

The Commission also finds that since the witnesses were people who were brought into court under arrest and who inculpated themselves by their testimony, the following passage from Strogovich-Vyshinsky is especially pertinent:

In bourgeois juridical theory for a long time complete credence was placed in the testimony of witnesses, sealed by oath, while the "inner conviction" of the judges was deemed an adequate guarantee against mistakes in the evaluation of testimony of witnesses... Impressions are a basis which is quite flimsy and deceptive... a false witness who has learned his role by heart can give very seductive testimony because of its categorical and lucid character.

The Commission finds that the testimony on which Leon Trotsky and his son Leon Sedov were convicted belongs in the category of "denunciation," which Strogovich-Vyshinsky define as:

testimony of one of the defendants implicating another defendant or extraneous individuals and by virtue of this very thing mitigating the responsibility of the individual himself.

—a category of evidence characterized by Strogovich-Vyshinsky as "the least meritorious."

The Commission gives further quotations from Strogovich-Vyshinsky which show that the Prosecutor in the Moscow trials did not adhere to the principles of Soviet criminal procedure as stated in an official text-book edited by himself.

Among additional defects in procedure the Commission cites the failure of the Court to take into account the evidence in refutation of the charges published in the world press by Leon Trotsky and others during the course of the trials; the failure to produce the existing French police-record of Trotsky's whereabouts at the time of his alleged meeting with Romm in Paris.

The Commission holds to the generally accepted principle that adherence to procedure could not make the accused guilty, if the charges proved false; that only if a procedure enables the establishment of the ascertainable truth is it justifiable; and only in so far as prosecutor and court conform to the spirit as well as the letter of a justifiable procedure can they be held to safeguard the rights of accused persons. But the violation of Soviet legal principles and procedure by the Soviet Court and Prosecutor tended, in the Commission's opinion, to cast initial doubt upon the validity of both trials.

### 3. The Capitulators.

Trotsky testified that of the 18 accused in the two trials who were known to him, two had never belonged to the Left Opposition bloc of 1926-7, the remaining 16 had been expelled with it from the Communist Party, and all had capitulated to the ruling faction except Muralov, who withdrew from the Opposition without a formal declaration. He introduced in evidence material showing that great bitterness has existed between the Left Opposition and these capitulators, who were regarded as renegades. The Commission finds that his attacks upon them were introduced into the Soviet Union whenever possible, and considers it doubtful whether, if he had been conspiring with them, he would have attempted to undermine their prestige with the Russian masses. It finds also that these attacks considerably antedate the beginning of the alleged conspiracy. It finds that the mutual enmity between the capitulators and the Opposition should be given due consideration in weighing the testimony of the accused against Leon Trotsky.

### 4. The Zinoviev-Kamenev Trial: The "Trotskyite-Zinovievite Terrorist Center."

The indictment in the trial of August, 1936, explicitly states that the "Trotskyite-Zinovievite Terrorist Center" was formed "at the end of 1932," but the confessions contain fundamental contradictions on this point. The trial record contains no direct evidence of the attitude of

Trotsky or Sedov toward the formation of the center, or concerning their role, if any, in its formation. The only actual crime attributed to the terrorist center was the assassination of Kirov in December, 1934, after which the center, according to the indictment and some of the witnesses, broke up. The Commission, after analysis of the trial record, finds testimony concerning the alleged center and Trotsky's participation in it so contradictory as to throw doubt upon the "credibility of the confessions and of the whole record of the trial."

### 5. The Definitive Charges Against Leon Trotsky and Leon Sedov.

Much of the new documentary evidence obtained by the Commission focuses upon the testimony given at the trials by accused and witnesses claimed to have acted as Trotsky's emissaries or agents in terrorist activities against the leaders of the Soviet Union. In the Zinoviev-Kamenev trial the chief witnesses on this point were Holtzman and Olberg.

#### a) Holtzman.

In the Zinoviev-Kamenev trial, the accused Holtzman testified that on Sedov's invitation he went to Copenhagen during Trotsky's stay there from Nov. 23 to Dec. 2, 1932. He affirmed that by previous arrangement he met Sedov in the lobby of the Hotel Bristol, and went from there with him to see Trotsky. The Commission has evidence showing that there was no Hotel Bristol in Copenhagen in 1932, and that Sedov was not in Copenhagen during his parents' stay there, but was in Berlin. He could not leave Germany and return without renewal of his official permission of residence (*Aufenthaltserlaubnis*), which had expired, and without this renewal he could not receive a Danish visa. He received the renewal on Dec. 3, the day after Trotsky left Copenhagen, and on that same day received a French visa good for five days which enabled him to meet his parents in Paris on their way through France.

The outstanding documents in the Commission's possession on Holtzman's testimony are as follows:

1. Two class-books and one separate exercise-sheet bearing signatures of professors and stamps dated Nov. 25 and 27, 1932, showing Sedov's attendance at the Technische Hochschule in Berlin on those days; Sedov's attendance book at the Technische Hochschule also bearing signatures and stamps of Nov. 25 and 29, 1932, showing his attendance on those days.

2. The passport of Leon Sedov, showing the renewal on Dec. 3, 1932, of his permit to remain in Germany, good until Jan. 2, 1933; also a permit to leave and return to Germany dated Dec. 3, 1932, good until Dec. 17, 1932; also a French visa dated Dec. 3, 1932, and good for five days; also a stamp of entry into France dated Dec. 4, 1932.

