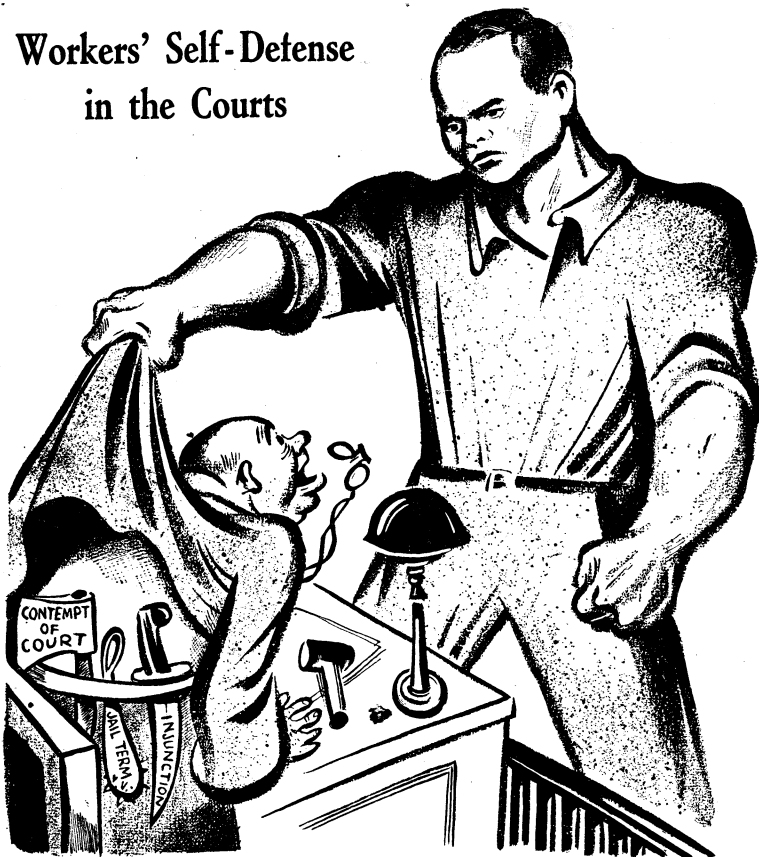


# UNDER ARREST!

Workers' Self-Defense  
in the Courts



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PAMPHLET No. 5

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# UNDER ARREST!

*How to Defend Yourself in Court!*

*What to Do When Arrested and Questioned!*

## FOREWORD

This pamphlet is being issued in order to better prepare our whole organization to give leadership to workers on what to do when arrested and questioned, and how to defend themselves in the courts of capitalist class justice. It is not sufficient, however, merely to ask workers to read this material, depending upon them to be able to carry out successfully its directions on their own initiative. A broad education must be organized on the basis of this pamphlet. Classes of leading workers in the International Labor Defense (I. L. D.) must be organized for the careful study of this material under the leadership of capable comrades. Efforts must be made to draw in sympathetic lawyers who will volunteer their services for this purpose. This must become the basis for broader discussions of these problems. In some states (Massachusetts, for instance), arrested workers can be represented in court by others, not lawyers. This has been done very successfully and must be pressed in other states. Only on this basis will it be possible to make effective use of this material, and to develop properly the whole effort to inform workers what to do when arrested and questioned and how to defend themselves in the courts of the boss class. The worker should carefully study this pamphlet, discuss it with other workers in their organizations, etc. Thus hundreds of thousands and the millions of workers who take part in strikes, unemployed demonstrations, and the like, will be better prepared to defend themselves and their rights.

*Issued by the* INTERNATIONAL LABOR DEFENSE

Room 430, 80 East 11th Street, New York City

## No Information to the Police!

### WORLD ORGANIZATION OF INTERNATIONAL LABOR DEFENSE TELLS WORKERS WHAT TO DO WHEN ARRESTED

In a report on the work of the world organization of the International Labor Defense to the Third Congress of the section of the I. L. D. in the Soviet Union, Helene Stasova, international secretary, declared: "We decided that it was necessary to follow the example of the czarist times, and to publish a pamphlet, *How to Act When Arrested and Questioned*. It is true that a large number of our sections have already issued literature on how workers must defend themselves before the courts. But this was not entirely the same as our pamphlet, *How to Conduct Oneself Under Examination*. It must be clearly pointed out in such a pamphlet that through a truthful or invented story a worker will not achieve anything. He will not ease the situation for himself. Instead he may be the cause of other workers being thrown into jail. *This is particularly important at the present time when the number of arrests is on the increase. Arrests are taking place during every strike, during demonstrations of the unemployed, during farmers' struggles, etc. Where we have to deal with mass arrests, it is necessary to carry out our correct policy of not giving any information to the courts, to police officers or jail attendants, etc.*

"In assisting prisoners with written directions, we must not forget about legal assistance. But we cannot always give this legal assistance to a sufficient extent. Therefore, we must give directions to the workers on how to defend themselves. It is clear that when there were only individual arrests, or even arrests by the tens or hundreds, that the help of lawyers in the courts could be provided. Today, however, when the arrests run into the thousands, this is not possible."

