

EDITORIAL

## JUDGE WRIGHT'S REVOLUTIONARY ACT—BACKWARD.

By DANIEL DE LEON

**B**OILED down to its essence, the decision of Judge Wright sentencing Gompers, Mitchell and Morrison to imprisonment for contempt amounts to the arrogation, on the part of the Judiciary, of the exercise of legislative functions. This implies a revolution. It is the smashing of the Constitution. It is even worse, infinitely worse.

The Judiciary may declare legislation void. When it does so its action is grounded upon the principle that the legislature violated the Constitution—a law in existence. This is as far as the most liberal construction of the powers conferred by the Constitution can go. Judge Wright's decision amounts to legislating itself—and what kind of legislation!

There was not before the Court any issue concerning the correctness or incorrectness of Judge Gould's injunction. The only issue before the Court was whether Gompers and the rest obeyed the injunction or not. Its disobedience was admitted. Upon the fact of the disobedience Gompers and the rest were sentenced. In other words, an order issued by a Court forbidding a citizen from doing a thing amounts to a legal enactment that the thing forbidden to be done is criminal. It matters not that the criminal code does not enumerate such act or acts among the list of crimes. The Judge's "ipse dixit" is equal to such legislative action—it goes even further!

The circumstance that the acts of Gompers, Mitchell and Morrison were not criminal only adds point to the point. Even if criminal, the criminal Courts are the tribunals before which to ventilate such issues. No man shall be deprived of his liberty without due process of law. If acts, alleged to be criminal can be punished by summary contempt proceedings the writ of habeas corpus is suspended in

permanency, and we are in a permanent state of war.

What this means is obvious. Already there is the legal fiction that presumes the private citizen to know the law. Judge Wright's decision strips even the oath of office to uphold the law and the Constitution of all meaning. Who can take that oath if the law is not written in advance, and if it can be enacted on the spur of the moment by any Judge on the bench? When a citizen is henceforth "presumed to know the law," what is meant' is that, he will be presumed to know the law in advance of its enactment. This in turn means the enforcement of ex post facto law, not in civil matters only, but in criminal matters as well—the acme of a despotism, expressly forbidden by the Constitution.

The principle is old that a country's criminal procedure is the barometer of its degree of civilization. With a President who assaults with impunity young ladies on a bridle path because they dared ride ahead of him, when he was simply taking an airing like themselves, and with a Judge Wright revolutionizing backward by enacting legislation, criminal legislation, at that, and then enforcing the same ex post facto, what is left to the people but Vigilance Committees?

Transcribed and edited by Robert Bills for the official Web site of the Socialist Labor Party of America.

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