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On Trial In Michigan

By Wm. Z. Foster

ST. JOSEPH, Michigan, scene of the "red" trials, is a town of some 8,000 people situated on the shore of Lake Michigan about 60 miles by boat from Chicago or 100 miles around by railroad. It has few industries, depending for its sustenance upon the extensive fruit growing country surrounding, and also upon the heavy influx of tourists during the summer. It is the seat of Berrien County, in which is located, about 12 miles to the South, Bridgman, the village where the Communist convention was held last August.

The raid upon the secret convention and the arrest of so many radicals came as a shock to this quiet community, far removed from the bitterness of the industrial struggle. Patriotic indignation ran rife. This hostile public sentiment the "red" baiters, led by the agents of the Department of Justice, spared no pains to cultivate. Copies of the seized documents, especially those of a lurid hue, were given to the great press syndicates, which broadcasted them throughout the country. The local papers carried the news to the people of Berrien County. Allen O. Meyers, acting head of the Burns Detective Agency, came to St. Joseph and denounced the defendants before business men's associations. The County convention of the Republican Party adopted a resolution of condemnation against us. Likewise the local section of the American Legion repudiated the Communists in vigorous terms. The tide of prejudice against the radicals ran high.

It was under such unfavorable circumstances that the trial of myself opened on March 12th. Fortunately we were equipped for a real battle. The Labor Defense Council had provided an excellent battery of lawyers. At their head stood Frank P. Walsh, a fighter, a brilliant attorney and a national figure who lent tremendous weight to the defense. Then there was Humphrey S. Gray of Benton Harbor, Mich., but a couple of miles from St. Joseph. Mr. Gray is one of the richest men in the entire community, a banker, a capitalist, a prominent churchman, and an able lawyer. His affiliation to the defense, in the face of a hostile public opinion, was a courageous act and did much to break down the opposition and to raise the case to its proper status as a fight to maintain basic civil liberties. Finally, there was I. E. Ferguson, well known in radical circles as an attorney and expert on anti-syndicalism laws. His function it was to work out

THE PROSECUTION: F. P. Burke Photo

Left to right: Max F. Burger, Dep't of Justice; C. W. Gore, Berrien County Prosecutor; M. Wolfe, Dept. of Justice; G. H. Bookwalter, Berrien County Ass't Prosecutor; O. W. Smith, Ass't Attorney General of Michigan.

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Left to right: Max F. Burger, Dep't of Justice; C. W. Gore, Berrien County Prosecutor; M. Wolfe, Dept. of Justice; G. H. Bookwalter, Berrien County Ass't Prosecutor; O. W. Smith, Ass't Attorney General of Michigan.

the law-points in the case, and he did this ably.

