

A blatant attack on democratic rights:

Protestors jailed over antiwar sign on Sydney Opera House

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4 February 2004

Two antiwar activists were sentenced last Friday to nine months' periodic (weekend) detention and ordered to pay \$151,000 cleanup costs for writing "No War" in red paint on the Sydney Opera House roof last year in protest against the impending war against Iraq. The unprecedented prison term, handed down three months after they were found guilty of "malicious damage" charges last October, is a serious attack on democratic rights and a clear attempt to intimidate future protestors.

The two men—Will Saunders, 42, and Dave Burgess, 33—decided to paint the sign on the prominent Australian landmark on March 18, at the height of the international antiwar demonstrations and after the Howard government had fully committed itself to the illegal US-led invasion of Iraq. Television footage of the antiwar slogan was broadcast around the world.

As they have explained over the past 10 months, their protest was made out of concern for the thousands of lives that would be lost in the Iraq invasion—fears vindicated by subsequent events—and to highlight the mass opposition to Australian military participation in the war. It followed a similar demonstration six weeks earlier on January 31, when two people climbed the Opera House roof and unfurled a banner opposing war against Iraq.

Saunders and Burgess said they were deeply troubled about Prime Minister Howard's denunciation of mass antiwar demonstrations on February 14-16 as a "mob" and felt it necessary to show the rest of the world that a majority of Australian people opposed the planned attack.

The two men, who are to serve a total of 70 days in prison, starting February 14, will appeal the ruling. The

harsh sentence is out of all proportion to the so-called "crime". Others involved in similar protests have had charges dropped or been given 556A convictions, which do not involve any punishment or the recording of a criminal offence.

In handing down the sentence, New South Wales District Court Judge Anthony Blackmore claimed that the political character of the protest was "irrelevant" to the malicious damage charges. "Whether it was caused by an irresponsible drunken man or one making a serious political point it makes little difference," he said

In the course of the case, Blackmore had prevented Burgess and Saunders presenting to the jury a political defence of their actions. He declared this inadmissible and rejected defence barrister John Doris' argument that the jury should decide the relevance of any evidence. This virtually guaranteed a guilty verdict.

Burgess' and Saunders' defence was based on Section 418 of the New South Wales (NSW) Crimes Act, which allows those charged to plead self-defence, if they believe their actions could prevent "unlawful deprivation of liberty" or protect individuals and property from "unlawful destruction, damage or interference". This has been used to secure not-guilty verdicts in previous malicious damage cases, the most notable being in 1973 when an anti-apartheid protestor cut down football goal posts in protest against a South African rugby team touring Australia.

But in imposing the sentence, Blackmore made clear that the political views of the two men were indeed relevant. He said that the men were of "good character" but emphasised they had shown a "lack of remorse" for their actions and it was therefore necessary to jail them

in order to deter future protestors. “With no form of punitive sanction,” he said, “it is likely that such buildings would soon become irreparably damaged.” Blackmore’s comments underscore the highly political character of the case and his decisions.

From the outset, NSW Premier Bob Carr had been at the forefront of government attacks on antiwar demonstrators. While various Labor leaders claimed to oppose Australian involvement in the preemptive strike against Iraq, at least without UN approval, Carr immediately denounced Saunders and Burgess’ peaceful protest as “dishonourable”, indicating that he wanted the two men dealt with harshly. Two weeks later, NSW police attacked thousands of high school students protesting the invasion of Iraq, arresting 33 youth. Carr described the demonstration as a violent mob and on April 2 banned a planned antiwar student march. Hundreds of police, including plain-clothes officers, were mobilised to stop demonstrators marching.

The Sydney Opera House Trust and its insurance company, a state government body, also blocked attempts by Burgess and Saunders to secure a negotiated settlement to pay for the cost of removing the paint. While NSW police initially estimated the cost of removing the slogan would be no more than \$15,000, the final price tag was an inflated \$151,000, with insurance representatives indicating they had been directed to accept nothing less than payment in full.

On January 8, two weeks before last Friday’s jail sentence, Carr announced that his government planned to introduce new legislation imposing mandatory six-month jail terms and hefty fines on anyone attempting to write protest slogans or even climb the Sydney Opera House. Whether this influenced the NSW District Court sentence or not, it forms part of an intensifying campaign by state and federal governments to curtail freedom of speech and the basic democratic rights of anyone deemed in any way a threat to the political establishment.

The prosecution and nine-month sentence of Burgess and Saunders constitutes a direct attack on the democratic right to protest. To imprison two men on malicious damage charges for daring to oppose an unprovoked war in order to seize Iraq’s oil resources is a political travesty. The real criminals are the perpetrators and participants of the US-led invasion of

Iraq who are responsible for the death of thousands of innocent people and untold damage to Iraq.



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