
Testimony at the October 1920 New York “Criminal Anarchism” Trial.

[extracts]

by C.E. Ruthenberg

Published as part of a pamphlet *A Communist Trial: Extracts from the Testimony of C.E. Ruthenberg and Closing Address to the Jury by Isaac E. Ferguson.* (New York: National Defense Committee, n.d. [Dec. 1921]).

Introduction.

The extracts from the testimony and speech to the jury during the trial of C.E. Ruthenberg and I.E. Ferguson presented in the following pages contain what is probably the most revolutionary challenge made in a court in the United States. The defendants presented their views without compromise or apology. Their attitude was: *We believe these to be the facts as to the existing industrial system and these the principles which must guide the working class in abolishing that system. You may send us to prison for proclaiming our adherence to these principles, but that threat will not cause us to change our belief in and support of these principles.*

The facts in regard to the case, from the record of which the testimony and speech contained herein are taken, are as follows:

On June 21st to June 24th, 1919, there was held in New York City a conference of delegates representing the Left Wing of the Socialist Party for the purpose of deciding upon further action to secure a restatement of the principles of the Socialist Party in harmony with Revolutionary Socialism, or Communism, and to gain control of that organization for the Left Wing.

At this convention a National Council of nine members was elected, consisting of Maxmilian Cohen, I.E. Ferguson, John Ballam, Louis C. Fraina, Benjamin Gitlow, James Larkin, Eadmonn MacAlpine, C.E. Ruthenberg, and Bertram Wolfe. Pressure of work pre-

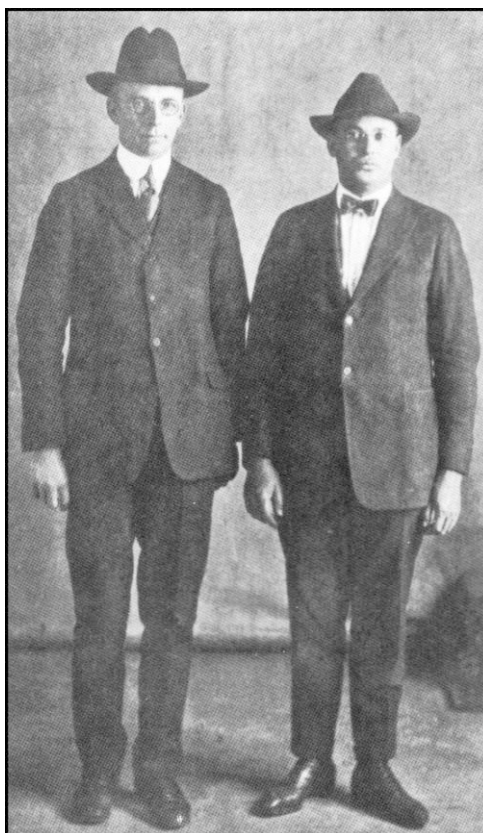
vented the conference from adopting a manifesto and the work of drafting the manifesto, and authority to publish it, was vested in the National Council, which was charged with continuing the work of the Conference. Subsequently the Manifesto of the Left Wing

was published in the *Revolutionary Age* of July 5th, 1919.

The conference of the Left Wing was held at a time when the Lusk Committee was just beginning its activities, the headquarters of the Left Wing of Local Greater New York being raided during the conference. As the result of these activities of the Lusk Committee the members of the National Council were indicted, (November 1919, after the Left Wing had been merged into the Communist Party and the Communist Labor Party) and charged with violat-

ing the Criminal Anarchy Law of the State of New York.

This law had been passed in 1902, after the assassination of President McKinley, and was directed against the doctrine that organized government should be overthrown by force and violence or assassination, or any unlawful means. It was the doctrine of Johann Most — of terrorist anarchism — that it was aimed



at. There were no prosecutions under this law until 17 years later, when it was resurrected for the purpose of putting into prison not those who advocated "Criminal Anarchy" as defined by the law, but Revolutionary Socialists or Communists. While the Communist advocacy may be detrimental to the capitalist class and the capitalist system, it is not that of "Criminal Anarchy" as defined by this law. Any thinking person will be quickly convinced of this by reading the contents of this pamphlet.

Four of the members of the National Council of the Left Wing — Benjamin Gitlow, I.E. Ferguson, James Larkin, and C.E. Ruthenberg — were arrested under the indictment and tried and convicted. Although their cases have been appealed, the law being challenged as to its constitutionality and as to the interpretation that Communism is "Criminal Anarchy," these men are now serving sentences of from five to ten years, the right of bail pending the final decision of their cases having been denied. Besides these men, Harry Winitsky, former Executive Secretary of Local Greater New York of the Communist Party, has been convicted for membership in the Communist Party under the same law through a similar distortion and is serving the same sentence. [Gus] Alonen and [Carl] Paivio, two members of the IWW, are also imprisoned under this law. During 1921 Paul Manko was added to the number of "criminal anarchists," he being charged with the distribution of Communist leaflets, for which he is to serve from two and a half to nine years.

In the case presented in this pamphlet, the testimony of the defendants that they had not written the Manifesto of the Left Wing or even read it until it appeared in the *Revolutionary Age* of July 5th was unchallenged. C.E. Ruthenberg never attended any meeting of the National Council, having returned to Cleveland even before the end of the Conference of the Left Wing. I.E. Ferguson left the city after the conference and did not return until after the July 5th issue of the paper had been published.

Although it thus appeared, and the prosecution did not challenge these facts, that neither of these two men had been connected with the writing, publishing, or circulating of the *Revolutionary Age* of July 5th in the State of New York, being in other states while the work was being done, the fact that they had been

elected members of the National Council was sufficient to secure a conviction under the rulings of Judge Bartow S. Weeks.