# WORKERS' SELF-DEFENSE IN COURT

## NECESSITY FOR THIS PAMPHLET

### *Class Struggle Coming to a Crisis*

The present depression and economic crisis, growing ever deeper and more widespread, sees the employing class seeking to put the entire burden of the crisis upon the working class.

Millions of workers are unemployed. They and their families are starving. Millions of others are working part-time. They, and their families are compelled to exist on a starvation level. Those remaining workers who are still employed are faced with wage cuts, speed-up and increased hours of work. They, too, are finding the problem of feeding, clothing and sheltering their families an ever-increasing difficulty.

It is obvious that the workers will not submit to this oppression without a struggle. They will fight to maintain whatever union conditions they have. They will resist wage cuts, speed-up and stretch-outs. They will struggle for unemployment insurance, and generally will, by organization, resist the ever-increasing pressure against them by the capitalist class, which uses every means to put the burden of this depression solely upon the working class.

### *Capitalists Using Terrorist Tactics and Frame-ups*

This increasing militancy of the working class will not be calmly watched by the capitalist class — nor by the agencies of the government, which reflect and serve the interests of the exploiting class. On the contrary, the master class of America, calling to its aid the government and its various agencies and departments — executive, legislative and judicial—will use every means within its power to beat down the rising tide of struggle and militancy of the workers, and by terror and oppression, seek to crush it.

The terror now raging all over the land, in which

workers are murdered, maimed and jailed, and the wholesale application of criminal syndicalism laws, anti-alien laws and other anti-labor legislation, proves this conclusively.

This assault upon the working class claims as its first victims the more class-conscious of the workers and the more militant of its leaders. Their defense becomes more and more a matter of vital necessity to the workers throughout the country.

### *The Work of the I. L. D.*

The principal work of the International Labor Defense consists in arousing the widest mass protests, as the chief effective method with which to wrest the working class militants from the bosses' clutches.

It also aids the families of the class-war prisoners, while their breadwinners are in jails, and of the murdered victims. It supplies prison comforts to the imprisoned class fighters. It fights for the class war prisoners' rights and privileges inside the prisons, and against the attempts of prison administrations at petty tyranny and persecution.

The International Labor Defense likewise helps to provide, as far as possible, legal aid and bail. But an ever-increasing burden is being thrown upon the forces of the International Labor Defense by the great increase in the number of arrests. It cannot always provide the assistance of lawyers, unless the seriousness and political importance of the case absolutely requires it. Therefore we print this pamphlet.

### HOW WORKERS FACE THE CAPITALIST COURTS

#### *See Behind Court Ceremonies!*

Once and for all, it is necessary to destroy the illusions that workers have concerning courts and court procedure generally.

The "dignity" and "sanctity" of the courts are a means of paralyzing the struggle of the workers against capitalist institutions. It is not an accident that court procedure is conducted in a language and method not understandable to the average worker. It is not an ac-

cident that court procedure is clothed with all sorts of pompous ceremonies. These fixings and stage settings are deliberately provided to confuse the workers, who thus are often unable to act intelligently and effectively because of their fear of making mistakes.

Experience teaches that often the most militant worker, who will not hesitate to go out on the picket line to prevent scabbing, who will fight workers' battles in a most courageous manner, will, when facing a court, lose his militancy and capacity for struggle mainly because he is overwhelmed by court methods which confuse him.

### ***The Class Struggle Goes on in the Court Room***

The class struggle goes on in the court room as well as it does on the picket line; in the shops, and in the mines. The worker must learn to carry into the court room the same determined militancy that brought him there.

The worker must also understand that courts are not impartial, any more than any other agency of capitalist government is impartial. Those who drag the worker into court do so because they know that the court will serve the bosses and not the worker.

To summarize the point: the workers must see thru the sham and ceremony, and recognize the capitalist court as a class enemy—as a weapon in the bosses' hands, with which to suppress workers' militancy. The worker must train himself to bring the class struggle into the court room into which he was dragged by the bosses' servants.

## **WHAT TO DO WHEN ARRESTED**

### ***No Information to the Arresting Officer***

The first step in the prosecution of the worker is usually the arrest. The arrest is made by a policeman, a state trooper, a government agent or person holding some such similar position. It is absolutely essential to remember that the policeman, etc., arresting you is a servant of the boss class. Otherwise, why should he be arresting you for working class activities? He is your enemy. ***Give him no information, of any kind whatsoever, either about yourself or your fellow workers, or***

*Class Struggle in the Court Room.*



**MASS SUPPORT FOR WORKERS ON TRIAL.**—Very often a court room packed to the doors with workers has been the decisive feature that won the workers' case.



