning the hours of women and young children, the General Emergency Order of February 5, 1942, for Cotton Spinning or Doubling was issued without the knowledge of or any consultation with the Amalgamated Association of Operative Cotton Spinners and the Textile Workers' Association, and without the knowledge of the Federation of Master Spinners Associations. The inspectors of factories, even, were not consulted with regard to this extension.

It seems to me very remarkable that the noble Lord, Lord Snell, when he addressed your Lordships' House on February 10, was not in a position to tell us that not only was this extension going on in the potteries, but that it had, some five days before, been introduced under this Order in the cotton spinning mills of Lancashire. By courtesy of the Ministry, I have secured a copy of that Order. I should like to point out that it is very difficult to get a copy of an Order of this kind, or to find out what the Government may be doing in connexion with the extension of the hours of women and children in our factories. This document has been given to me, as I say, by the Labour Department. I could not get it from the Stationery Office. I have not been able to find a copy of it in your Lordships' House. It is certainly not in the Library, and I was told by the librarian that a copy would not be in your Lordships' House until more than a year hence, when it would come here in the form of a bound volume. Well, as I say, these things are being done without the knowledge of Parliament, and that is one of my excuses for raising this matter to-day. This Order reads as follows:

"By virtue of the powers conferred on him by Regulation 59 of the Defence (General) Regulations, 1939 . . . the Minister of Labour . . . hereby exempts from the provisions of the Factories Act, 1937, as to hours of employment and holidays as respects women and young persons employed in accordance with the conditions specified in the Schedule to this Order, factories in which the spinning or doubling of cotton yarn is carried on. . . . This Order shall remain in force until the 28th March, 1942, unless sooner revoked by order of the Minister."

Well, of course it remains in force until it is revoked and it is for Parliament, in its discretion, to revoke it or for the Government to withdraw it.

Now the total hours which may be worked in any week, under the Schedule may exceed 48 but shall not exceed such number as may be specified by the district inspector up to 52. In the Factories Act, 1937, it was laid down as a principle that young persons should work only 44 hours a week, but, during the passing of the Bill through Parliament, a clause was inserted providing that in special circumstances 48 hours might be worked by women and young children. Unfortunately, in the cotton trade 48 hours have prevailed for some time, but now the number is extended to 52, and in Paragraph 2 of the Schedule it is stated that: "The period of employment shall not exceed 10½ hours in any day." I think your Lordships will agree with me that for children of fourteen or fifteen to be employed for 10½ hours a day means that they are working an excessive number of hours. As I have already said, I maintain that this is a retrograde step, that it is not justified, and that it very

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[Lord Gainford.]

nearly amounts to a lack of humanity towards the children of our country.

The two industries to which I am referring—the pottery industry and the cotton-spinning industry—are industries in which the circumstances in which the children work are appalling. Children in the potteries have to go into heated stoves, as I explained before, taking the moulds backwards and forwards. In the cotton industry, so that the cotton may be worked satisfactorily, there has to be a great amount of humidity in the atmosphere and great heat, and the children work these long hours in a humid, heated atmosphere which is really unhealthy. For the children to have to work for such long periods in those conditions seems to me almost cruel. I cannot understand why members of the Government acquiesce in its being done and in its being concealed, as it has been to a very large extent, from Parliament.

It may be said, and I suppose that it will be said, by the noble Lord, Lord Snell, or by anyone who attempts on behalf of the Government to defend this state of affairs, that this is necessary in order that the work should be done, and that there is a great demand for the production of cotton, and for mugs, cups, saucers and other things produced in the potteries; and that therefore these children must be employed for these long hours. As I have said before, it is not easy for me to explain how these physical difficulties can be overcome, but that they can be overcome if everybody desires them to be overcome I am quite certain. It seems to me that an ordinary parent, rather than allow his boy or girl to be overworked, would go into the factory himself and do the child's work for the excess hours. There are great numbers of women who could do this work. The work that these children do in the cotton industry is to piece together broken threads. That is their main duty. They also carry skips containing numbers of bobbins backwards and forwards to the machinery, but their main duty is to piece together the broken threads as they occur in the machinery. There are " big pieces " and " little pieces," as they are called, the " little pieces " being children of fourteen and fifteen and the " big pieces " being the women who do similar work in joining the threads together. It seems to me possible that there are in this country evacuees and other women who, rather than that these children should suffer, would be prepared to come forward and do this extra work, if it is absolutely necessary.