The fitness of Judge Weeks to sit as the judge in this case was challenged at the outset of the trial, an affidavit of prejudice being filed, based upon his activities in the Gitlow and Larkin trials. Having ruled upon his own fitness to sit as a judge, Judge Weeks proceeded to secure the conviction of the defendants. He acted as prosecutor, not as a judge, as is shown, for example, by the examination of C.E. Ruthenberg recorded in this pamphlet. He made a second prosecuting speech in submitting the case to the jury. His rulings of law contained conflicting theories for the admission of certain evidence and he also saw to it that any possible theory of finding the defendants guilty was impressed upon the jury, regardless of the indictment.

In all the Criminal Anarchy cases, except that of Manko, the indictment was drawn by a special grand jury, the trial was held before a judge especially appointed to try such cases, and the jury was drawn from a special venire. Everything was done to make sure that everybody connected with the prosecution should have a strong class prejudice against those who advocated a change in the capitalist system.

This pamphlet is printed in order to show the character of the trial in question — the other trials before the same judge in which Alonen, Paivio, Gitlow, Winitsky, and Larkin were convicted were of the same character. It also proves, through the testimony of C.E. Ruthenberg as to Communist principles, and the speech of I.E. Ferguson to the jury, that Communism is not "Criminal Anarchy," despite the fact that the ruling class has been able to put Communists in prison for terms of from five to ten years under the Criminal Anarchy Law.

The record of this case is quite voluminous because of the length of the trial, which lasted four weeks, and because of the many documents introduced. Expense prohibits the publication of the record in full. The selections herein have been made to show the principles of Communism, as enunciated by the defendants, in contrast with "Criminal Anarchy."

I.E. Ferguson, one of the defendants, acted as attorney for the defense throughout the case.

Testimony of Charles E. Ruthenberg.

Charles E. Ruthenberg, one of the defendants herein, called as a witness in behalf of the defendants, having been first duly affirmed, testified as follows:

Direct Examination by Mr. Ferguson.

Q. Will you state where you were born?

A. Cleveland, Ohio.

Q. And when?

A. July 9, 1882.

Q. When did you join the Socialist Party?

A. In January 1909.

Q. When did you first go to work for the Socialist Party?

A. I was an official of the Socialist Party within two or three months from the time I joined it, to September 1, 1917, in some capacity. In June 1917 I became a paid employee of the Socialist Party.

Q. That is, from 1909 to 1917, you were an official of one sort or another, but not a paid party worker?

A. Yes.

Q. You became a paid party worker in June 1917?

A. Yes.

Q. What office did you hold in the party?

A. I was elected recording secretary of the City Central Committee of Cleveland, Ohio, at that time, and remained in that position until 1912. At that time I was the candidate for Governor of the Socialist Party of Ohio, and made a lecture tour throughout the state; returned in November and became editor of the *Cleveland Socialist*; remained in that position until June 1913, when I was elected Secretary and City Organizer, a position which I held continuously until September 1, 1919.

Q. Did you hold other positions temporarily in the Socialist Party?

A. Yes, I have been a delegate to conventions and a member of certain committees at different times during my activities in the Socialist Party.

Q. Delegate to what conventions?

A. I was a delegate to the yearly state convention of the Socialist Party, beginning with the year 1910 and ending in 1919, and a delegate to the National Convention of the Socialist Party in 1912, National

Committee Convention of 1915, and the National Emergency Convention of 1917.

Q. In 1919 were you elected to any position in the Socialist Party?

A. I was the secretary and organizer of the Socialist Party. I was elected also a delegate to the Left Wing Conference.

Q. Were you elected to any position in the National Organization of the Socialist Party?

A. I was elected a member of the National Executive Committee of the Socialist Party in 1919.

Q. Any other positions?

Judge Weeks: You are asking now about the Socialist Party only?

A. I have been a candidate for various offices for the Socialist Party.

Q. Were you a candidate for international delegate of the Socialist Party in 1919?

A. Yes, I was elected international delegate of the Socialist Party in 1919.

Q. You stated you were a candidate for Governor in 1912. Were you a candidate for other public offices at different times?

A. I was a candidate for State Treasurer in 1910; a candidate for Mayor of Cleveland in 1911; a candidate for Governor in 1912 and candidate for United States Senator in 1914; candidate for Mayor of Cleveland in 1915; candidate for Congress from the 20th District of Ohio in 1916; candidate for Mayor in 1917; candidate for Congress again in 1918 and a candidate for Mayor of Cleveland in 1919.

Q. In June 1919, were you a candidate for public office?

A. I was a candidate for Mayor of Cleveland. Petitions were in circulation to place my name on the ticket at that time.

Judge Weeks: Mayor on what ticket?

A. The Cleveland election is a nonpartisan election. I was nominated by the Socialist Party.

Q. In June 1917, were you indicted, and for what offense?

A. Yes, for making speeches—

Judge Weeks: No, no, wait a moment.

Q. Under what law?

Judge Weeks: You must establish just exactly what the offense was that was charged in the indictment. You cannot have this witness characterize the form of

the indictment.

Q. Under what law?

A. Under the conscription law.

Q. Which conscription law?

A. The one passed on May 18, 1917.

Q. You were indicted in June 1917 under the conscription law passed in May 1917?

A. Yes.

Q. You were tried when?

A. July 1917.

Q. Do you know what charge was made against you by the indictment in the case?

A. The indictment was for "aiding, abetting, inducing a certain person not to register, through speeches made on the Public Square in the City of Cleveland," which this person is supposed to have heard.

Q. What was the result of that trial?

A. I was found guilty and sentenced.

Q. Did you serve the sentence?

A. Ten months.

Q. Beginning when?

A. February 1, 1918.

Q. After the conviction and pending appeal were you at large?

A. Yes, I was in the City of Cleveland, candidate for mayor, making speeches daily in my campaign as a candidate for mayor.

Q. You went all the way through that campaign during that period?

A. Yes.

Q. And you were voted upon when?

A. November 1917, and polled 27,000 votes.

Q. Out of how many?

A. About 100,000

The witness was then examined as to the development of the Left Wing within the Socialist Party culminating in the Left Wing Conference (New York, June 21-24, 1919). In explanation of the official call to this conference, the witness was asked about the different Socialist and Communist Internationals, and about the differences between the Reformist (Moderate) Socialists and the Revolutionary (Communist) Socialists.