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**any organization which you belong to, or in which you are interested.** No matter how innocently he may seek to get this information, no matter whether he tells you that this information is for the purpose of helping you, **do not give it to him.**

### ***No Information When Booked. Give Your Name Only***

Give no information in the police station where you are brought by the arresting officer and booked. (Booking means simply that a record of the arrest is made in a book.) Give no information to any assistant district attorney who may come to you smilingly, and in a kindly manner try to get information from you, stating that he is interested only in the truth and wants to help you. If, on the contrary, he comes to you in a threatening, bulldozing manner, trying to force information out of you, do not yield. ***And when we say "no information," we mean, above all, that you shall not give the names of your fellow workers, the names of organizations that you belong to, details about your union, or any other information, regardless of how innocent it may appear to you. And if you are a foreign-born worker, no information of any sort, of the date you landed, the name of the boat, etc.***

Give your name. ***That is all.*** You should not even furnish an address. Too often have we seen the police without warrants, and without right, even under their own laws, break in and raid the homes of workers whom they had arrested. Raids become possible because these workers themselves innocently furnished the address and information. ***It is clear, therefore, that aside from giving your name, you should give no information of any kind.***

### ***Telephone from Jail***

After the arrest you will be taken to some kind of jail — a police court jail, or some other place where you are held before being taken to court. While you are being held, demand the right to telephone, even if you have no money to pay for the call. That is still one of the "rights" to which you are entitled. Insist upon it. Call up the International Labor Defense headquarters, if there is one. If not, call your union headquar-

ters, or some responsible friend, and tell them: (1) *who you are*; (2) *where you are held*; (3) *amount of bail set, if any*; and (4) *the charge upon which you are held*.

Remember that you are talking from a jail, and that the telephone conversation is within the hearing, even though you do not know it, of the police or stool pigeons. The very policeman you refused to talk to may be sitting downstairs at the switchboard taking down everything you say. The purpose of the telephone call is simply to let those outside know that you are held. Later, when you see them, you can tell them the facts.

### CO-OPERATION OF FELLOW WORKERS

The arrested worker is not in a position to reach the outside, get witnesses, etc., and the workers present at the time of the arrest must co-operate with the worker and the International Labor Defense. They must immediately, and while on the spot, take the names and addresses of all of the witnesses. Some worker must find out to which jail or police station the arrested worker is taken. Sometimes it is necessary to follow the policeman to see where the worker is being taken. Some worker must immediately notify the International Labor Defense, giving the name of the arrested worker, the place where he was taken to, the names of the witnesses, and the facts about the arrest.

### *Talking About Case in Jail*

The arrested worker must be very cautious in discussing the case with other prisoners or visitors while in jail. It has frequently happened that the police intentionally bring prisoners together and allow visitors to talk freely to the arrested worker in a room where a policeman is secretly stationed to take down the conversation. The worker should, therefore, take extreme care in talking about the case at any time while in jail. Even walls have been known to have ears in jail.

### THE THIRD DEGREE

Very often while you are in jail, attempts will be made to question you. Threats or actual beatings may

be used. All of the tortures commonly known as the "Third Degree" may be employed. They will attempt to bulldoze you into making "confessions," or to name others. Frequently the police will try to force the worker to sign a statement or confession prepared by them. **Sign no statement, "confession," or any other paper, no matter how innocent it appears.**

Remember that answering one question will lead to another dozen being put to you. The best and only way is to **refuse firmly to answer any questions.** Even the capitalist law cannot force you to answer the police or to give them any information of any kind; but the law permits any information you may give to be used against you. Have no faith in fake promises of the cops or district attorney, and do not be fooled by them. Their promises are given only to make you talk, and cannot possibly help you under capitalist law.

One of the third degree methods commonly used by the police is to bring the worker into a darkened room, where a beating is given to the worker by the police. It is useless to strike back. If you do, the beating will be much more severe. The only way to fight the third degree is by mass protest in and out of court.

### ***THE CHARGE AGAINST YOU***

You should insist upon the right to an immediate hearing. If you are not brought to court on the night of the arrest or the morning following, demand that you be brought before the court for a hearing immediately.

When you are brought to court, a complaint will be read by the clerk or judge to you. This is really a statement signed by the policeman stating what you are charged with. You will then be asked whether you plead guilty or not guilty. Insist that a complaint containing the **specific charge** against you be read to you. If this is not done, refuse to plead.

#### ***The Real Charge Is Not the Complaint***

The worker must realize that the real charge against him will not appear in the complaint. The worker is brought into capitalist courts only because of his working class activities, and the charge against him is only

the legal frame up of the capitalist courts. The State and the courts do the bosses' bidding, and the criminal laws are used to suppress the activities of the class-conscious workers.

### *Plead Not Guilty*

Even though capitalist law makes what you have done a crime, you must plead "*not guilty*." The object behind the charge against you is to suppress your working class activity. Even the police are not interested in the technical crime. The worker must assert his right to participate in working class activities, regardless of boss laws. To plead guilty puts the worker at the mercy of the bosses' judge. *Never plead "guilty."*

### *Insist that the Charge be Proved*

Often the judge or clerk will deliberately try to confuse you. For example, you have been distributing leaflets in a strike situation, or calling for a mass meeting or protest against some outrage against the working class. The charge will be that you blocked traffic or littered up the sidewalks, or a general "buckshot" charge of disorderly conduct,—one of those charges which says everything and means anything. The judge or clerk will say, after reading the charge, "Did you or did you not distribute leaflets?" If you say, "Yes," he will enter a plea of "Guilty." In other words, he will say that you admit guilt. Do not permit yourself to be railroaded in this way. Plead "not guilty," and demand that your plea be noticed by the judge or clerk. Demand that witnesses take the stand to prove the charge against you. If the worker does not understand the complaint, he should insist that it be reread, or that he be permitted to read it himself.