That is my case. I suggest to your Lordships that the Government ought to take steps to bring these Orders to an end, since they involve the sacrifice of the children's interests. We know that these children ought to be out-of-doors very much more, and that they should have time for recreation and for play and for further education. Of all these things they are deprived, and it seems to me to be a monstrous system that the Government have accepted under the pressure of the necessity for production. I do not ask these questions with a view to any decision being taken to-day, but, if the Government's reply is not satisfactory to your Lordships' House, I hope that this matter may be raised again at an early date after the Recess. I beg to move.

LORD BALFOUR OF BURLEIGH: My Lords, the noble Lord opposite has put his case with very great moderation and with very great force. Two very important principles have been raised. The first is the constitutional principle. I am really horrified to hear that these Orders were not obtainable in the Library of your Lordships' House until a year after the event, and then only in a bound volume. In war-time we cannot always, perhaps, be too particular about constitutional procedures, but it does seem to me that, more particularly when the liberty of the subject is necessarily to some extent infringed for the purposes of carrying on in war-time, such safeguards as there are with regard to information about these Orders ought to be available. I hope that the noble Lord who is going to reply will be able to see that that matter at all events is rectified.

On the other point, the merits of the question, I cannot add anything to what the noble Lord opposite has said, because the case which he has made is such a strong one; but I should like to make one practical suggestion to the noble Lord. There is in existence a body called the Industrial Health Research Board, a Committee of the Medical Research Council, which, as your Lordships know, is a Committee of the Privy Council. That Industrial Health Research Board is versed in these very matters. It is for

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the examination of such matters that that body exists, and it contains the best scientific advisers on the matter that the country possesses. I would beg the noble Lord to refer this matter to the Industrial Health Research Board of the Medical Research Council, because, however great the urgency, I very much doubt whether the object sought to be achieved by these Orders will in fact be attained, because everybody knows—we learnt it in the last war, and it is pitiful that we should have to re-learn it now—that these very long hours do not in the long run serve the purpose of greater output. I make that suggestion, and I hope that the noble Lord will give it his sympathetic consideration.

LORD WEDGWOOD: My Lords, I hope that the noble Lord who is to reply will give us an opportunity of discussing this matter again after the Recess, because it is rather extraordinary, after the debate which took place the other day, and after the Division which took place, that the Government have gone directly contrary to the debate, if not to the wishes of this House. It is extraordinary that the cotton trade has been added to the pottery trade in this way, despite the debate which took place.

LORD SNELL: My Lords, the difficulties involved in the Order of December 23, in relation to the employment of young children in the potteries trade, were considered in some detail on February 10 of this year, and there is therefore no need for me to recall the arguments then used. I propose to deal only with the specific points raised in the Motion which is before us to-day. The Order of December 23 last enables the district inspector of factories to authorize at a particular works the employment of women and young persons for hours exceeding forty-eight but not exceeding fifty-three. According to information obtained, on March 21 such authorizations had up to that date been issued for about twenty-five factories. In four of those cases hours in excess of fifty were not asked for. As regards the remainder, at some of the factories the permission had not been so far used at all, and at others it appeared to have been used only intermittently, or not to the extent of fifty-three hours. The number of young persons under sixteen employed for more than forty-eight hours in at any rate some weeks appears to have been something less than 200 as a whole.

On the question of withdrawing the Order, I am advised that it would not be right to assume that because it has so far been little used it can now be dispensed with altogether, even as regards those under sixteen. It may, for instance, be important to use it intermittently to avoid what are called bottle-necks. The Minister of Labour stated on March 4 in the House of Commons that he could not usefully consider any modification of the Order until the circumstances which made it necessary passed, but he is keeping a close watch on the matter; and on March 19 he said that he hoped to be able to make a statement about it in the near future.

As regards the cotton industry, the position is that on February 5 the Minister of Labour made an Order for the cotton spinning industry, under which working hours up to fifty-two can be authorized for women and young persons, irrespective of whether they are under or over sixteen. The Minister was advised that urgent war requirements necessitated longer hours of work in cotton spinning mills, and representatives of both sides had agreed to increase them up to fifty-two on the basis that the new scheme would apply irrespective of age. I am informed that the employers' association and the trade unions in the cotton trade were consulted about the Cotton Order, that the Order was based on their agreement, and leaders on both sides were shown the Order in draft before it was issued. On these grounds, therefore, the Minister made the Order concerned. He knew of the extent to which the cotton industry is organized, with assistants under sixteen. He decided that he could not exclude them from the Order permitting longer hours for others working with them. This Order has been used to a substantial extent, and the Cotton Controller has published figures showing that the weekly output aimed at has been nearly reached since the longer hours were introduced, though not fully obtained. In view of this, the Order is being continued in force for the present, but the Minister of Labour certainly does not intend to allow it to continue after the necessity for it has passed. So far as Papers are concerned, I will see that that is referred to the quarters able to

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[Lord Snell.]

deal with it, as also the suggestion made by the noble Lord, Lord Balfour of Burleigh, in regard to the Industrial Research Board.

