
The Menace of “Criminal Syndicalism”: War Time Repression by the Federal Government is Continued Through the States [circa December 1923]

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In all great industrial states gag laws, sedition laws, and laws forbidding “criminal syndicalism” continue the repressive work of the repealed Espionage Act against political and industrial leaders of the labor movement. Where reaction is not met with stubborn contest by progressive elements it uses these laws at will.

The famous cases in Michigan where the trials of William Z. Foster and C.E. Ruthenberg have resulted in a disagreement for the former [April 6, 1923] and conviction of the latter [May 2, 1923]. on a charge of “assembling,” the appeal of Ruthenberg to the state Supreme Court and the pending cases against 30 more men and women mark a situation which is vital to the cause of civil liberties as a test of the ability of libertarians to defeat post-war persecution of “reds.”

A Political Party Suppressed.

These cases arose from a deliberate attempt by the Department of Justice to suppress the Communist Party, which was organized quite openly in 1919 and was driven into secret organization by mass arrests (about 6,000) of its membership in January 1920. Those arrested in Michigan were charged with “assembling” at a secret convention of the Communist Party during August 1922, the meeting having been raided by Department of Justice agents.

Without Legal Warrant.

No federal law was being violated, but — acting without legal warrant — federal agents broke up the meeting, which was being held in a summer resort on the beach across Lake Michigan from Chicago, and caused the Michigan state officials to hold and prosecute the communists under the Michigan state law against “criminal syndicalism.” This law copies the vicious features of the federal Espionage Act, with the additional extraordinary proviso penalizing anyone who “**assembles with** any society or group or assemblage formed to teach or advocate Criminal Syndicalism;” which, in practice and by interpretation of authority, is applied to any radical labor organization that reaction wishes destroyed.

William Z. Foster’s Trial.

The arrested communists were active union members and were militantly aiding the coal strike and the railroad strike, against which Attorney General [Harry] Daugherty was then seeking the drastic Wilkerson injunction. William Z. Foster, who had led the great steel strike of 1919, was the first one to be tried. But half the jury, led by its only woman member, sensed that the attack was upon unionism, refused to swallow the wild tales of “red” uprisings, and disagreement resulted.

Ruthenberg Convicted of “Assembling.”

Upon the same charge of “assembling with” others, which others were alleged to have advocated criminal syndicalism, C.E. Ruthenberg, a lifelong resident of Cleveland and now secretary of the Workers Party, was convicted, after the prosecution and the court had shown a disposition to use any means to prevent a recurrence of the result of the Foster trial. None but property owners were permitted on the jury, the Department of Justice sent its agents to the [Berrien] *county* commissioners with promise of huge funds to be given the county “from sources they were not at liberty to disclose,” and Judge [Charles E.] White, seemingly departing from the fair attitude he held during the Foster trial, practically reversed himself, and besides hampering the testimony of defense witnesses at every step, gave such instructions to the jury that it returned a verdict of conviction.

Russian Tried in Michigan Court.

Throughout these trials, from the raids until the present, the agents of the Department of Justice, acting directly under the orders of [Bureau of Investigation chief] William J. Burns, of strike-breaking and jury-fixing fame, have been the aggressive factor of the prosecution.

No federal law was alleged to have been violated, no overt act is charged, it is not even claimed that a single one of the defendants so much as made a speech advocating “criminal syndicalism” in the state of Michigan. The issue is the clearest case of an attempt to suppress a political party. The sole “crime” that is charged against the communists is “assembling.”

The attempt to prove that they assembled illegally is really an attempt to try the Russian revolution in an American courtroom, by charging that anyone who endorses or approves of the Russian revolution is, by that fact, a violator of the “criminal syndicalism” law!

Cites Peaceful Acquisition of Power by Soviet in Hungary.

In Ruthenberg’s case, the judge instructed the jurors that *they* were to judge if the advocacy of a soviet form of government was inherently and of necessity an advocacy of lawlessness! Then, detailing the methods and mechanism of the political government of the United State as legalized by statute law, he instructed the jury that everything outside this mechanism of elections and representation was “unlawful”!

Thus, though the communists pointed out that the attainment of the soviet form of government does not necessarily mean the employment of force and violence — as the Hungarian soviets were set up without the loss of a single life — the instructions of Judge White placed the burden of proof, contrary to law, upon the defense in requiring them to prove that their program of political and social change could be contained within the limits of the American electoral system!

New Foster Defense and Ruthenberg Appeal Most Vital.

So far, however, it may be truly said that the defense has gained the major victory in the Michigan cases. The conviction of Foster was prevented in the face of a most hostile sentiment at the start of the trial and in spite of the conviction of Ruthenberg, public sentiment in Michigan and in Berrien County, the seat of the trial, is no longer hostile. In fact, the backbone of the anti-labor offensive in the Michigan cases has been broken.

It is now announced, however, by the prosecution that Foster will again be brought to trial, probably in January 1924. The task which the Labor Defense Council must take up is therefore twofold. Preparation must be made to give to Foster the same kind of militant defense which prevented his conviction last year, and the struggle in the Ruthenberg case must be carried on in the appeal to the Michigan Supreme Court and, if necessary, to the United States Supreme Court. The Ruthenberg appeal is most important in itself and in the effect that it has upon all similar cases. If the Department of Justice, which persists in continuing persecution of the radicals through compelling prosecutions under state gag laws, sending their spies into radical groups and furnishing their testimony and funds to prosecute, is to win, then the purpose of Congress in repealing the Espionage Act is evaded by the Department of Justice. More than that, encouragement will be given to the anti-labor, anti-liberty forces to enact a permanent peacetime sedition law, such as the Sterling Bill, which is up for action in the next Congress, and to enact a bill for the registration of aliens which Burns boasts, that if it is passed "there will not be enough ships available to carry the radicals." But if a setback is given William J. Burns and his union and radical raiders by a reversal in the Ruthenberg appeal, federal interference in proceeding through state laws against organizations not forbidden by federal laws will receive a definite setback and the passage of anti-labor laws by Congress will be made much more difficult.

It is important that all these gag laws which were slipped through state legislatures under cover of war hysteria be thoroughly discredited. It is equally important that no more laws, such as those pressed for passage in Congress, be allowed to slip through. If the Ruthenberg appeal is won it will mean a great victory for those seeking to end the intolerance and oppression engendered by the war.

If the Appeal is Lost, If Foster is Convicted.

If Foster is convicted in his second trial, not only he is liable to a prison term of 10 years, but 30 other defendants are in danger of a similar fate. If the Ruthenberg appeal is lost then another terrible blow will have been struck against labor and American liberty. The Department of Justice will feel strengthened in its red baiting, while reaction everywhere will take heart to begin prosecution of militant labor men at every opportunity, using the criminal syndicalism laws of other states in which they have fallen into disuse or have never been employed.

Who Will Help — Now?

The American Civil Liberties Union states that “this is the most important single national trial involving civil liberties since the big IWW trials under the Espionage Act.” Indeed, this is a test of whether reaction, which lost the use of the Espionage Act through its appeal, can evade that repeal and continue persecuting radical opinion under vicious state laws or under a new and more vicious national sedition law.

We believe that the Michigan cases stand as the clearest issue between progress and reaction. Therefore, we solicit your financial contributions to the defense.

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