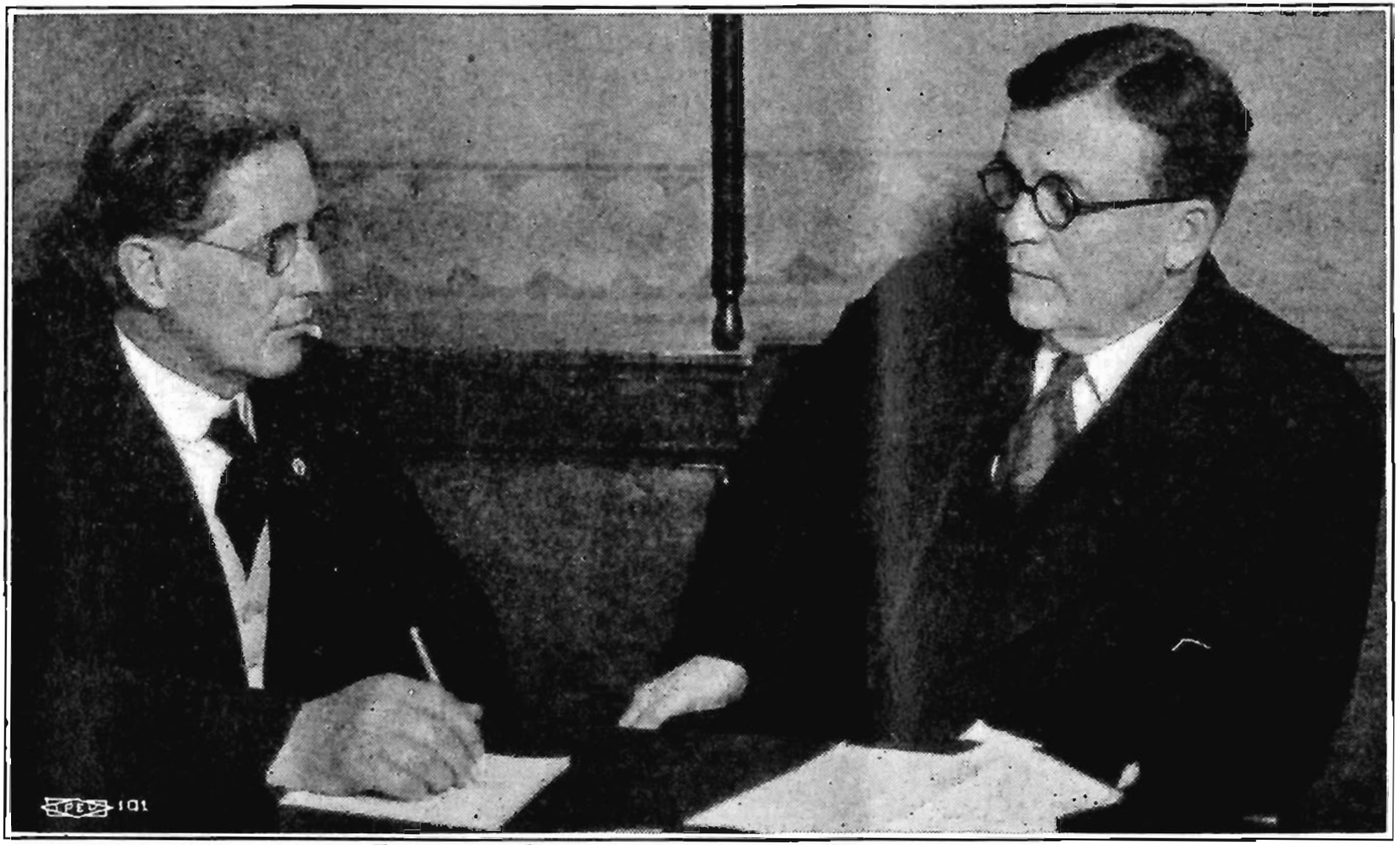
LEGAL CHAMPIONS OF DEFENSE F. P. Burke Photo
Humphrey S. Gray, Associate Counsel, Frank P. Walsh, Chief Counsel.

The Michigan anti-syndicalism law, under which the defendants are being prosecuted, defines syndicalism "as the doctrine which advocates crime, sabotage, violence or other unlawful methods of terrorism as a means of accomplishing industrial or political reforms." For a violation of its prohibitions, it provides a penalty of not more than ten years in state's prison, or a fine of 5,000, or both. Originally all the defendants were charged with violating the law on four counts, including advocacy of syndicalism in various forms and assembling with an organization formed to advocate that doctrine. On motion of the defense to quash the indictment, Judge C. E. White, who conducted my trial, struck out three of the counts, leaving only the charge of "assembling with" an organization formed to advocate syndicalism; which carried with it, however, the full penalty of the law. Reduced thus merely to "assembling with," the case becomes unique, not only in the United States but throughout the world. At no other time and in no other place has a serious effort been made to jail men and women simply for assembling with an organization accused of teaching illegal doctrines.

Educating the Community

A prime necessity for the defense was to dissipate the existing mountains of prejudice, to show Berrien County that the Communists were not, as they had been pictured, a gang of outlaws seeking to destroy civilization. One step in this direction, taken the day before my trial began, was the surrendering of ten men and women named in the indictment but who had not been apprehended. This exploded the carefully cultivated belief that the wanted delegates were desperate fugitives from justice. Those who gave themselves up were released upon moderate bonds, instead of the extravagant amounts demanded from those arrested previously. This brought the total number of arrested defendants up to 32, all of whom are entitled to separate trials.

Attorneys Walsh and Gray did yeoman educational work in the selection of the jury. Their questions to the prospective jurors constituted a liberal course in civil rights, political history, economics, governmental structure, and a host of other vital matters. By a careful probing the jurors were instructed in the nature of the dictatorship of the proletariat, clearly explained as the rule of the workers and farmers, and made to understand its workings. The Soviet form of government came in for detailed exposition, care being used to bring out the fact that under it only producers, hand and brain, are allowed to vote. To dissipate prejudice against the Communist program for abolishing private property in public necessities, the questioning brought forth the fact that even under capitalism the right of private ownership is restricted, the Government having the power to tax property even to the point of actual confiscation. The steady drift to public ownership of various industries was duly indicated. Likewise, the inevitability of the workers building up international political and industrial organizations, because of the international character of capitalism. Our attorneys laid especial stress upon the right of revolution always inherent in every people, calling to their aid the Declaration of Independence to make the proposition clear. When the prosecution objected that there could be no comparision between the American Revolution and that advocated by a minority of Communists, the defense pointed out that the American revolutionists constituted but a small minority of the people making up the British Empire and that, when the laws of the latter no longer suited them, they overthrew the existing government by force of arms and set up one to their own liking.



