

The Case of Fraina

By EDWARD DRYDEN

Louis C. Fraina and Edward Ralph Cheyney, arrested at a meeting of Conscientious Objectors, were found guilty of conspiracy to violate the Draft Law by a jury in the United States District Court, New York City, on October 18.

Fraina and Cheyney were arrested as Conscientious Objectors, tried as Conscientious Objectors, and convicted as Conscientious Objectors. This is the first conviction of its kind in the country, and consequently assumes a very important aspect.

Fraina has been a dominant figure in the agitation against conscription in New York City, having actively opposed the introduction of conscription, worked for its repeal, and thrown himself vigorously in the Conscientious Objectors' movement, by speaking at many meetings and through a campaign in *The New Internationalist*, of which he is editor. The prosecution was aware of this revolutionary activity, and pressed the case, particularly against Fraina, Cheyney having been arrested as an accessory to prove conspiracy and strike at Fraina.

The general and specific issues involved are of the utmost importance, and the defense is determined upon fighting the case to a finish, both in the higher courts through appeal, and before the court of public opinion through propaganda.

The first important issue involved is that of conspiracy. Fraina and Cheyney were arrested and convicted under the law of conspiracy—a law that is a monstrous perversion of justice, and that has been used repeatedly and is still being used against the revolutionist when a specific offense cannot be proven. Under the law of conspiracy, it is the easiest thing in the world to secure a conviction, the prosecution being allowed to introduce general evidence in the attempt to get something across that may influence a jury to bring in a verdict of guilty.

In a general way, the purpose of the trial and conviction was to strike at the Conscientious Objectors. But this purpose was turned into a specific menace by the charge of the judge to the jury, under which *it is possible to automatically indict and con-*

vict two or more Conscientious Objectors for implied conspiracy to violate the Draft Law.

The defense introduced two telegrams to show that there was a general public discussion of the status of Conscientious Objectors, of which the meeting at which Fraina and Cheyney were arrested was an expression and a part.

The first telegram was sent to Secretary of War Baker by The League of Conscientious Objectors, under whose auspices the meeting was held, and read as follows:

"Representative of 3,500 Conscientious Objectors in New York whose idealism compels them to decline all forms of military service, we ask: What of the Conscientious Objector? May we have your reply not later than Wednesday, so that it will be possible to advise at our meeting, Thursday, the stand you suggest."

The second telegram was the reply of F. P. Keppel, Confidential Clerk to the Secretary of War, and read as follows:

"Telegram received, but no specific reply at present available, the matter being still under consideration by Secretary of War and President."

It was the contention of the defense that these telegrams specifically, and the other evidence generally, proved that there was no conspiracy, the purpose of the meeting being to create public sentiment for the purpose of securing a favorable ruling for the Conscientious Objector by the Government; and that there was so conclusively no conspiracy that the Secretary of War himself was considering the claims of the Objectors. But the presiding judge, Robert T. Ervin, used the telegrams against the defense and as proving conspiracy. Judge Ervin's charge, in substance, was that if the defendants were aware of the sending of the first telegram, which stated specifically that The League of Conscientious Objectors was an organization the members of which "declined all forms of military service," and if, knowing that these were the purposes of the organization holding the meeting, the defendants nevertheless spoke at that meeting, they were guilty of implied conspiracy to violate the draft law, and the jury should render a verdict of guilty.