### *Do Not be Fooled by Promises of Suspended Sentences*

Very often the judge, or district attorney, or policeman will advise the worker to plead "guilty" upon the promise or assurance that he will get a suspended sentence or a light sentence. These promises are as treacherous as the promises made in the police station or in jail. "Not guilty" must be the answer of the worker.

## ***Insist Upon a Preliminary Hearing***

In certain cases the judge can only decide whether or not the worker is to be held for the grand jury. In those cases, the worker must demand that a hearing be held, and that witnesses be produced to prove the charge against him. It is very important that this hearing be held, and that the worker should be very careful that he ***does not waive this examination***. By demanding this hearing, he may prevent this case being brought before the grand jury, and so get a final dismissal of the charge. If the case does go to the grand jury, the testimony at the preliminary hearing will be very helpful at the trial.

## **THE TRIAL**

### ***When to go to Trial***

After you have pleaded "not guilty," the court will usually ask you whether you are ready for trial, or want an adjournment. Here you must learn to use your judgment. If the charge is a serious one, state that you want an adjournment so that you may secure witnesses and prepare your case. In any case, if you do not feel that you are ready, insist upon at least one day's adjournment. In a small case, if in the meanwhile you are being held in jail, do not permit an adjournment for a long time because you will have already served your sentence when the case comes up for trial.

### ***Demand a Jury Trial***

In many states (California, Illinois, etc.) you have a right to a jury trial even on a minor charge. Demand that your case be tried before a jury and do not let the judge force you into a trial then and there. In a jury trial, the worker will have much more opportunity to raise class issues and to resist being bulldozed by a bureaucratic judge.

If there is an adjournment, usually the judge will fix bail without any request. However, if the judge does not fix bail, ***demand that bail be fixed and that bail be low***. Point out to the court that you are not a criminal, that you are a political prisoner, that you are a

worker without money in the bank, that you have been engaged in a struggle for your class, the working class, and that bail, therefore, should be your own promise (recognizance) to appear for trial. Remember, that regardless of what the charge is, other than murder, you are entitled to bail, as a matter of right, and to low bail. The purpose of bail is merely to insure your presence in court at the time of trial. Point out to the court that you are not the kind that will run away, that you will be there to face the trial and therefore bail should be made low.

### *Notify the I. L. D.*

After bail has been fixed, notify the I. L. D. Also, notify the workers familiar with the case. Here again, the workers outside must assist the arrested worker in getting witnesses and evidence. It is up to them to assume responsibility for the securing of witnesses and for seeing to it that they are available in the court room at the time of trial.

### *Prepare for Trial*

The worker should make himself familiar with the particular charge against him, and with the political importance of the class struggle which brought about his arrest. He must study and muster all of the facts of his case and come to court having completely planned his defense and the manner of presenting it to the court and jury. Many workers pay no attention to their cases until they actually come up for trial, and thus are completely unprepared. The worker must never take a fatalistic or indifferent attitude toward his case. Even though it may be necessary to try your own case, you should try to get legal advice before the trial. Call on the I. L. D., which will, of course, help you. Wherever possible, discuss your case with representatives of the I. L. D., with workers who have had experience in court cases or with lawyers, so that you may come into court prepared on the particular points and issues of your particular case. Even though you may be represented by an attorney, prepare and study your own case. Remember that lawyers are limited by

the technical rules of the courts, and the real burden of presenting class issues will fall upon you.

### *Conduct in Court*

At all times, while in the court room, conduct yourself in a calm and deliberate manner, with working class straightforwardness. Remember that you are not speaking for yourself alone. You are speaking as a representative of the entire working class. Do not let yourself be confused or annoyed by the bureaucratic working of the court. Avoid unnecessary friction and do not let the issue become merely a personal one. On the other hand, do not allow yourself to be railroaded into jail because of meekness. Remember that the judge and prosecutor are, as a rule, extremely ignorant about social and economic questions, and can only express themselves by anger and open hostility. You, as a class-conscious worker, have the greatest advantage over them. Keep this advantage by remaining calm and thoughtful. Do not, however, underestimate your enemy. The legal machinery is theirs. You must be alert and resourceful.

### *Make the Court Your Forum*

Bring out the class issues at the trial. In most cases the judge and prosecutor will try to evade the class character of the case. Force into the trial the real reason for your arrest. For instance: if you are charged with distributing leaflets, then the prosecutor will stick to the point that the streets were littered up with your leaflets in violation of the ordinance.

Your answer may be that if you were distributing Republican, Democratic or religious leaflets, you never would have been arrested. State that you never heard of a Salvation Army preacher, a Republican or a Democrat being held on such charges. The law is used only against workers when they are active for their class.

If you are charged with criminal syndicalism, i.-e., with teaching or advocating the overthrow of government by force or violence, or charged with membership in an organization that advocates and teaches such a doctrine, and the proof by the district attorney consists of speeches that you made, articles that you wrote, news-



papers that you read and support, then it is absolutely necessary for you to use the court for a clear and correct explanation of the economic and social views which you hold, of the facts of the class struggle as applied to your case.

