
The Story of the National Defense Committee in New York.

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*“They whom the gods destroy,
they first make angry.”*

When the apparently immutable structure of capitalist society crashed during the years 1914-1918, taking with it the lives of millions of the working class — men, women, and children — then the rulers of this capitalistic society went mad. If any individual expressed his knowledge of the process that was going on, if any class-conscious worker advocated strength and unity among the workers to the end of reconstructing society on a firmer basis, all the hounds of the capitalist class were turned loose on him. During these years thousands of men and women were hunted down, tortured, jailed, and imprisoned for telling the truth. New instruments of persecution were forged. The Espionage Act was passed by the federal government. Anti-sabotage, red flag, criminal syndicalist, and criminal anarchy laws were passed by state and municipal governments. In reply to these repressive measures of the ruling class, there came into existence various organizations for the defense of the workers who were not afraid to tell the truth: The Civil Liberties Union, the General Defence Committee, the Workers’ Defense Union, the American Freedom Foundation, and the Sacco-Vanzetti Defense Committee.

In September 1919, the revolutionary elements of the Socialist Party broke away and formed two parties, the Communist Party and the Communist Labor Party. Immediately prosecutions began. In the November raids and those of January 1920, some 5,000 persons were arrested. Between January 1 and May 1,

1920, 1,500 deportation warrants issued without evidence were cancelled, and 547 foreign born workers, mostly Communists, were ordered deported.

In New York the ruling classes were fortunate in not being forced to make a new law. The New York Criminal Anarchy Law, passed in 1902 immediately after the assassination of McKinley and never used until 1920, defines criminal anarchy as:

“The doctrine that organized government should be overthrown by force or violence, or by assassination of the executive head or of any of the executive officials of the government, or by any unlawful means.”

Since there was no existing agency prepared to take care of the Communist workers prosecuted under this law, the New York National Defense Committee, later incorporated into the countrywide National Defense Committee was formed. Each month since has proved the vital need of this Committee. The continuance of the old cases and the addition of new ones has made a constantly increasing volume of work which has taxed heavily the resources of the workers who have supported the organization.

The Legal Cases.

In November 1919, Ignatz Mizher was given a sentence of from 5 to 10 years in Cortland, New York,† while Carl Paivio and Gus Alonen were given similar sentences in New York City at the same time.‡ These men have been in prison ever since.

On February 5, 1920, Ben Gitlow, one of the

†- Ignatz Mizher was a member of the Communist Party of America. He was eventually pardoned by New York Gov. Alfred E. Smith.

‡- Carl Paivio and Gus Alonen were Finnish-American organizers of the IWW. They both served prison time.

most active leaders of the workers' fight in New York, and a member of the New York legislature elected on the Socialist ticket in 1918, was convicted and sentenced to from 5 to 10 years' imprisonment for his participation in the drawing up of the Left Wing Manifesto just before the split of the Socialist Party.† A motion was made immediately for a certificate of reasonable doubt, and despite the fact that this was the first instance of legal history in which a law was passed 18 years before it was invoked, despite the fact that the constitutionality and the proper construction of that law had never been passed upon by any higher court, and despite the fact that in the case itself there were questions of fact so novel that there were no precedents upon a certain point, the certificate of reasonable doubt was refused. It should be remembered that it is an established rule that, in all criminal proceedings, if there is any reasonable doubt where a conviction should stand, a certificate should be issued.

In April 1921, the Gitlow conviction was affirmed by the Appellate Division of the Supreme Court, first department. Justice Laughlin wrote a lengthy opinion condemning the philosophy of Ben Gitlow and advocating 100% American submission to the present order of things. This decision was the first case in history of criminal law that there was read into a document, innocent in itself, a criminal intent so as to sustain a conviction. It is a basic principle of criminal law that if a document is capable of both a criminal meaning and an innocent one, the innocent one must be adopted, and the accused be given the benefit of every doubt. This case is startling evidence of the constant disregard of their own laws by the capitalist class where their ends are best served by disregarding these laws.