LEGAL CHAMPIONS OF DEFENSE F. P. Burke Photo

This line of questioning tended to educate not only the jury but the whole community on the big issues involved in the case. Every day the court-room was packed with people, mostly poor farmers and workers, who drank in the facts being developed. Many of them seemed not a bit horrified by the principles of Communism when explained in understandable language and applied to American conditions, but, on the contrary, they grasped the fact that the trial was really a battle for free speech and that they had a stake in it. These carried their favorable views from the court room and soon a body of friendly sentiment began to develop throughout the county. As finally selected, the jury consisted of nine farmers, one grocery clerk, one crossing watchman, and the wife of a factory superintendent. Both the prosecution and the defense exhausted all challenges in weeding out undesired prospects.

The State Presents Its Case

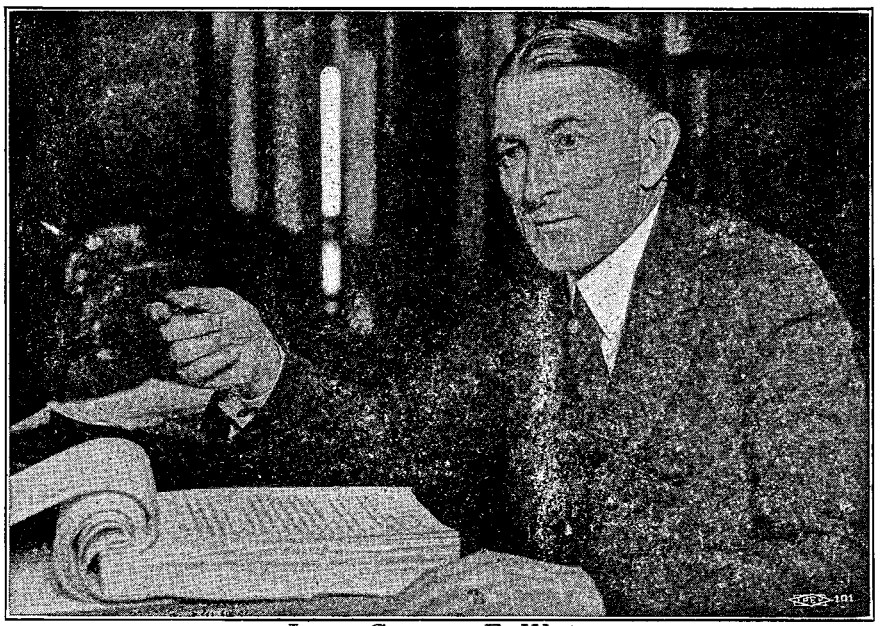
The prosecution was composed of three elements, local, state, and national. The local branch was represented by Prosecutor C. W. Gore of Berrien County, the state branch by O. L. Smith, assistant Attorney-General of Michigan, and the national branch by Max F. Burger, representing the Department of Justice. All through the trial it was evident that the latter organization was the real force behind the prosecution, its influence and representatives being offensively present from first to last. The whole affair was manifestly a "red" hunt organized by Wm. J. Burns.

Practically the entire case of the prosecution rested upon evidence of Department of Justice detectives. Sheriff Bridgman, Ethel Mielke, a waitress during the convention, L. Gittersonkey, a local deputy, and J. Hass, a local chauffeur, gave testimony of a minor character relating to details of the raid on the convention, the identification of myself, and the finding of the buried barrels of convention documents. But the real burden of the testimony was given by the Government "dicks," Spolansky, Shanahan, Wolfe, and Morrow. It was their fight above all.