Q. Particularly as to Ohio, what was the Party's situation in Ohio in June 1919?

A. The Socialist Locals of Ohio were overwhelmingly Left Wing.

Q. Was there any split in the organization?

A. There was not.

Q. Was whatever action that was taken to identify Ohio with the Left Wing faction action by regular Socialist organization of Ohio?

A. It was.

Q. Did you, during the early part of 1919, and including the month of June, did you make criticisms of the policies of the official Socialist organization?

A. Yes, sir.

Q. Did you hear others make such criticism?

A. Yes.

Q. Did you read such criticism?

A. Yes.

Q. Can you tell us what was said by the Left Wingers with regard to the Socialist Party at that time?

A. The criticism was of the platforms of the Socialist Party, which included a great number of so-called immediate demands. These demands dealt with immediate changes which the Party advocated, such as, for instance, the abolition of the Senate or the limitation of the hours of work of children, or industrial insurance, accident insurance, and similar reforms. The criticism was that the Socialist Party through advocacy of such measures was misleading the working class into a belief that they could secure their emancipation from the oppression and exploitation to which they were subjected under the capitalist system, by achieving the enactment of such measures. The Left Wing contended, and the criticism was, that the Party should assume the position of demanding merely one thing, and that is the abolition of the capitalist system, and as the first step toward that end, the transference of political power from the capitalist class to the working class.

Q. Did this criticism state an opposition to betterment of conditions of workers now?

A. No, it did not.

Q. Was it then simply an opposition to the Socialist Party doing one sort of thing or another?

A. It was opposition to the Socialist Party laying emphasis in its campaign, propaganda, and educational work upon these measures as against the ultimate aim for which the Party was supposed to stand.

Judge Weeks: Those were what is called parliamentary measures?

A. No, those questions were not involved in what I have stated. It was the matter of the aim.

Q. Go on and state other criticisms that you know that were made, if any, of the official Socialist Party by the Left Wing.

A. Also that the Socialist Party emphasized the participation in the elections and the election of certain officials; that it had become more or less a vote getting machine to elect certain persons to public offices, rather than an organization which sought to bring about a fundamental change in the social system. That, in contradistinction to the emphasis on the election of certain candidates, the Left Wing believed that emphasis should be placed upon the industrial organization of the workers.

Q. What do you mean by that?

A. The organization into unions, into industrial unions, and use of the industrial power of the workers in their struggle for a change in the social system.

Q. Any other criticism?

A. There were many.

Judge Weeks: He stated his views in one way. You asked him what he meant by it. Now he has said something else. Won't you ask him what he means by what he has last said?

Q. Yes indeed. * * * The question is what did you mean by the last answer that you made?

A. It was the position of the Left Wing that, under the existing political and social conditions in the various capitalist countries, that with the control of the newspapers, the control of the educational institutions, the control of all the means of information in the hands of the dominant class, the capitalist class, that the effort to achieve political control through election campaigns was fruitless; that the working class should rely upon the point at which its power could be organized and used directly through the industrial form of organization, and through such use of that power as would develop under the change in the social system and the social developments.

Q. What is an industrial union as you have now used the term?

A. The organization of all the workers irrespective of craft into one union.

Q. Of all of what workers?

A. All of the workers employed in a certain industry.

Q. The organization of the workers of the particular industry in the industrial union of that industry?

A. Yes, sir, and the combinations of those industrial unions is one union.

Q. And in what sense do you use the words "industrial action"?

A. In the sense of using their power to withhold their services to achieve their ends.

Q. By that you mean strike action?

A. Yes.

Judge Weeks: To achieve what end?

A. Those which they were organized to achieve.

Judge Weeks: And what were those?

A. The effort was to change capitalism into socialism.

Q. Now, what did you mean by that?

A. To change the present system under which the small class, proportionate to the whole population, owns and uses, for the purpose of securing profits, the machinery of production and distribution, into a society in which the ownership of the machinery of production and distribution would be in the hands of all of society.

Judge Weeks: Including the former owners? He says all classes of society.

A. All of society.

Judge Weeks: By all of society, do you mean all citizens?

A. The ownership—

Judge Weeks: Do you mean all citizens or don't you?

A. I mean the ownership would be in whatever form of organization existed at that time representing the people who lived in a certain country or a certain territory.

Judge Weeks: Does that include all the people who lived in that territory, are they to participate in the results of production?

A. After socialism is established, they would all participate.

Judge Weeks: But before socialism is established, when the workers take possession of the means of production?

A. If they were ready to give their services to the

new society in the shape of their ability to work and serve society, they would certainly participate in the result.

Q. I would like to ask you to explain the phrase there “When the workers take possession of the means of production as you have now used it.

A. Yes. The view of the Socialist, the Left Wing Socialist, was that, with the establishment of a working class state, that state would proceed to expropriate the present owners of industry and establish social ownership of industry.

Judge Weeks: You use an unusual word there, the word “expropriate.” What do you understand to be the meaning of that word and what is the meaning of it as you use it?

A. I understand the meaning of “expropriate” to be the taking by the state, the existing government, of certain property necessary for the whole of society, and transferring the ownership from individuals to that state or government.

Q. Does that include any proposal for the workers as groups, or individuals, taking property, taking industries from capitalist owners?

A. The only proposal is that the state or government shall take this property.

Judge Weeks: Does that mean with or without compensation to the present owners?

A. It would mean without compensation.

Q. When you make that answer to the Court, do you state that that is your idea or that that is the Socialist program?

A. I would state that that is my idea of what the Socialist program is.

Judge Weeks: So that when the word “expropriate” is used in the Socialist program, you, as a student of socialism, understand it to mean to take private property without compensation?

