

Communism and the Law

THE decision of Secretary of Labor Wilson and the verdict of the jury in the Gitlow case appear to mark the close of open legal propaganda of Communism in the United States. Secretary Wilson, by his finding and order in the deportation case against Englebert Preiss, has outlawed every alien Communist in this country. He has declared that membership in the Communist Party is of itself ground for deportation. The New York jury, by its verdict against Gitlow for publication of the Left Wing Manifesto, has declared that any discussion of Communist principles and tactics constitutes "criminal anarchy." The same indictment includes Larkin, Ruthenberg and Ferguson (as well as five other former members of the Left Wing Council not under arrest). The other cases will be reached within two or three weeks, so far as now appears.

The appeal from Secretary Wilson's order to the courts is not likely to result in any serious modification of its effects. Deportation is an administrative matter; the courts can intervene only when there is palpable abuse of administrative discretion, or where the requisite formalities have not been complied with. The appeal of the Gitlow case will bring an upper court determination of what is "criminal anarchy." This will be the first appeal under the New York law, which though passed in 1902 was never invoked until 1919. Two others were recently convicted under this law but lacked the means to take an appeal. The other laws on "criminal anarchy," like those of Massachusetts, Illinois, New Jersey, etc., are of recent date. The constitutionality of the New Jersey law was sustained, with Justices Minturn and Kalisch dissenting. There are a number of appeal decisions under the related "espionage," "sedition" and "criminal syndicalism" laws.

Considering the law as it now stands, it must be said that open discussion of Communism is now a crime in the United States. The difference between "discussion" and "advocacy" is not worth making, since any approval of Communism may be taken as an advocacy, as in the Gitlow case.

This does not mean an end of Communist agitation in the United States. Nor does it even mean an end of open Communist agitation. The question of political crime is always definitely related to the balance of power between the contending forces. Communism is openly advocated in Italy; in practically all countries except "Socialist" Germany and "Democratic" United States. But now the Noske repression is relaxing its grip in Germany, leaving the United States in the unique position occupied before the revolution by Czaristic Russia.

But even a weak, confused, inert working class will find its occasional expression through the defiant individual who spurns all penalties of law that the truth may be heard.

The grand climax came with the direct indictment, in Illinois, of the Communist Party, the Communist Labor Party and the I. W. W., in the persons of their executive officers, as criminal conspiracies. One hundred and sixty men and women are charged individually and collectively with crime calling for a maximum ten year penalty in each instance.

The class struggle in the United States is at the straining point. These legal prosecutions will prove an empty flourish of decadent power long before any of the sentences are served. This is sham power, stupid, ostentatious, futile. The real power is in the inert mass. It will soon be produced into action.

The "conspiracy" is the social revolution which began in Russia and is going around the world!

Revolution scorns indictments. In the courts, to accept the language of the Supreme Court of New Jersey, "revolution is a defense only when it is successful."

The Communists of America will yet make good their defense!

The Passing of the Socialist Party

HILLQUITIAN Socialism has reached its lowest depths of hypocrisy, cowardly evasion, and treason to the class struggle at Albany, New York. Even the ultra-reactionary New York Tribune, supporting the brazen performance staged by Speaker Sweet, does not miss the real point; no matter what is the outcome of the "trial," the Socialist Party is now decisively on the side of capitalistic constitutional regularity. Indeed, the party officially glories in its role of champion of bourgeois representative democracy. The "liberals" are envious. The complaint in the *New Republic* (February 4th) is that the Socialists have been put in too advantageous a position with respect to propaganda of "freedom of assemblage, of speech and of opinion."

It is the special mission of "liberalism" to play with the phrases of freedom while exploitation goes on crushing hope and life. The "present danger" is that the Socialist Party has now been given an advantage over the "American liberals" at this game of phrases.

Not even the Socialists themselves suggest that this affair at Albany has anything to do with the class struggle. The five Assemblymen and their Socialist lawyers are blind to everything except the "constitutional" issues upon which they are lined up with a galaxy of respectable friends. Never before did the Socialist Party in this country revel in such conquests of respectability. To mention the class struggle in such company would be decidedly bad manners. It is not mentioned.

The defense of the Socialist Party is that its program, constitution and principles mean nothing in action. Does the party constitution provide for control over legislative representatives by means of enforced resignations? Yes, the constitution says so, but the evidence is that nothing of the sort was ever done. Did the party program call for opposition to the war? Yes, that was the program, but the proof is that Socialists did their full share in furtherance of the war. Does the party constitution forbid a vote by a legislative representative in favor of military budgets? Yes, but it doesn't mean anything. Did not Meyer London vote in favor of the Congressional appropriations during the war?

The defense at Albany is an exact imitation of the Berger defense at Chicago and at Washington. It is the exact opposite of the Debs defense at Cleveland.

It would have been so simple for these Socialist Assemblymen to say that the Socialist Party is really different from the other political parties; that it has a constitution calling for control of Socialists in public office because it is the organized expression of its membership, not merely a vehicle for the self-expression of the individuals who happen to serve the party officially from time to time. It might have been said that the party has alien members because it represents the working class, which in the United States is predominantly alien and negroes without vote. It might have been said, also, that the party has international working class allegiance because the class struggle transcends the national boundary lines. None of these things were said at Albany for the very good reason that none of them

are true of the American Socialist Party. There is a sort of pretense within the party ranks that the Socialist Party is concerned with Socialism. But all this is hushed up when the party appears in the open arena. Then its entire existence is merged in the system of representative democracy, entirely oblivious of this system as itself the organ of capitalist dictatorship.