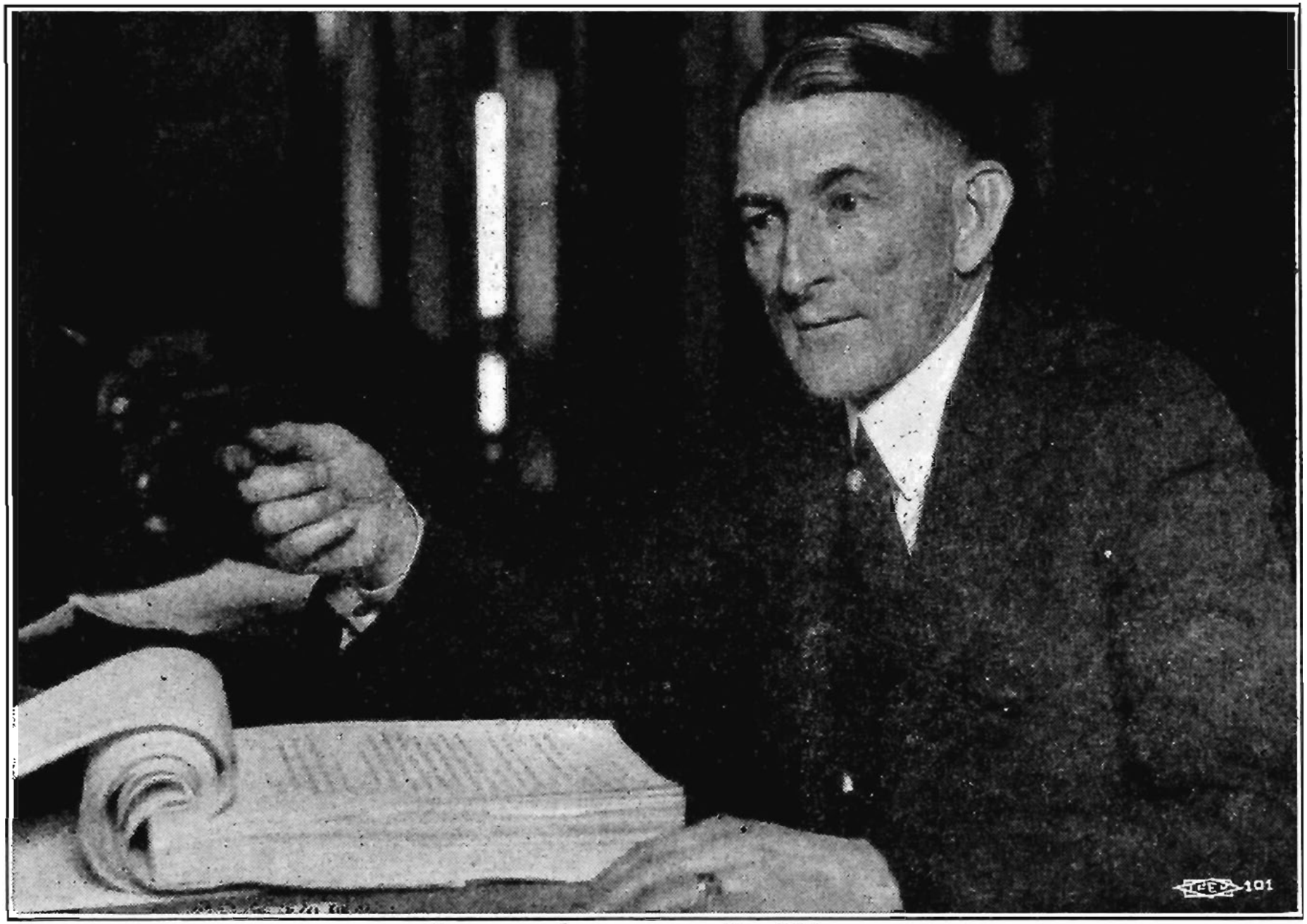
Spolansky is a detective of a nondescript past, specializing in snooping around radicals. He posed as an expert on revolutionary movements. He informed the jury and an ignorant world that the Communist International is a branch of the Russian Government, and he denied that it is an autonomous body made up of delegates from all over the world. He declared that the delegates from the United States to the Communist congresses represented no one but themselves, thus calmly wiping out of existence the body that sent them, the Communist Party of America. He said he came close to the convention grounds and saw me standing among a crowd of delegates. What a happy stroke of luck!

Shanahan, another "D. J." operative, supported Spolansky's testimony. He was with Spolansky when the latter "saw" me at the convention. These two actually did visit the grounds, but the fact that I was absent when their visit took place did not prevent them from seeing me there. Like Spolansky and all the other Secret Service men who testified, Shanahan did not know that Allen O. Meyers was chief of the Burns Detective Agency. There seemed to be a determined effort to protect the latter institution and to keep it apart from the trial. The prosecution knew that its evil repute would not help them convict me.

Wolfe, still another employe of the Department of Justice, was the identifier of documents. He testified that he checked up on the great mass of papers, pamphlets, reports, minutes, etc., that were found on the convention grounds, marking each for future identification. He was an im-



JUDGE CHARLES E. WHITE F. P. Burke Photo



JUDGE CHARLES E. WHITE F. P. Burke Photo

portant link in the prosecution's case. But the real star was Francis Morrow, alias K-97, alias Day, alias Ashworth, a Secret Service operative who attended the convention as a delegate from Camden, N. J.