### ***Bring out the Class Issues***

Point out what you stand for, and what you believe in. Always keep in mind, and bring out, that it is in the interest of the working class, who are the vast majority in society, that you are fighting in the struggle which has brought you into court. Wherever possible, expose the anti-working class activities of the police, stool pigeons, and courts. If you are arrested on the picket line, tell the judge the rotten conditions which brought about the strike, and outline the demands of the strikers. If you were arrested in a demonstration, bring out the objects of the demonstration. If you were arrested in an anti-imperialist war demonstration, show the constant and immediate danger of war under the capitalist system. This is your defense. Do not try to crawl out of the charge against you by lies and dodges. You will only involve yourself in a net of conflicting statements. The experience of the I.L.D. has proved that a militant, straightforward defense is the most effective weapon against legal oppression. For instance, if you are charged with assaulting a policeman, do not deny your acts, but assert your right to defend yourself and your fellow workers.

Remember that the courts oppress not only class conscious workers, but all workers, and that nearly all the people in the court room are workers who feel this oppression. You are speaking to them. ***By the strength of your cause, make capitalism the defendant, and yourself the prosecutor, in the name of millions of toilers.***

### ***Answer Questions Your Own Way***

It is important that you insist upon answering questions put to you ***in your own way***. Do not allow yourself to be bulldozed by the prosecutor and judge who may demand of you a "Yes" or "No" answer. ***You either answer your own way, or not at all.*** You must

not permit yourself to be caught by trick questions of the prosecution. You must insist upon making explanations in your own way.

### ***Force and Violence***

In criminal syndicalism and other political cases, the worker will be confronted with the question, "Do you believe in force and violence?" If you are forced to answer this question, refuse to give a "yes" or "no" answer. Insist upon your own explanation along the following lines:

"Class conscious workers believe that all the tools and means of production, all of the social wealth belong to the toiling masses, who alone produce it. It must not be the private property of a handful of bosses. A greater and greater number of workers and poor farmers are becoming conscious of this, and are organizing themselves to take over all the wealth, natural and social, in order to receive the full product of their toil."

### ***CAPITALISM GUILTY OF FORCE AND VIOLENCE***

Militant workers, in defending themselves in capitalist courts, upon being questioned as to the "overthrow of the government by force and violence," have argued as follows: "As in past history, so at present, the masses of workers will be fully justified, historically and socially, in using means, including force and violence, in defense against capitalist force and violence and in a revolutionary situation, to dislodge capitalism and replace it with a classless social order that will have neither oppressors nor oppressed."

Workers in court have also argued:

"History proves that no ruling class gives up peacefully its rule of economic and political oppression of the masses. Capitalism is no exception. Capitalists will drown many workers in blood rather than give up the social wealth in their possession.

"At this period, while the workers are organizing themselves on the one hand for immediate betterment of their living conditions, and on the other, for the final aim of changing the social order, *it is the capitalist class that every day uses pitiless force and violence against the workers.*"

The I. L. D. defends the right of workers to hold and advocate such views.

### ***Capitalists Use Gunmen to Break Strikes***

Take an ordinary strike situation,—in mines, for example. Gunmen and thugs are imported as mine guards. They shoot down striking miners and their families and children. Then these miners who are shot, are arrested, and charged with assault. Did you ever hear of police fighting on the side of the strikers? Did you ever hear of scabs being arrested? And still, in every strike situation, it is the strikers who are being arrested and beaten up, and charged with all sorts of "crimes." Their crime was that they defended themselves against the assaults of the police. Such a right of self-defense they have, and will maintain. In the same way, the working class as a whole, has a right to defend itself against the force and violence of the exploiting class, and that right they will defend and maintain. All use of force and violence by the boss class must be exposed, when it becomes necessary so to do, by clearly understanding and stating the correct position.

### ***IS THERE A RIGHT OF REVOLUTION IN AMERICA?***

District attorneys will often attempt to prove that a defendant in a working class prosecution advocates "R-r-r-revolution." The way he rolls the word off would make you think that this is the worst crime there is. Point out, if you are compelled to answer this question, that revolution is a word which should have a particularly favorable meaning to an American. The right of revolution has never been taken away, and never can be taken away. The Declaration of Independence clearly recognizes and holds that the right of revolution belongs to the people. Quote the *Declaration of Independence*:

"...governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and institute new government . . . when a long train of abuses and usurpations, pursuing invariably the same object, evinces a

design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their security."

This right of revolution has been recognized by those who are constantly being held out as glowing figures in American history. It is important here to quote these men in support of this question. For example:

**Thomas Jefferson:**

"I hold a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical...What signify a few lives lost in a century or two? The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants."

**Abraham Lincoln:**

"This country, with its institutions, belongs to the people.... Whenever they grow weary of the existing Government, they can exercise their constitutional right of amending it or the revolutionary right to dismember or overthrow it."

**Woodrow Wilson:**

"We have forgotten the very principles of our origin, if we have forgotten how to object, how to resist, how to agitate, how to pull down and build up, even to the extent of revolutionary practices...."

## ***TRIAL PROCEDURE EXPLAINED TO THE WORKERS***

### ***How to Select a Jury***

You should insist upon a jury trial, instead of being tried by a single bureaucrat, the judge. In most cases you have a right to jury trial. If a jury trial is denied you, after you have demanded it, take an exception, as explained later in this pamphlet. In case of a jury trial, it is necessary that in picking one, you should be careful to get on that jury, as far as possible, persons who are not prejudiced against you and your cause from the outset.