3. A letter from Leon Trotsky to Leon Sedov written on board ship as Trotsky was leaving Denmark, and dated 3-12-32, expressing his disappointment at not having seen his son in Copenhagen.

4. A postcard from Natalia Sedov Trotsky from the port of embarkation in Denmark, stamped Esbjerg 3-12-32, to her son in Berlin, expressing her grief over their failure to meet in Copenhagen.

5. Six holograph letters from Leon Sedov to his parents during their stay in Copenhagen, dated Nov. 21, Nov. 26 (three), Nov. 28, and Dec. 2, 1932.

6. A telegram from Natalia Sedov Trotsky to Prime Minister Herriot of France dated Copenhagen Dec. 1, 1932, requesting that her son be allowed a visa in order to meet his parents in France. Also a telegram from the Minister of Foreign Affairs to the French consul in Berlin, Dec. 3, 1932, authorizing the visa.

#### b) Olberg

The accused Olberg in the Zinoviev-Kamenev trial testified that he had belonged to the Trotskyist Left Opposition since 1927-8; that he was put in contact with Leon Sedov in 1930 in Berlin by Anton Grylewicz (editor of Trotsky's *Bulletin of the Opposition*); and that Sedov passed on Trotsky's "commissions" to him by correspondence; that he met Sedov in May, 1931, when Sedov arrived in Berlin. Olberg stated that he left for the Soviet Union in 1933 as a trusted agent of Trotsky with instructions to prepare for an attempt on the life of Stalin. Having only a tourist visa, he could not remain long. He left, therefore, and went to Prague, where, according to his testimony, he finally obtained through a fascist agent, Tukalevsky, a Honduran passport for which Sedov paid 13,000 kronen.

He testified that he made two trips to the Soviet Union on this passport in 1935.

The Commission has the following documents bearing on Olberg's testimony:

1. Ten holograph letters in Russian from Olberg to Trotsky dated Jan. 10, 1930, to March 4, 1931, and copies of six typewritten answers in Russian from Trotsky to Olberg dated Jan. 30, 1930, to April 7, 1930. This exchange of correspondence proves:

a) That Olberg had not been a member of the Left Opposition from 1927-8, and was not a member of the Left Opposition at the time that his correspondence with Trotsky began.

b) That Olberg's contact with Trotsky and Sedov was not initiated through Anton Grylewicz, but directly by Olberg himself, in a letter to Trotsky.

c) That Trotsky's connection with Olberg was in no sense confidential, but entirely political; and that he wrote him nothing that he might not have said to any political sympathizer with whom he was not closely associated.

2. Fifteen holograph letters in Russian from Olberg to Leon Sedov, dated March 1, 1930, to Feb. 3, 1931, and one copy of a typewritten letter in Russian from Sedov to Olberg dated July 11, 1930. These letters deal almost exclusively with such matters as the publication and distribution of Opposition literature, Olberg's services in this work, etc.

3. A letter from Franz Pfemfert to Leon Trotsky dated Berlin, April 1, 1930, and one from Alexandra Pfemfert (Trotsky's German translator) dated April 2, 1930, informing Trotsky that they have met Olberg, who makes a very bad impression upon them, and warning Trotsky against employing Olberg as his secretary.

4. A holograph statement by Olberg's mother saying that her son went to Russia for the first time in 1933, having been expelled from Germany as an undesirable foreigner; that he used the passport of a friend, since he had only a Nansen passport with which he could go nowhere; that he received a Soviet visa through the Berlin Intourist, paid for by a relative (name in the possession of the Commission); that he left Russia again in 1933, and went to Prague. In Prague a lawyer whose name she does not remember undertook to get him a Honduran passport, for which he did not have money to pay, and therefore the same relative came to his assistance. These facts directly contradict Olberg's testimony.

#### c) Other Defendants.

The Commission has in its possession evidence bearing on the testimony of other accused persons in this trial implicating Trotsky and Sedov, namely: Smirnov, Dreitzer, Burman-Yurin, David, and M. and N. Lurye. On the basis of this evidence it finds the testimony of these accused to be worthless.

### 6. The Pyatakoff-Radek Trial: The "Parallel" or "Reserve Center."

The Commission, after detailed examination of the testimony concerning the alleged "reserve" or "parallel center," which was involved in the January trial, concludes: "In none of this conflicting testimony is there the slightest evidence, direct or indirect, that Trotsky either instigated the formation of the alleged reserve or parallel center or selected 'its members.'" The Commission declares: "We consider that the shocking discrepancies... entirely discredit the testimony given in the trials themselves insofar as it concerns the alleged complicity of Trotsky and Sedov in any anti-governmental activities which may have been taking place in the U. S. S. R."

#### Definitive Charges Against Leon Trotsky and Leon Sedov.

Only two persons in the second trial, Pyatakoff and Vladimir Romm, testified to having seen Trotsky personally; and on these two points the Commission possesses conclusive evidence to the contrary.

#### a) Romm.

The witness Vladimir Romm, alleged liaison man between the accused Radek and Leon Trotsky, testified that at the end of July 1933, he met Leon Trotsky in the Bois de Boulogne (Paris), and that Trotsky's purpose in meeting him was to confirm the contents of a letter he was sending Radek, containing instructions regarding terrorism and wrecking. Romm alleged that it was Leon Sedov who conducted him to Trotsky. Upon this crucial part of Romm's testimony hangs the credibility of his whole deposition, and also the credibility of the testimony