An Agent Provocateur

Morrow is a typical specimen of the spies that are infesting every branch of the labor movement. He is a little ferret-eyed sneak of a man some 39 years old. He began his detective career by spying upon his fellow workers in the Delaware River shipyards during the war, for which service he received the munificent pay of $1.00 per day. In 1919 he became a real "dick," joining the Socialist Party at $60.00 per month to spy upon them. In 1920 he joined the Communist Party, still being paid $60.00. After the raid on the convention he was promoted to regular service and is now paid the standard rate of $5.00 per day. Thus diligent sneakery is recognized and rewarded.

Morrow's testimony was a mass of brazen lies. If he told the truth at any time it was either unintentional or because he could not think of a lie that would serve his purpose better. Through him the prosecution introduced many vital documents, and his identification of them was an elaborate structure of falsehood. One paper very necessary for the state's case was a written list of the convention delegates, bearing their party names and the numbers alloted them. So Morrow said he saw this paper fall from the pocket of Alfred Wagenknecht and he picked it up. How fortunate! Then he identified another document dealing with the convention stewards' duties by stating that he sat behind Edgar Owens when the latter typed it off—the fact being that Owens had nothing to do with it. The important convention "Rules of Order" he heard read, although no one else did. Fortunately, he was also present and saw the detectives Spolansky and Shanahan see me. He "just walked by at the time". Then, by another particularly happy coincidence, he saw me write out a questionnaire produced in evidence against me. This was one of the most important documents in my trial. It was similar to that filled out by the convention delegates except that it was printed in lead pencil. It contained a lot of information about me that has been printed time and again in newspapers and which any detective would have no trouble in assembling, and in addition certain false statements about my relations with the Communist Party, which were vital for the State's case. So the indefatigable Morrow was there to help out. He saw me distinctly, 20 feet away in a crowd of 76 people, fill out my questionnaire, and then, accidentally enough, he saw the questionnaire lying among a lot of others and was thus able to identify it. Earl Browder and I both spoke extemporaneously at the convention, but Morrow identified garbled typewritten reports of our speeches, which he claimed were notes that we had read from. But of all his achievements at the convention perhaps the most wonderful was that he saw there A. Losovsky, head of the Red International of Labor Unions, notwithstanding that the latter was in Russia at the time.

Throughout his testimony Morrow fought desperately against the bringing out of his true role of provocateur. To this end he multiplied lie upon lie. Despite the fact that the great issue at the convention, the thing that was in everybody's mouth, was the question of the Communist Party abandoning its underground existence and coming out into the open, he knew nothing about it and did not hear it discussed. He did not know that the group that he belonged to, the majority faction, advocated continuing the underground movement, and that he voted steadily with them throughout. The prosecution fought energetically with a flood of objections to prevent Mr. Walsh, on cross-examination, from showing that this representative of the Government had voted and worked for the continuation of underground activities which he and his chiefs condemned as criminal, but the fact came out, nevertheless. Morrow also denied any real part in building up the Communist movement, although he was an organizer. But here he came a disastrous cropper. He declared that he had been a delegate to the Defense Council of Philadelphia, but had held no official position. Then Mr. Walsh flashed a bunch of checks upon him that he had signed as treasurer. Consternation! Next day, on re-direct, he said that in the absence of the regular treasurer he had been asked casually to sign the checks. But he wrecked everything by saying that his signature had never been filed at the bank. He tried to make the jury believe that the Colonial Trust Company of Philadelphia paid checks upon his unregistered signature. Thus was a liar brought squarely to bay. The capitalist papers said nothing of this incident, but it did much to destroy Morrow's effect as a witness. Between this and the cock-and-bull stories he told of what he had seen and heard at the convention, his whole testimony was given such an air of unliklihood that its value to the state was very doubtful.

Ruthenberg for the Defense

The first witness for the defense was C. E. Ruthenberg, Secretary of the Workers' Party of America. He admitted that the convention in

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Bridgman had been held by the Communist Party of America, and he stated that neither Morrow nor any other detective had had any voice in its arrangements or determining influence in its deliberations. He said he was a member of the Central Executive Committee of the Communist Party at the time of the convention, but that since then the party had entirely merged into the Workers' Party and no longer existed as a separate entity.