A. Yes.

Q. That leaves out one element. Does that mean for the state to take private property?

A. Certainly, the state to take it; not individuals.

Judge Weeks: Does that view of yours, that theory of yours, contemplate the person from whom it was taken without compensation, and who is not himself a worker, should become a part or should have the full powers is connection with the state of voting in that new state, of voting and holding office?

A. My personal view would be that during the transition period, that those who did not render services to society in the form of useful labor, would very likely be excluded from the suffrage, although that is not necessarily a condition to the existence of that transition period.

Q. What do you mean by the transition period?

A. The period of transition from the present capitalist society with the private ownership of industry into the complete social ownership of that industry.

Judge Weeks: You say that that is your view. Isn't that the view that is exploited by the Socialist Party?

A. It is not the view that is exploited by the Socialist Party.

Judge Weeks: By the Left Wing of the Socialist Party?

A. The general position of the Left Wing or the Communists is that during the transition period there would exist a dictatorship of the proletariat, with exclusion from the suffrage of those who refused to participate in the new society by rendering useful service. However, that is not necessarily a condition to the existence of the dictatorship of the proletariat, for such an authority on the subject as Lenin has stated that it is not necessary to exclude the exploiter from the suffrage in order that a dictatorship might exist.

Judge Weeks: But they are excluded from the suffrage under the Soviet form of government in Russia?

A. They are.

Judge Weeks: And they are even excluded from the vote and the right to hold office even if they work; if, in addition to the work they do, they have an income from any source of investment, are they not?

A. Those who live upon the services of other workers are excluded, I understand, in Russia.

Judge Weeks: Even if they work themselves; if a man works, and also attempts to employ labor, and profits out of the employment of that labor, he is excluded from the suffrage in Russia and excluded from the right to hold office under the Russian constitution?

A. If he employs others to make profit out of their labor, which the Soviet government is trying to abolish, he is excluded from the suffrage.

Q. Now, the fact that that is so in Russia, does that enter into the meaning of dictatorship of the proletariat as you have used that phrase?

A. As I explained before, that is not a necessary condition to the existence of the dictatorship of the proletariat.

Q. If the term were used in England, would it include any proposition as to the suffrage, simply by being called the dictatorship of the proletariat?

A. It might or might not; it is a matter of the conditions which the proletarian state has to face at any particular moment.

Q. What do you mean by using that phrase, "dictatorship of the proletariat"?

A. I mean the domination and control of the government by the working class as it is now dominated and controlled by the capitalist class.

Judge Weeks: You say domination and control of the government. What government? If the dictatorship of the proletariat is in control of the government, are they controlling an existing government or a new government?

A. It is my view that the working class will establish a government in a form that will be suitable to the exercise of the working class power; that is, the form of government will very likely be the Soviet form of government.

Q. What is meant by the word "proletarian" in the article?

A. The wage workers.

Q. That is the proletarian is the synonym for wage workers?

A. Yes.

Judge Weeks: Without any qualifications?

A. Yes.

Q. Bourgeoisie?

A. The capitalist class.

Q. And petty bourgeois?

A. The lower grades of shopkeepers, small capitalists, ranging up with the professional classes.

Q. Imperialism or imperialist capitalism?

A. Imperialism is that stage of the development of capitalism when the state becomes the agent of the capitalist class, in seeking avenues of investment, avenues of exploitation, raw materials, and in any other form of capitalist action. It is that period of capitalism when, through the development of the capitalist system, the perfection of the machinery of production, the surplus in a country has taken on a certain character, that of the exportation of steel or iron, and mak-

ing the requirement to secure markets for the use of this material, for the disposal of this material. In this effort to secure markets for the sale of these materials unexploited territories are sought and the governments become the agents of the capitalists in securing concessions, securing opportunities for investment, which, in turn, create the market for the sale of these products.

Q. Will you explain that statement, at what stage such a development occurs?

A. The development of capitalism itself brings about the perfection of the machinery of production; the drawing of the workers from agricultural pursuits into industry, and tending toward the production of a certain character of commodity, and that is iron and steel goods.

Q. You mean machinery?

A. Machinery also, yes.

Q. Railroads?

A. The material for railroads.

Q. Is that a stage in which the surplus cannot be invested in the whole country?

A. Yes, the tendency of capitalist production is that with the creation of greater and greater surplus, the returns of capital invested in home industry become less, and necessarily the capitalists seek other avenues of investment where the returns will be greater. They seek the unexploited territory. They seek the countries which have not been developed, such as Mexico or China, or part of South America, and invest — seek concessions there and invest their capital for larger and quicker returns, and these investments take the form of the development of that territory through the building of railroads, which create the markets for the sale of the products of the home country.

Q. What is the essential element that makes this process imperialistic, as you use the term?

A. Well, we have had as an illustration in our relations with Mexico, where millions of American capital are invested, and where we have been in constant conflict with the various Mexican governments over the protection of these investments. We find at the beginning of the war in 1914 that there had developed during the preceding decades the imperialist policy in all the great capitalist nations, notably in England and in Germany. The struggle for concessions,

the struggle for what we now might call “mandatories,” or colonies, had been going on for a long term of years. We found repeatedly that the governments came into conflict with each other, as for instance, France and Germany over Morocco. The questions at stake were questions of which country should have the right to exploit this unexploited, undeveloped territory. These conflicts in which the governments fought the battles, through diplomacy, of the capitalist class, reflected the imperialistic process, the development of imperialism, the securing of these concessions for the benefit of the home capitalist. It is out of this process that the war developed. It is out of this process that other wars will develop in the future, from the standpoint of socialist analysis.

Q. Now, then, do you state the essential characteristic of imperialist capitalism is a use of government power — military, naval power, and diplomacy, in connection with the expansion of capitalist investment?

A. Yes.

Q. And the term “class struggle” is used. Will you explain that?

A. Yes, sir, it was the view of the Socialists and the Communists that the facts of the industrial situation as it existed in all capitalist countries divided the people of these countries into classes with separate and distinct industrial interests. On the one side there are those who own and control the industries and natural resources of the country, and exploit these for the purpose of making profits for themselves. On the other side are those who are obliged to sell their ability to work, their labor-power, to the owners of industry. The interest of the owners of industry is to secure through their ownership as large profits as are possible. The interest of the wage workers is to secure as large wages and as good working conditions as possible. This creates a conflict between the two classes which we designate as the class struggle.