That is how the matter stands, as I understand it, to-day. The Minister of Labour has the whole matter under review and an early statement is likely to be made. The Orders under dispute were asked for by both sides in the industry, and they were made in order to meet essential and urgent needs caused by the war. They are at present, as I say, under examination, and if it is found possible to do so those Orders will be rescinded. Meanwhile, I ask the House to remember, looking at the matter generally, that war imposes sacrifices upon us all, and no sacrifice is so difficult to make as that which we think involves principles and practices which we regard as right. Have we not heard to-day that war compels us to abate some of our demands and to tolerate things that we should not in ordinary circumstances admit? As a matter of public duty I personally have to do many things that I should not choose to do as a personal matter. I have sometimes to remain silent when I feel that I ought to speak, and sometimes I have to speak when I should prefer to remain silent. I suggest that the House should be satisfied with the statement that I have made, that the whole question is under immediate review and that a statement in regard to these Orders will be shortly made.

THE EARL OF LISTOWEL: My Lords, I think we are indebted to the noble Lord on the Liberal Benches for the pertinacity with which he has directed the attention of the House to this matter and for the deep concern that he has shown for the welfare of the adolescent workers. I must confess that I listened with considerable regret to the statement that has just been made on behalf of the Government. It was not very enlightening to hear that during some weeks there have been no more than 200 children under sixteen employed for these long hours in the potteries. It would be more interesting to hear how many children of this age were employed during average weeks. Indeed, for the cotton industry the noble Lord did not vouchsafe any figures at all. I think that our disappointment is particularly sharp because the Minister of Labour did say in another place a very short while ago that he hoped to be able to withdraw the Order affecting child workers in the potteries. From what we have heard it would appear that this Order and the Order applying to the cotton industry are to be continued for an indefinite period. The noble Lord opposite was not able to say that the Order would be withdrawn within even a short period of time; he gave no limit to its operation.

But I think there is a more important point involved even than this. This is a matter of policy, and we should be entitled to hear from the Government how far they intend to go and to what extent it is regarded as essential in war-time to eat into this protective legislation. This Order has now been extended from the potteries to the cotton industry. Is this the thin end of a very big wedge? How many more industries connected with the war will be affected sooner or later by these restrictions on the protection afforded by Statute to women and adolescent workers? That is a matter which I hope we may hear about in good time. It is certainly not right and proper that steps of such importance should be taken without Parliament being fully informed and given notice some time ahead. I was glad and grateful for one point in the speech of the noble Lord opposite. He said he would draw the attention of the Ministry to the plea of the noble Lord, Lord Balfour of Burleigh, that the Industrial Medical Research Board should be invited to consider the effects of these long hours on the health of the children employed. That was a suggestion I made when I addressed the House on this subject a short while ago, and now that I have support in other quarters I hope the Government may pay immediate attention to it. I very much hope the volume of public opinion which has shown itself to be in support of the noble Lord will cause the Government to consider their policy very deeply, and take Parliament into their confidence to the full extent at the earliest opportunity.

LORD GAINFORD: My Lords, I express sympathy with the noble Lord in the difficulty of his position. We all have to make sacrifices, and it is not always easy to say what exactly one feels

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in one's heart, even when representing a Government Department. I wish to accept the correction the noble Lord has made in the statement I made in regard to consultation with the parties concerned. I was informed they had not been adequately consulted, but I now understand from the noble Lord that they were consulted beforehand. I beg leave to withdraw my Motion.

Motion for Papers, by leave, withdrawn.

BUDE GAS ORDER, 1942.
TORQUAY GAS ORDER, 1942.

LORD TEMPLEMORE: My Lords, I beg to move that these Orders standing in my name be agreed to.

Moved, That the Special Orders, as reported from the Special Orders Committee yesterday, be approved.—(*Lord Templemore*).

On Question, Motion agreed to.

UNEMPLOYMENT INSURANCE CONTRIBUTIONS (AGRICULTURE) ORDER, 1942.

Draft Special Order made by the Minister of Labour and National Service under Section 59(5) of the Unemployment Insurance Act, 1935:

Laid before the House (pursuant to Act) for affirmative Resolution and referred to Special Orders Committee.

House adjourned.

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