Ruthenberg qualified as an expert on Communism. When he went on the stand he resumed the education of the jury, and the great crowds packing the court room, that our attorneys had begun during its selection. He explained Marxian economics at length, tracing the evolution of society through the several stages of chattel slavery, serfdom, and wage slavery, and he showed that the forces at work must result in the establishment of Communism. He expounded the theory of surplus value, and pointed out how the capitalists, glutted with the tremendous masses of products they have stolen from the workers, are inevitably led into imperialism and warfare through the struggle for world markets. He then traced the history of the First, Second and Third Internationals, and outlined the parts each had played in the development of the labor movement. Next he recited the origin of the Communist movement in the United States, the driving underground of the Party through the "red" raids, and the recent struggle between the "goose" and the "liquidator" factions, over the question of the Party coming into the open again. He stated that prior to the Bridgman convention the C. E. C. had adopted a resolution providing for turning the C. P. of A. into an open organization. But because the convention was interrupted by the raid, this resolution did not come before the body. He maintained, however, that under the circumstances it is the law of the organization and that, therefore, the Workers' Party is now the only Communist Party in the United States.

The Prosecution Falls Down

Ruthenberg's testimony produced a most favorable effect upon the jury and public sentiment. The prosecution was plainly appalled by it. After he had been on the stand for a day they made a desperate though futile attempt to get rid of him and to strike out his testimony. They invoked a law which provides that co-defendants demanding separate trials have no right to testify in each other's behalf. This brought strenuous objections from the defense attorneys. Judge White ruled that the prosecution, by allowing Ruthenberg to testify at all, had waived the right to disqualify him. Now, simply because they did not like what he was saying, they could not take him from the witness stand. It was a humiliating defeat for the prosecution.

Ruthenberg went ahead. He explained the relations existing between the Trade Union Educational League and the Communist Party. He said that the League was not an integral part of the party but an autonomous organization that had been endorsed by it. That I was not a paid official of the Party, as had been stated by the state's evidence, but drew my salary directly and entirely from the League. Nor was I Industrial Director, that position being held by Arne Swabeck, with Earl Browder as alternate. That the term "X" applied to all industrial work done by the Party, whether in the League or elsewhere. He stated that there was an elaborate system of Party nuclei in the unions, entirely independent of the League groups. He said that I was invited to the convention by a special vote of the C. E. C.

The cross-examination of Ruthenberg was long and searching, lasting three days. The prosecution quizzed him closely on every phase of the Communist movement and doctrine. But he routed them at every point. Questioned thereon, he declared that the advocacy of violence now in the United States would be nonsense. That the Communist movement limits itself to pointing out that all far-reaching revolutions are inevitable accompanied by violence, the ruling class always refusing to give up its privileges without a fight. The work of the Party here now, he said, is to lay the first foundations of Communism by bringing about independent working class political action through the formation of a Labor Party, the amalgamation of the craft unions into industrial organizations, the advocacy of the Soviet form of Government and the dictatorship of the proletariat as the workers' only way out of the

P. & A. Photo

WM. Z. FOSTER FRANK P. WALSH C. E. RUTHENBERG

P. & A. Photo

WM. Z. FOSTER FRANK P. WALSH C. E. RUTHENBERG

capitalistic morass. He explained the Soviet system thoroughly, and also the dictatorship of the proletariat, being careful to indicate to the farmer jury that the tillers of the soil are always included when Communists use the term "workers." Asked the foolish question whether he would bring about the revolution if he could, he showed that revolutions do not come through conspiracies but only when social conditions and the great masses are ripe for them. That they are the product of the working out of fundamental political and industrial forces. Altogether he wrecked the conception of the movement that the prosecution wanted to lodge in the jury's mind, namely that the Communist Party was a little band of plotters seeking through terrorism to destroy all that was good in society. The more they questioned him the clearer he made it that Communism is a great world-wide movement of the masses, not only with a historic past but with a golden future as bearing with it the only practical solution of the social question. Finally, after vainly attacking him for days, the prosecution gave him up in despair.

In My Own Behalf

After Ruthenberg's four days of testimony; I had two days of it myself. I traveled over much the same ground he did about the Trade Union Educational League. I said that for many years I had advocated the plan of the radicals working within the trade unions instead of building rival unions; that the T. U. E. L. was organized in November, 1920, before I went to Russia, and not afterward, as the prosecution alleged. I stated that I was impressed favorably with the principles of Communism as I saw them being applied and that upon my return to the United States I had a meeting with the Central Executive Committee of the Communist Party ,who agreed to support the work of the Trade Union Educational League. I reiterated that the League is not an organic section of the Party but is simply endorsed by it. I estimated that of the large number of participants in the work of the League probably not more than 10% are Communists, the rest being made up of workers of every political persuasion. The actual membership of the League could not be determined, its strength had to be measured by the degree of support given its various planks by the organized workers. I calculated that fully 1,500,000 trade unionists had endorsed the League's amalgamation campaign. As for myself, although not actually a member of the Communist Party, I fully sympathized with its aims. I was not a paid official in it, and I did not fill out the famous questionnaire. I was not a delegate to the Convention but was invited to attend, by the Central Executive Committee. I came on Friday night, made a speech on the trade union situation on Saturday, urging all Communists to become active in the League, and I left Sunday morning, two days before the raid.