Q. And by “revolutionary class struggle,” what meaning has that, if any?

A. The class struggle carried on for the purpose of bringing about a fundamental change in the social organization; not a struggle merely for better wages and working conditions, but to change the relation between the wage worker and the capitalist, and abolish the capitalist ownership of industry.

Cross Examination by Assistant District Attorney Alexander I. Rourke

Q. You told us something about the First International yesterday, is that right?

A. Yes.

Q. Now, did the First International have any Manifesto?

A. It did.

Q. That was in 1864, you said?

A. The Manifesto was written in 1847 and it is generally known as the Manifesto of 1847. The International was organized in 1864.

Q. You spoke about the Second International, was that the Basle Conference?

A. No, it had repeated conferences every three years during the period it existed.

Q. Now, I think that you told us that the Second International broke to pieces because it did not carry out the Basle Resolution?

A. That and its general attitude in regard to the tactics of the Revolutionary Movement.

Q. Those are generalizations. What I am trying to get you down to is just the specific acts. What was there in the Basle Resolution that the Second International failed to carry out that caused its breakup?

A. The declaration that in case an imperialist war broke out, the Socialist Parties of the various countries should act against that war. In place of so doing, the Socialist Parties betrayed their trust and supported the governments in the war.

Q. What we are interested in is the manner in which the Socialist Parties of the various countries were to act against the war. What was the act against the war that the Socialists failed to carry out when war was declared?

A. An action against war might take various forms. It might begin with demonstrations. It might develop and have...

Q. Wait a minute. Demonstration. What demonstration?

A. I understand there were demonstrations held at the beginning of the war in both Berlin and Paris by the Socialists; but after the declaration of war they did not continue their agitations, but supported the governments, at least the officials of the Party, and the

criticism is directed to the official control of the Party and not to the membership.

Q. I will ask you again to answer my question. What kind of demonstrations did they have?

A. They held great mass meetings in which there were speeches in opposition to the war.

Q. What other acts—

A. Well, as an example—

Q. Just a moment until I finish the question, please. What other acts did the Second International fail to take, in order to—

Judge Weeks: What acts were not taken by the Socialists that he understands were required by the Second International agreement?

Q: Go ahead and answer the question.

A. I would say that such action was required by the Basle resolution as that taken by the British Council of Action, where Great Britain threatened to attack Soviet Russia in the case — at the time of the Soviet Russia advance in Poland.

Judge Weeks: What action?

A: The Council of Action threatened a general strike if England declared war on Soviet Russia. Such action, I believe, was required by the Basle resolution against any government that entered an imperialist war.

Judge Weeks: Let me see if I understand you. You mean that compliance with the Basle resolution would require a declaration of a general strike in the United States after the declaration of war by the United States.

A. If there was an organization of sufficient strength and power to call a general strike, yes.

Judge Weeks: Was there anything in the Basle resolution that made the declaration of the action of the Socialists in any country dependent upon their number or their power?

A. I think that any such action would be dependent upon the power to carry out such action. For twenty people to call a general strike would be foolhardy, but if they had the support of the masses and could effectively bring about a general strike, it would be their duty to call such a strike.

Q: What other acts do you say that the Second International failed to perform in order to prevent the war?

A. That would be about my idea of what the resolution required.

Q. The Basle resolution spoke about the desir-

ability of civil war in the event that the nations went to war, didn't it?

A. I do not think those are the words of the Basle resolution. It states that the imperialist war should be turned into civil war.

Q. Should be turned into a what?

A. Into a civil war.

Q. You mean by that that if the governments go to war, one with another, that the proletariat should take advantage of the situation and change it into a civil war in the country, so that the proletariat might succeed in conquering the government?

A. My view of that statement is that if it required any action on the part of the organized workers in opposition to the war, to the extent of overthrowing the existing government and establishing a working class government in its place, in order to stop the war—

Q. And is what I stated one of the acts—

Judge Weeks: And if necessary to accomplish that by a civil revolution?

A: If the conditions were such that the proletarian strength and the developments of the situation in any particular country made that possible, as it happened in Russia through the breakdown of the existing government, then the Basle resolution required such action.

Q: If they are strong enough to do it, you believe the Basle resolution requires them to do it, is that it?

A. The Basle resolution requires the working class to use all its power to end the capitalist war, the imperialist war, yes.

Q. As part of its power, if it was strong enough to bring on a civil war, to conquer the government?

A. If it was necessary, to overthrow the existing government and set up a working class state in its place.

Q. Did you believe it was necessary to overthrow the existing government during the late war?

A. Do I believe?

Q. Did you believe it was necessary to overthrow the existing government by those means?

A. I do not believe that the overthrow of any government can be brought about by anyone saying or planning that it should be done at a certain time. I believe that all capitalist government will be overthrown through the development of the social and industrial condition in each country, which will bring

the breakdown of the existing system, and with it the government, and that at such a time a working class state will replace the government.

Q. As I understand your program and manifesto, you state that there is a transition period between what you call the present capitalistic state and the proletarian state, is that right?

A. No, that is not right.

Q. There is no transition period between the capitalistic state and the communist state?

A. Certainly not. The transition is between capitalism and communism; between the social systems; not between the organization of those states.

Q. Is the present state here a capitalistic state?

A. Yes, in my view.

Q. What is that?

A. That is my view.

Q. And it is desirable to change the present capitalistic state into a socialistic state?

A. A proletarian state, yes, that is my view.

Q. Proletarian. Between the time of changing from the present capitalistic government to the socialist government there is a transition period?

A. Certainly not. There is no period between the time of changing, one succeeds the other.

Q. Immediately?

Judge Weeks: Is there a transition period from capitalism to socialism?