Very few workers are called into capitalist courts to act as jurors. Generally, jurors are of the parasite portion of the middle-class, the only ones who can spare time for the couple of dollars they receive as jurors. For example,—retired rich farmers, real estate men, pensioned widows, etc.

## ***Demand a Working Class Jury***

These elements are generally prejudiced against the militant worker as one who threatens their social position. The worker defending himself should expose this. Before the jury-panel is sworn in by the clerk, get up, and state that you challenge the entire panel of prospective jurors on the ground that it is composed of people whose social and economic interests will prejudice them against you, the defendant.

Expose the method of selecting jury-panels, for which no workers actually in industry, are called to serve. Make a demand for a new panel to be picked from a cross-section of the working class population in the city,—Negro and white workers from basic industries, etc. State that only such a jury can judge your case properly, and without prejudice to your cause.

Of course, the judge will deny this challenge. Yet this motion will make a profound effect upon all present, especially the workers, before whom the court will at once stand exposed as the bosses' tool for suppression of the working class.

## ***Question the Jury-Panel***

While picking the jury, ask them whether they are prejudiced against you because you are a worker, because of your nationality (if you happen to be an alien or foreign-born worker), or because of your color (if you happen to be a Negro or Asiatic). Ask them whether they are employers of labor, and whether they have had any trouble in the past on the part of the workers who have attempted to organize, and whether such experience has prejudiced them against you. Try to draw from them whether they are prejudiced against you as a militant worker; whether they have read about the case, and whether their reading of the case has prejudiced them against you. As far as possible, try to get workers on the jury,—jurymen of your own class.

## ***Challenge for Cause***

If your examination of a jurymen indicates that he is prejudiced against you, say to the judge that you challenge that particular jurymen for "cause." The

judge, if he agrees with you, will dismiss the juror. If he disagrees, you still have the right to challenge the juror "peremptorily." Simply say, "I challenge this juror." In each criminal prosecution, you have a certain number of "peremptory challenges." This means that you can excuse and dismiss a certain number of jurors for any reason, or for no reason whatsoever. Find out from the court how many such challenges you have; if you find a juror whom you think is deliberately trying to get on the jury, and yet is prejudiced against you, even though he refuses to admit it, do not hesitate to exercise your peremptory challenge.

### ***Trial Procedure—Witnesses***

It is also necessary to know something about the usual procedure of a trial. The prosecution puts in its case first. In doing this it calls various witnesses, who are supposed to testify concerning what they saw and heard the defendant do, or what took place at the time the (alleged) crime is supposed to have happened.

#### ***Cross-Examine the Witnesses of the Prosecution***

After the district attorney gets through questioning a witness, the defendant has the right to cross examine him—that is, to question him to prove that he was not telling the truth, or that he left out matters which were favorable to the defendant. It might be that the witness is a person not worthy of belief because of his connection with the complaining witness, or because he is prejudiced on the issues involved in the particular struggle. Such matters must be brought out by the defendant.

#### ***Object to Unnecessary Questions and to Hearsay Evidence***

If the witness is asked questions which you think have nothing to do with the case, object to the questions upon that ground. If he makes answers which do not reply to the questions, move to strike out the answer on the ground that it does not reply to the question. If he is trying to testify concerning matters which he could not possibly know through his own experience, but which he heard somebody else say, object

to the question or move to strike out the answer upon the ground that the witness is not suitable because he did not testify of his own knowledge, but that his testimony is merely hearsay. Again, *remember* that a witness should only be permitted to testify about what he saw or heard, only if what he saw or heard was in the *presence of the defendant*, and what he saw or heard was *what the defendant did*, and not *what others did* when the *defendant was not around*.

### ***Move for Dismissal of Case Before Putting in Defense***

After the prosecution has finished its case ask the court to dismiss the charge upon the ground that the State has not made out a case against you. *You should make this motion before you put in your defense*. In criminal cases, remember that you are presumed to be innocent until you are actually found guilty, and *it is up to the prosecution to prove your guilt beyond a reasonable doubt* before you are required to put in any defense. If the judge denies the motion to dismiss the case after the prosecution has completed its case, take your exception. Then proceed to put in your defense.

### ***Your Defense***

You have the right, just as the prosecutor, to call your witnesses and to take the stand yourself, and to ask your witnesses what they saw and what they heard and what they know about the situation. Bring out those facts which will prove your innocence, and will prove that the prosecution witnesses are falsifying and not telling the truth.

### ***Summing Up to the Jury***

After both sides have finished, you, as well as the prosecutor, have the right to sum up the evidence in the case, and to point out to the jury that the evidence proves your innocence. Indicate how and why it proves that you are innocent. Take advantage of this opportunity, in summing up, to point out why you are being prosecuted, and why you should be acquitted. This is your last opportunity to speak in the case, and you should prepare yourself well to bring forth all the main issues brought into the case.