Having grilled Ruthenberg so long and ineffectually on Communist theory, Prosecutor Smith let me off easy on that score, possibly for fear of wearying the jury. A couple of broad questions as to whether I agreed with Communism as outlined by Ruthenberg, which I answered in the affirmative, and he was done with that subject. But, taking up my book, "The Russian Revolution," he quizzed me at length thereon. Did I write and did I still believe that the Russian and American labor movements are "blood brothers," and that the only difference between them is in degree of development? To which I replied, "Yes." I stated also that in my judgment, although temporary adjustments are possible, no permanent harmony can prevail between Capital and Labor until Labor owns all the capital and the capitalists are put to useful work. The dictatorship of the proletariat and the Soviet form of government I endorsed for the United States, stating that I was convinced that forces were at work in this country which would inevitably result in placing full political and industrial power in the hands of the city and country workers. Mr. Smith was particularly anxious to show that the Communists were demanding rights of free speech in the United States which they denied the opposition in Russia, and he cited my book to prove it. But I pointed out that the men denied free speech in Russia were active counter-revolutionaries taking a militant part in the prevailing civil war. The situation in the two countries could not be compared, there being no civil war in this country. I laughed at the accusation that I had had anything to do with stalling the trains in the desert at Needles, California, during the shopmen's strike, this incident having occurred a month after I returned to Chicago from my western trip, and upon a railroad that I never even saw on my whole speaking tour.

Then Mr. Smith brought out his *piece de resistance*, the pamphlet *Syndicalism*, written by me a dozen years ago and notorious as "the little red book." This is a blazing statement of the history and principles of the Syndicalist movement. No doubt the prosecution thought that it alone would go a long way towards convicting me. So Mr. Smith spent a full hour dramatically reading its detailed explanation of the general strike, sabotage, morality, etc. But, alas for the prosecution, Mr. Walsh made a strong assault, and wrecked the whole business in a few questions. He brought out that I had, with a changing viewpoint, publicly repudiated the book years ago, and he had me explain the fundamental differences between Communism and Syndicalism. We showed that I had recently written several books, none of which the prosecution offered in evidence. They had to hark back twelve years to get what they wanted. Result, the "little red book," upon which so much hope had been built, fell flat. It was, in fact, a boomerang against the state's case.

The Jury Gets the Case

In arguing the case before the jury, a full day was consumed. Prosecutor Gore started off with a slashing 40-minutes speech, denouncing me and the other defendants as traitors. He wanted the jury to decide whether they were going to follow Washington and Marshall or Lenin and Trotzki, Lincoln or Marx, Christ or Pilate. After him Mr. Gray, our attorney, had an hour of it, during which he scored many points, asserting that the case was a frame-up engineered by the Department of Justice and backed by the Steel Trust, to get me for my labor activities. Then came Mr. Walsh, for two hours. His was a masterful address and it held the courtroom spell-bound, bringing tears to many eyes. He raised the case to its proper status as an historic battle to preserve the rights of free speech and assemblage. Mr. Smith closed with a two and one-half hours' talk, for the state. He made a strong effort, but was embarrassed with riches. He did not know which documents to use next. Never have defendants in a "red" case had so much evidence against them as we in Michigan . Mr. Smith closed by dramatically reading "In Flanders Field" and calling upon the jury to "take up the torch" where the dead war heroes had dropped it.

Then the judge delivered his charge, and the case went to the jury. Throughout the trial Judge White showed keen intelligence and a broad-minded fairness. He grasped the principles of Communism with surprising facility, and his rulings showed him a lawyer of ability. His charge to the jury, which has attracted nation-wide attention, expressed a conception of free speech very unusual in these times in our courts. Among other things, he said:

> The Communist Party and the respondent Foster had the constitutional right to teach and advocate in Michigan theories or doctrines of the class struggle, mass action, the dictatorship of the proletariat, the Soviet system of government, the abolition of the capitalistic system, industrial unionism, internationalism, affiliation of the American trade union movement with the Red International of Labor Unions, support of the Soviet Government of Russia, independent working class action, the Communist social revolution, and other industrial, economic, and political changes mentioned in the documents of the Communist Party, in evidence in this case. Foster and others had a right to meet in this state, for the purpose of discussing these matters and formulating plans for bringing about these changes desired, providing there is not coupled with the teaching and advocacy of such doctrines the proposition that the way to achieve the consummation desired is by crime, sabotage, violence or other unlawful methods of terrorism.