A. The transition period between capitalism and socialism is the following: When the proletarian state is established it cannot at once establish communism. The transition from capitalist production to communist production may extend over a period of a decade, a generation, over 25 years, perhaps. I am unable to say and no one is able to say. The transition period is the period in which the proletarian state transfers the means of production from the capitalist class to society as a whole, and until the time when communism is established in full.

Judge Weeks: In other words, it is not out of the proposition that there is an existing state?

A. Yes.

Judge Weeks: That state must be supplanted by a proletarian state?

A. Yes.

Judge Weeks: Now, a proletarian state involves something in the nature of a form of government?

A. Yes.

Judge Weeks: How is the change made from the existing state to the proletarian? How does it propose that the change should be made from the existing state to the proletarian state?

A. My view of that is the following—

Judge Weeks: I am not particularly asking your own view. I am asking you how it is expressed in this Manifesto.

A. My view is the general Communist view, which I can only state in my own words, that capitalist production in its development brings about its own decay, its own decline, its own breakdown; that capitalist production inevitably through its own conditions of existence produces such a situation as the world war; that a world war, an imperialist war, brings about the breakdown of capitalist production. It also brings about the increase in prices, the increase of the cost of commodities, and thus intensifies the struggle between the workers, who must gain the necessities to live, and the owning class. I might illustrate it: As a result of the war, prices have gone up, double, and we have had a large number of strikes on the part of the workers trying to catch up with the cost of living. Such a strike, for instance, was the outlaw railroad strike.

Q. How do you propose that the workers shall capture the power of the state?

Mr. Ferguson: Just a minute. Do you want to know how he proposes?

Mr. Rourke: Yes.

A. I believe that the workers will capture the power of the state in the following process: That in the development of the capitalist system, its own contradictions bring about a situation in which the machinery of production of capitalism breaks down. For instance, one of those contradictions is the fact that, under the capitalist system, a surplus of commodities is produced which cannot be consumed in the home market. This surplus usually takes the form of machine products, products of iron and steel. This forces the capitalists of every capitalist country to seek sources in which they can dispose of these products — colonies, protectorates, mandatories, unexploited territory — and develops what is called imperialism. Imperialism brings the great capitalist classes in conflict with each other. This conflict, at the beginning, takes the form of a diplomatic controversy, the effort to settle

their problems through diplomacy, and ends in war. War brings about the disintegration of the capitalist machinery of production, as has been the case in Europe. It also brings about inflation, the increase of prices, and a resulting situation in which the working class is driven to more bitter and antagonistic struggle against the capitalist class. In this country we saw that illustrated in the various strikes, like that of the coal miners, which, last year, brought a stoppage of industry in certain places. The strike of the outlaw railroad workers, which brought about disintegration of railroad service and brought about a situation in which the industries could not function effectively. This process going on ultimately brings about a condition in which the workers are compelled to strike more frequently, more often. In the process the government begins to act as the agent of the capitalist class for the suppression of the efforts of the workers to secure better conditions for themselves, as, for instance, in the coal miners strike of last year, the government used the injunction, it used the federal troops, it tied up the treasury of the unions. This directs the attention of the workers against the capitalist state, the machinery of the existing government, as the agency of the capitalist class, and their struggles begin to develop against the government. At the present moment the English strike of the coal miners is an example of that development. I believe that in this process there may come a point where, as may happen in England, the coal miners go on strike, the railroad men go on strike, the dock workers go on strike, the transport workers go on strike, the capitalist government is no longer able to function, and in such a crisis, in self-defense, because of the necessity of carrying on production, the working class will establish its workers' councils, which become the government and function as the government in order that production may be established on a new basis, carried on for the benefit of the people.

Q. Is there any more?

A. That is the statement.

Q. Now, we have got the government, and we have got a lot of trouble with the government, and the workers are going to take the government, is that right?

Judge Weeks: No; he has not said that.

Q. They are going to establish their Soviets and

carry on the government?

Judge Weeks: He did not say carry on the government.

Mr. Rourke: Let us have it read, the last portion of the defendant's answer read.

Judge Weeks: Did you say carry on the government?

A. The workers' councils are established which begin to function as a government.

Judge Weeks: Then there would be two governments, would there not, the workers' council functioning as a government and the other government would still be there?

A. The other government will be at least partially broken down in the process of the development of these conditions, the disintegration of industry will make it impossible for it to function effectively.

Judge Weeks: Then you will have two governments?

A. For a period there may be, as there were in Russia, two governments, one becoming the government and the other disintegrating and going out of existence.

Q. How does the government break down if strikes are going on?

A. Through its inability to function.

Q. What do you mean by its inability to function, I am speaking of the government while strikes are going on, inability to function?

A. Yes; if the industries, if the railroads, if the telegraph were tied up in this country through a strike of the working class, if industry were broken down through the contradictions of capitalism, it could be very well the fact that the existing government could no longer carry on its work as a government, through not having the means of doing so.

Q. We still have our army and we have got our navy and we have our police department throughout the country; how is the government broken down because industry breaks down?

A. It would be very conceivable that if such a situation existed that the larger part of the army, as was the case in Russia, would support the workers in their efforts to establish a government that could function.

Q. You mean by that, that the soldiers would desert the regular army and go over to the support of

the workers, is that what you mean?

A. That the Army, individuals and units would go to the support of the workers' councils, yes.

Judge Weeks: If the railroad workers struck, there are other people in this country besides railroad workers, are there not?

A. I presume so.

Judge Weeks: Could not citizens who believed in the government take the places of the railroad workers, and with less efficiency, operate the railroads?

A. The situation that I have described presupposes that the masses at that particular time will have been placed in a position of opposition, that they will have been disgusted, that they will desire a change in the situation in the government, or otherwise such a change could not be brought about.

Judge Weeks: Do you mean the masses numerically?

A. Yes, I mean the masses numerically.

Judge Weeks: If the masses numerically want to change the form of government, why can't they do it by the exercise of their vote?