On March 26, 1920, Harry Winitsky was convicted and sentenced to from 5 to 10 years' imprison-

ment for the offense of being a member of a Party which it was alleged advocated the overthrow of the government by force and violence.‡ There was no precedent in American constitutional law making it a felony merely to belong to an organization whose purposes are alleged to be illegal. A motion was made for a certificate of reasonable doubt, but for lack of funds the motion was allowed to go by default.

Jim Larkin, the famous Irish revolutionist, was tried in April of the same year [1920]. He acted as his own counsel in the trial, and was, like the other comrades, given the maximum sentence. The application for a certificate of reasonable doubt was denied on the authority of the Gitlow case. Larkin's case has since been taken over by the Larkin Defense Committee.§

[C.E.] Ruthenberg and [Isaac] Ferguson were tried jointly, and jointly convicted and sentenced to from 5 to 10 years' imprisonment on October 29, 1920.Δ Ruthenberg was at one time a mayoralty candidate on the Socialist ticket in Cleveland, and he served a year's sentence for opposing the war. Ferguson is a brilliant attorney, probably more experienced in cases involving freedom of speech than any other attorney in the country. They were convicted for participation in the drawing up of the Left Wing Manifesto, although evidence showed that Ruthenberg was not in down during the drafting or publication of the manifesto, and that Ferguson's participation was merely formal. The certificate of reasonable doubt was denied, also on the authority of the Gitlow case, although there is no other provision for admitting the defendant to bail unless this is granted. In any other criminal case which involved so many novel issues, this certificate would have been granted immediately.

In December 1921, the Appellate Division of the State Supreme Court refused to grant motions for appeals to the Court of Appeals.

†- Ben Gitlow, a close associate of John Reed in the production of the Labor paper of the Left Wing Section and Communist Labor Party, *Voice of Labor*. He was sentenced to 5-10 years of hard labor on Feb. 11, 1920. He was not released until a writ of error was granted and he was freed on \$7500 bail on December 13, 1922.

‡- Harry Winitsky was the Secretary of the Communist Party of America in New York. He was sentenced in March of 1920 to 5-10 years in prison and was not freed on bail until the spring of 1922. He was eventually pardoned by Gov. Smith on Jan. 7, 1924.

§- "Big Jim" Larkin, active in the Left Wing Section before joining the Communist Labor Party, was sentenced to 5-10 years in prison on May 4, 1920. He served prison time at Dannemora, eventually being freed and deported to his native Ireland in April of 1923.

Δ- C.E. Ruthenberg and I.E. Ferguson were important figures in the Communist Party of America from its founding, leading a factional split from that organization in April 1920 to join with the Communist Labor form the United Communist Party. They were tried in October 1920 and sentenced to 5-10 years in prison. The pair were not released on bond until April 24, 1922. Their case was overturned on appeal in July of that same year.

The next set of arrests occurred on April 29, 1921, in connection with the annual spasm of fear experienced by our Departments of Justice. At this time, A. Jakira, I. Amter, and E. Lindgren were arrested in New York City.† Bail was at first set for \$50,000 each, but was later reduced to \$25,000. The cases were dismissed by the Magistrate for lack of evidence. The men were then kidnapped by the police and held illegally while a grand jury hastily issued indictments against them. When they were arraigned for the alleged violation of the New York Criminal Anarchy Law, bail was set at \$5,000. In addition to this charge, Lindgren was indicted under a federal act with sending seditious literature through the mails. A copy of *The Communist* was offered by the district attorney in support of his contention that bail should be placed at \$10,000. At this time, Judge Hand stated that "Institutions that cannot survive this sort of criticism are already lost." He placed Lindgren's bail at \$2,000. Jakira was indicted under the Sullivan Act of the additional charge of having a revolver in his room at the time of the raid.

At the same time, three women — M. Kalnin, T. Jerson, and Mrs. Leisman, were indicted for an alleged violation of the New York Statute and held for trial under bail of \$5,000 each.‡

On December 21, 1921, all these cases were dismissed for lack of evidence, with the exception of the federal charge under the Sullivan Act against Jakira.

