

## THE COMMUNIST

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### Legal Defense

THERE is a good deal of nonsense going the rounds concerning legal defense of class war prisoners. In a recent editorial on deportations, we stated that our fight in the courts is not founded on concern about legal precedents nor on illusions about the "principles of American liberties." We recognize fully the class character of the courts and of their "principles."

We also pointed out that we yield nothing to the courts and compromise nothing. There is no bargain upon which the Communist Party could accept deportation, as was implied in the Soviet Bureau offer (by letter of Martens)—unless that offer means simply a guarantee of safe transportation after every recourse of fight against deportation has been exhausted. To accept an advance bargain of this nature would be to yield at least a skirmish in the class war to a flourish of Russian nationalism. We yield nothing.

The Communist Party is contesting the proposition that membership in this organization is at all a legal basis for deportation; and this contest will be carried to the ultimate limit, regardless of whether those against whom charges have been brought prefer to live here or to go back to Europe. The Communist Party means to live here—and that is the decisive issue involved. The Communist Party means to live here and to meet the class challenge all along the line, surrendering nothing, compromising nothing.

That the courts represent the highest intrenchment of bourgeois class rule means, beyond a doubt, that our opposition here is at its weakest. We have nothing to work with except the very technicalities upon which the prosecutors themselves depend; except that in a vague, remote and guarded way the jury is yet a link between the official process and the outside mass life. The jury, too, is of the bourgeoisie, but generally of the smaller bourgeoisie out of which some are apt to waver in bourgeois loyalty as the social crisis advances and becomes more general.

There is principle involved in Communist Party legal defense, most certainly. That is, in so far as the defense involves a statement of the program and purposes of Communism it must be a statement free from confusion and contradiction. Communism cannot be one thing in the courtroom and another thing outside. If the unequivocal statement of the program of Communism itself becomes "criminal"—it must still be the unequivocal statement.

No one can say at this time that the promulgation of Communism is of itself criminal. The fact that laws may be found to exist or may yet be created for the express purpose of making the promulgation of Communist principles punishable as a felony—the probability of such laws—does not alter the fact that no decision states this now to be the law.

Even so, assuming that there are laws in some States which make our program inherently illegal, there are many possibilities

within the process of legal defense outside the substance of the case. There are many formalities to be complied with by the prosecution, and it is the play and counter-play of these formalities which give the jury a chance to acquit in spite of inherent illegality in our program. Those who are so positive that the class war is already so far advanced in the United States that such juries are inconceivable overlook the considerations that a revolutionary crisis is accompanied by an increasing fear of using extreme measures against the proletariat and by a rather general slackening of loyalty toward the decadent order. We can make our estimates of large social groups and their action, but these general estimates cannot be taken as absolutes against every unit in the groups.

The theory of voluntary martyrdom is one that belongs to revolutionary romance, not to Communism. Because imprisonment and exile are used for lower class repression does not mean that we must at once proceed to seek imprisonment and exile. This is of the same rationality as wanting extremes of poverty and suffering because it is the background of economic oppression which allows revolution to stand forth. Communism is the expression of the advanced proletariat, not of the degraded proletariat. Communism is the proud voice of the proletariat confident of new social destiny, assured of leadership in bringing forth the new civilization. The Communist seeks not misery and martyrdom, like the ascetics, but struggle and triumph. If that struggle, at some stage, involves imprisonment and exile, Communists will not shirk it. That is not to say that the Communist will not try to make every possible adaption of strategy to avoid casualties, short of the compromise of Communism itself.

That is, indeed, precisely what is meant by the party "going underground". The Communist Party seeks effective action, not glorious sacrifice. In the interim, while there is open propaganda, it is precisely on the theory that such propaganda can be carried on without too much cost of personal penalties. In other words, the very existence of open propaganda is of itself an acceptance of legal defense—for all it is worth in avoidance of personal penalties.

Nor is it a foregone conclusion that even an illegal propaganda will not yet be an open propaganda in the United States; that there will not be frank acceptance of the penalties as worth the results. This is all a problem of strategy, of generalship, of the morale and temper of the organization and the judgment of highest effectiveness. There is no doctrinal solution of such a problem.