A. In the first place, I think it has been figured out that one forty-fourth of the people of the United States, of the citizens of the United States, can block any change in the form of government, that is, through the arrangement of the method of making amendment to the Constitution, the fact that three-quarters of all the states are required. The various checks and counterbalances which were inserted in the Constitution in order to protect the existing form of government, the government of the capitalist, this method is a long, tedious process, and my explanation presupposes the existence of a crisis, when it is a matter of life and death, a matter of getting food, getting clothing, getting homes, having society function, for the people to act at once, and in such a situation they would not wait for two or four years to roll around in order to wait for the election, or six or eight or ten years, when the necessity to secure food, clothing, and shelter made it necessary for them to act at once.

Q. But the men going on strike on the railroad cuts down the possibility of transporting the food, doesn't it?

A. The new government would have as its—

Q. Please answer my question. I will come to the new government later on.

A. It would.

Q. When the workers go out on strike, the railroad workers, that paralyzes the railroads and prevents the transportation of food unless volunteers take their places?

A. That is the very point of my illustration that the capitalist system brings about the situation—

Mr. Rourke: I object.

Judge Weeks: Let him answer.

A. The capitalist system brings about this situation where workers are compelled to strike in order to secure enough to live on, and this paralyzes industry, and this will compel the workers to take steps to change the system in order to eliminate this paralysis of industry, this breakdown.

Q. What steps are the workers going to take at that point to change the system? They are out now. They have gone out on strike. What steps are the workers going to take, to take the railroad and change the system?

A. I have stated that in such a crisis there would very likely be set up workers' councils which would assume the state power and begin to function as a government and would take control of the means of production and distribution and operate them for the good of society.

Q. Do you mean these workers, proletarian workers, are going to take these railroads and other sources of distribution and production at that point?

A. I mean that the working class will take these means of distribution and production, and operate them.

Q. Do you say that at that point a working class state has been established?

A. I stated that in such a crisis workers' councils would be established which would begin to function as a government.

Q. Tell us what you mean by function as a government.

A. Acting as a government, being the government.

Q. What about the other government with its army and its navy and police, when the workers' government tries to take these railroads and other sources of production and distribution, what happens then?

A. I repeat again that in order that such a crisis might exist, the process of disintegration of capitalism

would reach such a point that large parts of the army and navy and the police would have deserted the capitalist state, and would support the working class state.

Judge Weeks: Even then, assuming that the army and the navy and all these people, some of them have deserted, the roundhouses and the locomotives and the stations and the rails and ties that make up the tracks were bought and paid for by somebody and belonged to somebody. Now, who is going to undertake to operate them and restore something like equal food conditions?

A. The new government would for the good of society expropriate the former owners and make these means of production and distribution the property of the state.

Judge Weeks: That is they would, by force; do you not expect that the men who own these railroads are going to say, "We are pleased to hand these over to you, we will make you a present of them," do you?

A. I am not a prophet enough to say what they would do. They might resist or they might not. They very likely would. I do not know definitely what they are going to do about it.

Judge Weeks: Have you any belief that these strikers could obtain possession and control of factories, plants, machinery, railroads, telegraphs, telephones?

A. I have not stated—

Judge Weeks: Without compensation to the present owners?

A. I have not stated that the strikers would obtain possession. I have stated that the new government would through whatever form of action or legislation was necessary.

Judge Weeks: That any government organized by these men, who started the strikes, could get possession of such property, so long as another government was in existence that recognized property rights?

A. I have also presupposed that the conditions existing would bring about the disintegration of the former government, so that it could not longer function.

Judge Weeks: That the other government would be absolutely disintegrated and destroyed?

A. It would be unable to act as a government.

Judge Weeks: Would that be a destruction of the government?

A. You might call it that, if it disintegrates, it

ceases to exist.

Judge Weeks: And until it had disintegrated and ceased to exist, there would be some government that recognized property rights, would there not?

A. There might be the remnants of such a government.

Judge Weeks: As long as there were the remnants of such a government, recognizing property rights, have you any reason to believe that owners of property would voluntarily surrender?

A. I cannot give you a blueprint of exactly what is going to happen at that particular moment. I can only state to you the general forces which are at work in society today, the things that I see at the present moment developing, and which I explain in harmony with the theory of Communism or Revolutionary Socialism.

Judge Weeks: Why do you refer to that as a blueprint?

A. Certainly, to ask me at this time to describe in detail every act and every circumstance that may accompany an event five years, ten years, twenty years hence, when new social conditions, new situations have developed, would be to ask me to do the impossible thing of today giving you a blueprint of what will happen twenty years from now. I can only state what I think are the forces in society, the things which are happening today, which are developing in a certain direction, which I think will bring a result.

Judge Weeks: Why do you call it a blueprint, a blueprint is a solar reproduction of something that has already been produced?

A. I used the phrase figuratively, of course.

Q. You and I have gotten to the point where the strike had begun, and as you said large forces of the army and navy of the country had deserted to the strikers. Now we have got the balance of the army and the navy and the police department supporting the existing form of government. How do the workers with the army and the navy that has deserted to them conquer and destroy the state?

A. They would set up the workers' council, declare it to be the government, and act as a government.

Q. What is the loyal army and navy and police force going to do at that time?

A. I am unable to state that with certainty.

Q. Haven't you any idea of what would happen?

A. But if I should judge by historical events, I would state that there might be a struggle between the two at that particular point.

Q. There might be a struggle?

A. Yes, there very likely would be.

Q. Between the loyal army and navy and police force and the proletariat with the deserters on the other side?

A. I would say so from my reading of history.

Q. What kind of struggle do you mean when you say a struggle?

A. I mean there would be an opposition.

Q. What kind of opposition, these twelve men would like to know?

A. You ask me to state that there will be such. I am simply stating that there would probably be a struggle which would take the form of open armed conflict between the two groups.