## **Exceptions**

The question of exceptions generally is important. During the course of the trial, whenever you object to the testimony of a witness, or any other proceeding that has happened, you get up and say, "I object to the question," giving the reason why you object, if you can. The judge will either overrule, or sustain the objection. If he sustains the objection, then it means that the question was improper, and should be stricken out. If he overrules the objection—which he usually will do—then, **having an appeal in mind, you take an exception** to his ruling. This means that you merely say, "I except," or "Exception." The stenographer who takes the minutes, or notes of what is done and said at the trial, will thereupon note in the minutes that you take an exception. This means that when you go on appeal, the record of the trial will show that these various matters (which you are pressing on appeal as errors committed in the trial, for which you think the conviction should be set aside), were considered by you to be errors, and that you pointed out to the court at the time of your trial. Do not forget to take an "exception" whenever your object is overruled, regardless of how often you find it necessary to do so.

## **The Judge's Charge**

After both sides have finished the case, and you have summed up to the jury, the judge charges the jury. This means that he makes a short summary of what the case is about and tells them what the law is on the question. Make sure that he tells the jury that if they find you guilty, it must be on the **evidence beyond a reasonable doubt**. If he makes any statement which you think will prejudice your case, take an exception after he gets through, making a note in the meantime, of that portion which you think is prejudicial and say "I take an exception to that portion of the judge's charge wherein you said so and so."

## **Sentence and Appeals to Higher Court**

If you are found guilty, the judge will either pass sentence upon you immediately, or will remand you, that is, order you taken to jail for some future date



when you will be brought before him for sentence to be pronounced upon you. Or you may, whether or not you are already out on bail, be now released on bail to return on the day set for sentence.

Immediately upon sentence, you must file notice of appeal, if this has been the legal advice given you.

### ***Take Opportunity of Stating Why You Should Not be Sentenced***

At the time of sentence, the judge or clerk will ask, "What have you to say why sentence should not be pronounced upon you?" Take advantage of this opportunity to state why you should not be sentenced. Point out that you are not guilty of the crime of which you have been found "guilty." Point out that your "crime" has been that you were fighting for your class; that you are not a criminal and should not be sent to jail; but that if you are sent to jail, you will know that it is because of the struggle in which you were engaged, the fight for the liberation of the working class from the oppression of its masters. Also if, in this struggle it becomes necessary for you to go to jail, you are not afraid. You should also state that workers expect no justice in a capitalist court.

## **CRIMINAL SYNDICALISM, ANARCHY AND SEDITION**

### ***Definition***

***Sedition*** laws have existed in this country since 1798. Sedition can generally be defined as inciting resistance or opposition to the government, state or federal. The language of the sedition statutes does not follow any definite form, like the syndicalist statutes. This makes them extremely dangerous to the militant worker.

The first ***criminal anarchy*** statute was passed in New York State in 1901. Criminal anarchy is defined as the doctrine that organized government should be overthrown by force and violence, ***or by any unlawful means***. Several states have since copied this law.

### ***Criminal Syndicalism***

Criminal syndicalism was created by the States of Idaho and Minnesota in 1917 to crush the growing militancy of the workers under the leadership of the I.W.W.

At the present time, twenty-one states have criminal syndicalism laws. Criminal syndicalism is usually defined by the statutes as the advocating of crime, sabotage, or *unlawful acts of force and violence* as a means of accomplishing a political change or a change of industrial ownership or control.

### *How These Laws Work*

These laws are class laws, brazen and undisguised, forged by the capitalist state to suppress the struggle of the masses. They are different from all other capitalist criminal laws in one important respect—the worker does not have to commit any so-called criminal act. Speaking, writing, or membership in a militant working class organization is a crime.

Neither is there any real difference among these three crimes. Every one of them is used to suppress the activities of the revolutionary worker. The worker must realize at the start that these three crimes are directed against his growing economic and political consciousness and his resistance to class oppression. The worker must have no illusions regarding the technical wording of these laws. The same State, which makes these laws, decides what are “unlawful means,” which phrase is found in all of these laws. Not the slightest faith should be had in the wording of the law.

These laws are used most frequently during periods of “labor trouble” and social unrest. At the time of arrest police seldom have these statutes in mind. The active worker must know that any arrest may suddenly develop into an anarchy, syndicalist or sedition case. The circumstances of his arrest should not deceive him, because a charge can always be manufactured.

### *Suggestions to the Worker*

Where these laws are used, the worker must be particularly careful what he says, when arrested. Silence is the watchword. Here particularly the address of the worker arrested and of other workers must be carefully guarded. If literature can be found, it can form the basis for a frame-up. If the worker is charged with any of these crimes, he should immediately make himself familiar with the law, the indictment, and with the political significance of these charges. He must

not rely upon the technical defense of the attorney who may be employed. The worker must study all of the facts and the major issues of his case, so that he himself may present them to the jury. No attorney can do this for him. The worker must be ready to defend himself, his activities and his principles. He must stand for no pussyfooting, either by the attorneys or other comrades, who may advise opportunistic and legalistic tactics to avoid the real issues. If the charge is membership in an organization, the worker must train himself to be ready at the trial to explain and defend the ideas and work of the organization. If the charge is based upon literature, the worker must familiarize himself with this literature and defend the doctrines contained in it. These are political crimes and the worker must be the spokesman for his fellow workers, who may be on trial with him.

In case of mass trials, the defendants who have studied the case most carefully, should assume the responsibility of presenting the class issues, on behalf of all of the workers. An attorney should be employed only for instruction and technical defenses.