The Manko case is the most pathetic case in the history of the National Defense. Manko is a Russian who neither speaks nor reads English. He was arrested in June 1920. His home was raided without warrant and his papers were seized, including a leaflet called "Seeing Red," an answer to Attorney General Palmer's spasm of May Day, 1920. On the ground that Manko's rights had been violated, Judge Tierney ordered the return of the papers. But when the case came up for trial in June 1921, although the illegally seized papers

were not introduced, the judge allowed the state to testify as to the contents of the papers. Manko, of course, was indicted and given a sentence of from 2 and 1/2 to 9 years. Motion for release on bail, pending an appeal, was denied. In the meantime, Manko's mind became unbalanced with the brutal treatment he received, and he is now in the Hospital for the Criminally Insane at Dannemora.§

The Deportation Cases.

A constant stream of deportation cases has come under the supervision of the New York division of the National Defense Committee. Men, women, and children have been brought to the port of New York after being herded into local jails all over the country, sometimes for months at a time.

Early in 1921, 10 deportees who had been held without bail for months, some since November 1919, were kept on Ellis Island and on Deer Island for some weeks. Eventually, part of them were gotten out on bail, and the others left the country at their own expense.

There followed closely three deportations. On January 22, 1921, 14 were deported; on February 1, 56 were deported; and on February 26, 80 were deported. Most of these deportees were Communists.

On April 9, 38 men, 12 women, and 24 children were brought to Ellis Island from Chicago, Cleveland, Buffalo, Milwaukee, Rockford, Youngstown, Detroit, Bridgeport, Philadelphia, and Boston. In the meantime, Soviet Russia had closed her borders to American immigration until she should be recognized by the American government. The deportees were then held at Ellis Island for over two months. Sanitary conditions are unbelievably bad on the Island, there is much disease, food is of the poorest quality, privacy is impossible, and men, women, and children are herded together like animals in a freight car. Eventually, the

†- Abram Jakira, Israel Amter, and Edward Lindgren were leading members of the United Communist Party. They were arrested as a result of a Bureau of Investigation operation in which Lindgren was trailed from Pittsburgh to New York City. There, he passed a package to Jakira on the street, who was followed by agents back to UCP headquarters (located in a 5 room apartment rented by Helen Ware) which was raided without warrant by the New York "Bomb Squad." Ware was not charged.

‡- Minnie Kalnin and Anna Leisman both served prison time; the fate of T. Jerson is not known at this time. Both Kalnin and Leisman were members of the Communist Party of America and served at the Women's Prison at Auburn, NY. Both were pardoned by Gov. Alfred E. Smith in 1923. Leisman contracted pneumonia and died almost immediately after her release.

§- Paul Manko, a member of the Communist Party of America, was ultimately pardoned by New York Gov. Alfred E. Smith.

National Defense Committee secured the release of all the deportees under parole and on bail. On May 31 [1921], the Commissary Department rendered a statement for 2065 meals for \$370.67. The bill was paid by the National Defense Committee.

What the National Defense Does.

The National Defense Committee pays legal expenses. This item includes printing costs and lawyers' fees for cases and appeals. At the present time all the cases are being appealed.

It provides bail for prisoners and deportees. Pays a weekly allowance of \$10 to all prisoners. This allowance has had to stop at certain times, when the National Defense Committee has been hard pressed financially.

How the National Defense Committee Does It.

The appeals of the National Defense Committee have been directed to the workers. The unions have

been placed on the mailing list for the monthly bulletin, lists have been sent to them, meetings have been arranged, literature has been sold. For over 2 years, the National Defense Committee has helped to keep alive the revolutionary spark among the workers. Its propaganda has been directed not only toward the defense of class war prisoners and deportees, but toward the revolution in America.

The biggest event which the National Defense Committee has conducted was the Ten Day Drive from June 11-21, 1921. At this time the workers were canvassed with lists, unions were visited, and meetings, both outdoor and indoor, were held. Fifteen thousand dollars was cleared during the drive.

The workers, in spite of unemployment and low wages, have had to supply the funds for the defense and relief of their comrades. They have done what they could, but the National Defense Committee is very deeply in debt. It must continue to borrow if the funds do not come in more rapidly. But credit will give out — and our comrades *must* be defended.

Workers, you have given much, but you have not given enough. It is your fight — GIVE MORE!

Edited with footnotes by Tim Davenport.

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