It cannot yet be claimed that we have demonstrated to the American working class the class character of the courts. The war cases were, to the overwhelming multitude, war cases, not class cases. It will be some time before there is general realization of the class nature of the I. W. W. and Communist prosecutions as they occur now without the camouflage of war emergency. That realization is possible only when the results are obtained against us in the courts in spite of every recourse of defense, and when they are obtained consistently and repeatedly in spite of such recourse.

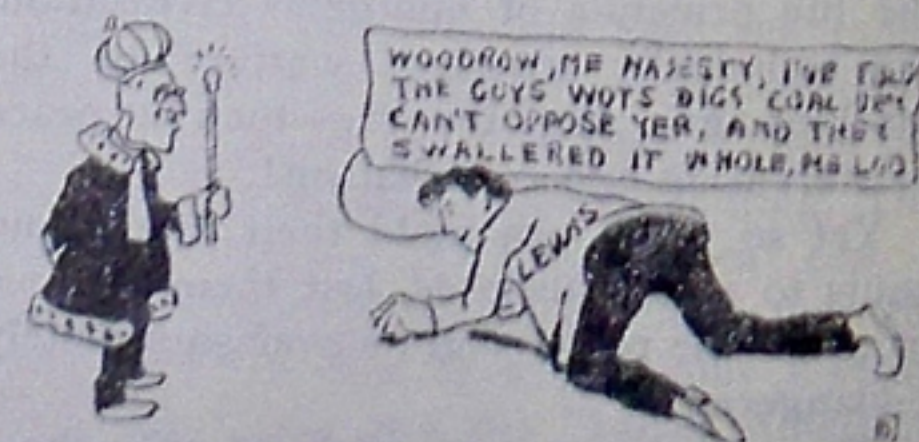
Legal defense, therefore, still has measurable propaganda value for our party. It has not such value as to be pushed to an extreme of expenditure of funds and of personal sacrifice. But the time has not come for abandonment of our comrades to silent acceptance of all penalties that may be inflicted upon them through the courts.

### The Split in the Communist Party of Germany

ACCORDING to authentic information from Germany, a split within the ranks of the Communist Party (the Spartacides) occurred at the national convention of the party held recently. At the convention the differences on parliamentary action and industrial organization were brought to the foreground and caused the withdrawal of about one third of the delegates. How far the split will affect the general membership can hardly be foretold, but all signs indicate that it will be in about the same proportion.

The differences that brought about the split existed for a long time and became more determined after the death of Liebknecht and Rosa Luxemburg. They revolved around the question of the Communist Party's attitude towards parliamentary action or rather the participation of the party in election campaigns. Liebknecht and Luxemburg and the elements identified with them were of the opinion that the party is primarily a political party, therefore the party should use the forum of the parliament for propaganda whenever possible. On the other side there is an element that rallies around Fritz Wolffheim, editor of the Communistische Arbeiter-Zeitung in Hamburg, who is opposed to any kind of parliamentary action and even repudiates the opportunity of propaganda during election campaigns. This element asserts that the chief task of the party is the organization of the workers for economic action instead of political action. They want the whole activity of the party to be directed toward capturing the means of production through the shop councils, organized into the "Allgemeine Arbeiter-Union", an organization very similar to the Industrial Workers of the World, at least as far as the political indifference of that organization is concerned. They want a mass organization, capable of taking over the means of production, while they ignore the fact that the political power of those who own and control these means must first be crushed before the workers can really take over the management of the industries.

For months these two questions: the participation of the Communist Party on the parliamentary battlefield, and industrial organization, were discussed in all the locals and branches of the party. The discussion became more intense after the death of the two most influential individuals of the Spartacans, Liebknecht and Luxemburg, and this may be the reason why the differences of opinions could not be harmonized. When the convention opened a resolution was introduced which declared the participation of the party in parliamentary elections as part of the program of the party. After this resolution was adopted by a two thirds majority, the minority of 18 delegates withdrew and issued a proclamation to the membership calling upon it to align itself with the minority. This minority group stood under the absolute control of Fritz Wolffheim of Hamburg and to him was assigned the draft of a party program and constitution.



His Man Friday