Judge Weeks: What would become of the President of the United States, who has taken an oath of office to carry on this government under the Constitution? What would become of the Vice President of the United States, and the members of Congress, the Governors of the various states, and the members of the state legislatures? The mayors of cities and the common councils of cities, who, all of them, have taken an oath to enforce the laws of the country? What would become of the judges who have taken an oath to see that the laws of the country were carried out until those laws were changed?

A. I am unable to say what would become of them. I would state that the new government would set up new organs for the control and effective administration of society.

Q. While we have still got that portion of our loyal army and navy and police department, what does the so-called new government of the workers and deserters from the loyal forces do with respect to the private property of the individual?

A. I am not thinking that the new government would take any action until it was formally established as the government; then, as I have stated, it would proceed to expropriate the present private owners of industry and means of distribution which are required for society as a whole.

Q. Now, suppose that this armed open conflict that you mentioned between the loyal forces of the government on the one hand and the proletarian army with its deserters on the other occupies a period of years, is that the transition period that you have in mind?

A. It is not.

Q. What is to become of the private property during that period of struggle that is owned by the loyal citizens of the government here?

A. My conception of such a situation would be, as I would judge from the experience of the past and the reading of history, that it would not be long before one or the other of the existing organizations which were trying to function as a government would be the power that would function.

**Statements by the Defendants
at the Time of Sentence.**

The defendants waived stay of sentence, whereupon occurred the following:

Judge Weeks: Charles E. Ruthenberg, what have you to say why judgment should not be pronounced against you according to law?

Mr. Ruthenberg: I have merely this to say for myself, that I have in the past held certain ideals for a reorganization of society on a new basis. I have upheld those ideals and gone to prison for them when they were connected with the late war. I have stood by those principles in which I firmly believe, and I still stand for those principles irrespective of the result of this particular trial. I expect in the future, as in the past, to uphold and fight for those principles until the time comes that those principles triumph, and a new society is build in place of the present social organization. I realized from the beginning of this trial, as I have in any other trial that I have taken part in as a defendant, that this court, and all the instruments of this court, are merely a part of that organization of force which we call the capitalist state; and I expected no other result from an organization of the capitalist class to protect the capitalist system, than the result that has been returned by this court in this particular case; and, of course, accepting this as a case of class justice, a case of the use of the organized force of the state in order to suppress the desires of those who today are suffering under the oppression of the present system, I will accept the sentence in the same spirit of defiance, realizing that I go to prison because of support of a great principle that will triumph in spite of all the courts, in spite of all the organizations of the capitalist class.

Mr. Ferguson: I say for myself exactly what Mr. Ruthenberg has said, and I add that we have gone to trial here before a Judge who was challenged at the outset as unfit, by his prejudice, to sit in the trial of these defendants. That Judge assumed to pass upon his own prejudice; that Judge has acted as the prosecutor in this case from beginning to end, and the act of the jury here, that is their unconscious part of the

process as described by Mr. Ruthenberg. I have no anger towards the jurors here. I do not think they understand what they are doing. They are the unconscious instruments of this process, under which I went to trial.

Your Honor, I speak advisedly, I am a lawyer, I understand our system of government very thoroughly. That has been my special study. I think I know the history of the Constitution of the United States as thoroughly as very few other men in this country, because that has been my study. I have been fortunate in my opportunities for study, and it is out of my study that I have arrived at opinions which are called to trial here as crimes. I know enough of history to know that opinions have been called crimes before, but another generation has called them by another name. Your Honor sits here, as judges sat in the early part of American history, when the Alien and Sedition Laws were on the statute books, and there is no glory to those judges in American history today. In fact, I think the only case in which a Judge of the United States has been impeached was the case of the Judge who acted on the Alien and Sedition Law as your Honor has acted under this Criminal Anarchy Law of New York, the man who was the specialist along this line of persecution. Persecution, I say advisedly, although I have acted as a lawyer in this case, and have been designated as an officer of the Court. Since that has been referred to, I want to say one thing about that, so long as I have been a lawyer, I am certain, and I think that I can establish that by every association that I have had as a lawyer, that I have upheld the very highest ethics of the profession. Accepting my duty as a lawyer, I have conformed to it, but I have never believed that being a lawyer, being an officer of this system to that extent, that therefore my conscience was bound by the political system under which I have acted. I have believed that I have the same right of opinion of one who is in any other walk of life. I believe that those are two distinct propositions, which can be properly held apart. I believe that I have functioned as a lawyer according to the oath which I took in becoming a lawyer. But I say, as a lawyer, that this has not been the process of a criminal trial as I know it as a lawyer. Your Honor has rewritten the Criminal Anarchy Law, told this jury that the Criminal Anarchy Law means something which the Legislature of 1902 never meant, and I said early

inn this case that I could produce the language of the Legislature to show what they meant, and not once during the case has that challenge been met. Instead of that, your Honor has advised the jury contrary to what your Honor knew the Legislature had decided in 1902, but all that is beside the mark.

Our ideals for reorganization of society have been stated by Mr. Ruthenberg. It is in the light of those bigger issues that I stand here ready for your sentence, and your Honor has no real power over these defendants. All you can do is to deprive us of our liberty for a short time. You have no power over our minds. You have no power over the minds of the men and women in this country who believe as we do, and they have the real power, because they are speaking for the mass life of this country, they are speaking for the tens of millions who are building this country, who are creating its wealth and its power, and who, sooner or later, will demand the reward of their own toil. And they will find the appropriate way of getting that. Never before, in any public forum of America, have I heard anybody say in the cynical way that your Honor has said — with great contentment, that this is a government where the majority of the people cannot control. That is your cynical attitude, and it is upon that basis that I have said that you could not sit here as a Judge, not because you would not deal with us personally with courtesy. No. I say it now, quite impersonally, I have no passion against your Honor, no more than I have against the jury. I think I see this whole process in its proper perspective, and I am ready now to accommodate myself to the further order of your Honor.

The sentence, as to each of the defendants, was an indeterminate term of imprisonment with a minimum of five years and maximum of ten years, at hard labor.

Edited by Tim Davenport.

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