There never was a more glaring item of political irony than the publication, during the Albany affair, of the Socialist Party membership referendum vote in favor of alignment with the Communist International. The vote was 3,475 to 1,444 in favor of an allegiance to the Third International—without acceptance of its "programs and methods"! That is the Socialist Party in a nutshell, anything by way of phrases, nothing particular as to "programs and methods." Depends on the weather, presumably.

The Albany episode is a most significant event in the class struggle in the United States. It means the inauguration of "exception laws" which the Socialists will manage to accept but which will virtually condition the tactics of the real Socialist movement, now represented in this country by the Communist Party and by such membership of the Communist Labor Party as will survive the selective process of the next six months. The larger aspects of the Albany expulsions will be a major problem of the next Communist Party convention.

The Socialist Party is now "safe for democracy," under the tender guardianship of ex-Supreme Court Justice Hughes and many others who have long been entrusted by the financial masters with keeping democracy safe for domestic and imperialistic exploitation.

What was fully consummated at Chicago during the first week of September, the decisive separation of all the virile proletarian elements from the Socialist Party, now stands plainly revealed to all the world under the searchlight at Albany.

The Socialist Party is now definitely part of the bourgeois order of things in the United States, part of the ragged fringe of pretentious respectability. It is past the time, after the year 1919 of the steel strike and the coal strike, when the workers of this country can be misled by the empty slogans of a "representative democracy" which so transparently veils the iron heel.

A Fair Trial

THOSE who have witnessed the selection of juries in "red" cases, and have reflected on the social pressure and fearful ignorance which makes these trials mere formal lynchings, will recall also the pietistic insistence upon the privileges of "fair trial" accorded to the defendants. "Fair trial" across the class lines, at this time of world class conflict, is largely a myth. The machinery of repression may slip a cog now and then. It is not quite automatic. Its agents, the prosecutors, judges, spies and upper-class jurymen may allow an occasional escape through inadvertence or incomplete preparation.

Most of all, the jury is apt to be an uncertain quantity. The percentage of chance in favor of the defense is extremely low, quite near the zero point. But it is interesting to note the reverse proposition: the same machinery of bourgeois justice directed against the Phelps-Dodge Co. officials and agents:

Tombstone, Ariz., February 5.—A lack of competent jurors will hasten the end of legal proceedings against 210 men charged with kidnaping in connection with wholesale deportations from Bisbee in 1917, it was indicated today.

Forty-seven defendants will be dismissed and an effort will be made to combine the trials of those indicted on a blanket information, County Attorney French announced.

The available supply of jurors in the county, Mr. French said, would be exhausted before the trials could be completed and under the Arizona law only the defense can ask for a change of venue to another county.

There are 7,500 possible jurors in the county, it was estimated, but of these more than half are employed by defendant companies. Many would be excused in selecting a jury, the attorney said, and added that it would not be possible to try more than six defendants with the available supply of jurors.

It is obvious that law and order will be vindicated in Arizona.

The Soviet Government Wins

FOUR months ago the imperialist press of the world was heralding the march of Yudenich to Petrograd and the early capture of Moscow by Denikin. Today Yudenich and his forces have disappeared, what is left of Denikin's army is running for safety, and Kolchak is a prisoner.

The Red army of the Soviet Government has practically wiped out the counter-revolutionary forces, with which the imperialist governments of the world sought to destroy the proletarian revolution in Russia. Fighting on the inside of the circle which marked the territory under the control of the workers' republic, the Red army has widened that circle until it includes almost all the territory of the former Russian Empire. In place of being threatened by the counter-revolutionary forces in the pay of the imperialist governments, the Red army now threatens the British Empire in Asia and the imperialist press expresses fear that it may sweep through Poland to Germany.

The Allied imperialist governments sought to strangle the social revolution in Russia by financing and furnishing supplies to the counter-revolutionary forces of Yudenich, Denikin and Kolchak. They did not dare to employ their own armies against the workers of Russia because of fear of what might happen at home if they took such steps. Bankruptcy already stares them in the face as the result of the world war and they could not risk the colossal burden that would be added to their financial obligations by a war on such a scale as was necessary to give any chance of success against the Soviet Government. The workers at home, too, had shown the opposition to the program to drown the Russian revolution in the blood of the workers of that country. That opposition might develop into action if the capitalist governments were not careful. So they backed Yudenich and Kolchak.

Now that these agents of imperialist reaction are utterly smashed, with Odessa again in the hands of the Bolshevik army and a revolutionary movement taking control of Vladivostok, it is not surprising that Lloyd George offers to deal with the Russian Co-operatives, letting down the bars which have kept all foreign supplies out of Russia, and it is even hinted, is willing to make peace with the Soviet Government.

If the imperialist governments make peace with Soviet Russia it will be because they fear a superior power. It will be the rotten, worn-out capitalist order compromising with the virile, militant Communist society, in an effort to save itself.

Soviet Russia may accept the peace offer which the imperialist government seem ready to make. The workers of Russia have born burdens and made sacrifices against the enemies of the revolution such as no people has been subject to before. Peace means an opportunity to recuperate, to consolidate their strength, to build up their power for the final struggle against imperialism, that final struggle which cannot be avoided and will not be over until imperialism gives way before the United Soviet Government of the World.