The capitalist laws theoretically grant the right of freedom of speech and press. These rights should be used as a weapon of the worker on trial for these crimes. The workers should expose the contradictions and demand that this right to express themselves be given to the workers, as well as to the boss class.

## **DEPORTATION**

### ***Aliens***

An alien is a person who was not born in the United States and who has not become a naturalized citizen by obtaining citizenship papers.

### ***Deportation Not a Punishment for Crime***

Deportation is the method used by the Department of Labor to return aliens from the United States to their native countries when the government has declared them to be undesirable. The purpose of deportation proceedings is to send alien workers out of the United States and not to jails within the country (Deportation

is a weapon of the bosses to try to weaken the strength of the militant working class).

### ***Deportation Must be Started by Warrant of Arrest***

The Department of Labor has no right to arrest an alien worker in deportation proceedings without a warrant of arrest which should be shown to him.

If you are an alien, and an immigration inspector asks you to accompany him to an immigration station, you should not do so unless the inspector shows you a warrant of arrest issued by the Department of Labor. ***Do not answer the inspector's questions.***

If an attempt is made by an immigration inspector to arrest you without a warrant, you should refuse to be taken into custody.

If an inspector attempts to search your home, he must have a search warrant which he must show you. Do not permit him to search your home without first showing you his search warrant. Likewise, do not permit any police agent to do so without a warrant.

If in spite of your protests, you are arrested without a warrant, you should immediately notify the local secretary of the International Labor Defense or a friend or comrade, or the local I. L. D. lawyer.

### ***Don't Talk When Arrested***

In any event, whether you are arrested with or without a warrant of arrest, ***do not answer any questions put to you by the inspector, except to give your name.*** Do not give the inspector your address or place of employment, etc. In refusing to give your address state your reason—that you have a right to protect yourself against an illegal raid and search of your home. ***Do not give him any information as to the time, place or manner in which you entered the United States.***

Do not enter into any discussion with the inspector who arrests you. The government seldom has much information about a worker when a deportation proceeding starts, but usually obtains enough information when the worker talks freely with an inspector. In many instances the alien worker has lost his case by loose talking before his hearing.

If you are in jail awaiting trial or serving sentence for a "criminal" offense, an immigration inspector may

visit you and ask you questions about your right to be in the country. ***Don't answer his questions.***

### ***Don't Give Information About Other Workers***

The immigration inspector may attempt to obtain information from you about other alien workers. ***Do not give him any information.***

Refuse to answer such questions as "Where did you obtain this literature?" "Do you know such and such an individual?" (some well known radicals), or "What do you know about him?" ***Don't sign written statements.***

### ***Right to Have a Lawyer***

You are entitled to be represented by a lawyer or a representative of the I.L.D. or your union, etc. When he comes, give him all the facts as well as any possible reasons that you may know for your arrest.

### ***Deportation Hearings are Private***

Deportation hearings are held in private. The only people present in the room are the commissioners, the stenographer, the alien, and the alien's lawyer. Workers are not present. The testimony is secret and is not given to the newspapers. Do NOT try to propagandize the government officials at such a hearing. You will only be talking yourself into a swift deportation.

### ***Party Membership***

If you are questioned concerning party or union membership, or the character of any organization, you should be guided by your organization's instructions.

### ***Naturalization***

Before applying for citizenship papers always consult your organization which will furnish you with additional information on this subject.

NOTE: Foreign-born workers are being tricked into giving information to the Immigration Department in the following manner: Rumors are spread that if an alien worker registers with a government department, he will thereby be "safe." This is just a scheme to get workers to give information which can be used as a basis for deportation.

The police and courts are using printed forms upon which they place the answers given and then have it signed by the prisoner. Among these questions are those

asking the prisoner about his citizenship and arrival in the country. These questionnaires can then be used by the deportation authorities for further investigation and jailing, or deportation of the workers. Workers should absolutely *refuse to answer any of these questions* and refuse to sign the form after it is filled in. The questions appear harmless but are extremely dangerous, especially in cases of alien workers.

### **MASS SUPPORT FOR WORKERS ON TRIAL**

The previous sections dealt with the questions of workers' self-defense in courts. However, a worker's self-defense in itself is not sufficient. His cause must be backed by his fellow-workers in the city where the trial is held, as well as by the workers generally.

A most important consideration of workers' self-defense as already mentioned, is to use the capitalist courtroom as a forum from which the workers on trial can expose before their fellow toilers the true nature of the courts—as a tool in the bosses' economic and political oppression.

A courtroom packed to the doors with workers during a class trial, on the one hand, serves for the masses of workers as a practical study of class justice in operation; on the other, it strengthens the workers' case as a whole, through the display of solidarity of workers, in the face of the bosses' attack upon their militant workers and leaders. Very often such a court setting has been the decisive feature that won the worker's case.

However, this alone is also not enough. In the average size courtroom 200 or 300 people may crowd in. That's not enough. A worker's case generally comes out of some definite struggle—strike, lockout, demonstration, hunger-march, etc.,—involving many hundreds or thousands of workers.

Where the I. L. D. is established, it is the first duty of the branch or the city committee to energetically help the union, unemployed council and other organizations interested and involved in the definite issue, to link up the trial of the worker with the immediate struggle from which the case arose, as well as the general fight against boss-terror, through the maximum mobilization of workers' protests.

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