With a final admonition from Judge White to the jurors that they dismiss all prejudice from their minds and consider the case upon its merits, the jury retired to deliberate. Then came the long wait of 31 hours. As the hours dragged on, and the jury remained deadlocked, the wildest rumors spread regarding what was going on in the jury room. During this period a curious illustration was given of the real power behind the prosecution. When the case went to the jury the representatives of the State and County went home and stayed there, but not so the Department of Justice men. They, the whole crew of them, stuck in the court room day and night, awaiting the verdict. They were the real prosecution.

At last the Judge called the jury in and learned from them that an agreement was impossible. Then he discharged them. This was on April 4th, four weeks, lacking one day, after the trial began. Then it developed that the jury were divided six to six, from the very beginning. They took 36 ballots, but the vote remained the same throughout. Those voting to acquit were Mrs. Minerva Olson, Theodore Katzbach, Russel Durm, A. M. Birdsay, Patsey T. Healy and C. H. Ritzler. Mrs. Olson is a housewife, Mr. Durm is a grocer's clerk, and the rest are farmers. All were firmly for acquittal when they went into the jury room and all fought loyally for their opinion.

What They Think of It.

In view of the tremendous mass of documentary evidence submitted against me and the fact that in spite of it so many jurors, typical American citizens, voted for acquittal, it is important, as well as interesting, to learn what these jurors have to say about it. In the St. Joseph Herald-Press, the day following the trial, Mrs. Olson, an intelligent woman who was militantly for acquittal, said:

> Too much evidence, and yet not enough evidence, I would say, was the reason for the jury disagreeing in the Foster trial. We were just swamped with words, words, words. We were lectured and read to for hours on Communism. We learned from the prosecution's side what Communism has been from 1847 down to the present day. But we seemed to get little evidence having a direct bearing on the case. That, coupled with the fact that the stage setting of the prosecution seemed over-played with such display of detectives and under-cover men that it appeared more like a case of trying to "railroad" Foster than prosecute him. I could look away from the court room as the trial went on and see conflicting forces fighting for mastery of human rights. This trial was far bigger to me than merely determining whether Mr. Foster were guilty or not guilty of taking part in the Bridgman Communist convention.

Mrs. Olson's liberal attitude is the more noteworthy as she comes from old American revolutionary stock, her great-grandfather being an officer in Washington's army. She also has two sons members of the American Legion. Russel Durm, the only other juror to give public expression to his views, cogently remarked in the same paper:

> We six were convinced from the start that the state had failed to make a case against Foster. We didn't feel that Foster had committed any crime in attending the convention, and we so voted.

That the outcome of the trial is a substantial victory for free speech and civil rights generally, cannot be denied. Were proof necessary, the howls of the reactionary capitalist papers would be sufficient. The *Chicago Tribune* fairly shrieked in rage about the matter. It declared that the "Red Peril," now given a new lease of life, "must be faced as a mad dog in a kennel of dogs." The ultra-reactionary *Chicago Journal of Commerce* goes even further and almost openly attacks Judge White. It says that if the courts fail in handling Communism "it is time some other means were devised for defending the country in a genuine crisis," Then it rages on:

> Reds and terrorists of all grades and stripes are jubilant over the rulings of Judge White. They are to be printed in millions of copies and scattered broadcast to prove that the law courts of capitalistic America put the stamp of approval on Red propaganda of every sort so long as crime is not openly advocated in the propaganda itself. Since Red activities became an acknowledged menace to the country no single incident has been of greater encouragement to the revolutionists and no incident has gone further in crippling society in its conflict with destructionists. Have the courts of this country no message for revolutionists other than condonement and apology? It would seem that somewhere in the body politic there must be some agency that can discourage the foreigner who openly advocates crime and treason in the United States of America.

As THE LABOR HERALD goes to press, the trial of C. E. Ruthenberg is just about to begin. If the defense is given the continuous support which progressive labor has so far given, his conviction is unlikely. By the dissipation of the red hysteria and the elevation of the struggle to a free speech basis in my case, the prosecution suffered a heavy blow, from which they are not likely to recover. It is very doubtful, in the event that a conviction is not obtained against Ruthenberg, if any Communists will be convicted in Berrien County. The Convention raid, which Burns staged as a smashing blow against radical Labor, will probably end in one of the greatest victories for civil liberties in recent years.