
“This is America.”

by Jack Carney

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Chicago, July 31st [1920]. — The trial of the 20 members of the Communist Labor Party draws to a close; before another week has passed we will know whether it is Duluth or Joliet. †

The verbal fireworks commenced last Monday [July 26] and will terminate next Monday [Aug. 2]. Much has been said that is worthwhile and much that is not worthwhile mentioning. [Marvin] Barnhart, Assistant State Attorney, opened up the display for the prosecution. Barnhart is a kindly old fellow, that is if he agrees with you. He is fair-minded, that is if he is dealing with his witnesses. He is ever ready to make allowances, that is when he has to make them. He looks like what he is — a monument of smugacity. He commenced his address by telling us that this case is a very serious one. I agree with him. It is very serious. In fact the case is far more serious than even Barnhart is prepared to admit. I will not attempt to deal with Barnhart at any great length, life is too short and I have sown respect for my own intelligence. You can read his remarks and judge them for yourselves:

Here we have in this matter the very institutions of our country. Our constitutional representative form of government is at stake.

Whether or not men in America, not Russia, but in America, have the right to get together to issue manifestos and seek to overthrow the government by violence and unlawful means is a matter you 12 men have got to decide.

It is not my case, or my associates' case, or State's Attorney Hoyne's case, except as it is his in the performance of his duty.

You are an American jury and that is all the state asks in this trial.

Mr. Barnhart stated to the jurymen that the defendants on trial disdained the ballot as a means of reform, and conspired to change the government by

violence.

“They wanted to live under a soviet system and they wanted everybody to live under it,” Mr. Barnhart said.

They wanted to take your property, gentlemen, and mine, without any compensation to you or me for it.

Some people in this country have thought the Socialist Party a little radical, but these fellows and their movement condemned socialism.

These fellows are against the government. They're against the fellow who is willing to work and who saves his money to buy a home.

They are not ignorant fellows, gentlemen. Read over their writings. They are masterly written, written better than most of us can write, seditiously written, dangerously written, effective on the mind of the radically inclined against the government.

The words “revolution” and “revolutionary,” the attorney showed, were used in the Left Wing Manifesto of the party 144 times.

“What kind of a revolution do you think they meant?” he asked. “They say, precisely as in Germany after the war, and in Russia, by the gun and the bayonet. Will you say to the world, gentlemen of the jury, that these men can advocate, by these means the overthrow of our American government?”

Barnhart paid tribute to the patriotic conduct of Seymour Stedman and Adolph Germer. He told the jury of how these men drove the defendants from the convention hall, BY THE AID OF THE CHICAGO POLICE. These men are good socialists, but these men are —???? Let us pull down the curtain and remove the painful scene from your eyes.

Barnhart was followed by [William H.] Forrest, attorney for the defense. Forrest argued the legal aspects of the case. He made a wonderful speech for the

†- That is, home or the Illinois State Penitentiary.

right of free speech. He told how he was opposed to the ideas of the defendants, and stood for the Stars and Stripes, yet he was firmly convinced that free speech was essential. He felt of the opinion that if the defendants were right, they had a right to be heard and through that method we will obtain the truth. He would place a soapbox alongside of every radical soapbox and debate the situation. Forrest spoke for two whole days. He was followed by Lloyd Heth, for the prosecution.

Heth was supposed to reply to the reply to the legal arguments. After speaking for something like 3 hours, he gave it up as a bad job and allowed Darrow to address the jury. I regret that it is impossible to furnish a complete report of what Darrow said. Darrow's speech will be remembered when the rattlesnakes are nestling in the skulls of his opponents.†

He started out by telling the jury why the 20 defendants were here. They were here because those that would destroy freedom of speech, freedom of press, and freedom of assemblage know that these defendants are fighting to preserve liberty, realizing that "eternal vigilance is the price of human liberty."

He went on to point out to the jury how these defendants, who were arrested in various parts of the country for an offence committed in Illinois, were being tried. "The prosecution has travelled from New York to Moscow and then to Seattle and from there, you were taken to Winnipeg. Not content with that, the prosecution took you to England and then to Ireland in order to discover evidence against these defendants," stated Darrow.

"Cut out the externals and there is nothing left in this case. The idea that posters that are published in Europe, advertising the contents of European papers, being used as evidence against men who are charged with advocating the overthrowing of the United States government by force. What has the Seattle strike got to do with this case. A strike that has been proven to be the most peaceable of any strikes that have taken place in this country."

Here Comerford, representing the prosecution, stated that the state would concede that the Seattle strike was peaceable. "You are almighty late in con-

ceding it. After you have brought witness after witness before the jury, you now concede what you knew before to be the truth," replied Darrow. "You will next concede that the sun rises in the East and sets in the West."

We are going to hand to the jury a sufficient number of copies of the CLP platform so that they can read it for THEMSELVES and draw their own conclusions as to whether this bugaboo of the state is well founded. The state harangues you about the CLP platform. The state tells you that this pamphlet would cause men to go out and throw bombs. No cold matter-of-fact pamphlet ever stirred men to action. Men act according to the manner their emotions compel them to act.

Conspiracy has been dead in England for over 50 years. The same conspiracy laws have been brought over to this country from the purpose of shackling this country and its people. Conspiracy! The only conspiracy the defendants are charged with is the conspiracy of talking. They met together and conspired to talk through the means of a political party. It reminds one of the Dark Ages.

Darrow went on to describe the tyrannies and persecutions that took place in those black years. As I listened to Darrow, I thought of those memorable words of Ingersoll:—

Gladly would I give up the splendors of the 19th Century; gladly would I forget every invention that has leaped from the brain of man; gladly would I see all books ashes, all works of art destroyed, all statues broken, and all the triumphs of the world lost; gladly, joyously would I go back to the abodes and dens of savagery, if that is necessary to preserve the inestimable gem of human liberty. So would every man who has a heart and brain.

Turning round to where the counsel for the state sat, Darrow, with his whole being in action, dramatically declared, "Good lawyers prosecuted in those days and good judges sustained them. Yet today England holds her head in shame when she recalls the deeds and infamies of those years."

The Seattle strike was made much of. Darrow inquired of the jury as to the reasons for its introduction. "Is there any reason," he asked, "why the poor should not control industry? I submit, gentlemen of the jury, that there is none."

I regret the absence of Ole Hanson, or Ole Olson as Darrow repeatedly styled him. In scathing terms he

†- Clarence Darrow's speech in defense was published in full as a pamphlet in December 1920 by Charles H. Kerr & Co. under the title *Argument of Clarence Darrow in the Case of the Communist Labor Party in the Criminal Court, Chicago* (cover title: *Argument in Defense of the Communists*).

denounced this "tin mayor..." who by his braggadocio was able to exchange \$7,500 per year for \$38,000 in 6 months. Darrow next dealt with Heth, one of the lawyers for the state of Illinois. "Heth says too that the strike was peaceful. But the reason why it is introduced is because the defendants thought it was not. Was there ever such a travesty of law?" [Harry J.] Wilson was then dealt with. Wilson was the self-confessed spy who entered the Seattle strike and attempted to make the workers commit illegal actions. He was very soon dismissed by Darrow. Darrow asked the jury to form their own conclusions about a SPY.

Witnesses were brought from Winnipeg to testify as to the nature of that strike, but in the meantime, the leaders of that strike, who are IN PRISON, were elected to the Manitoba legislature and so the prosecution did not allow these witnesses to go further than the State Attorney's office. *They got cold feet!*

Darrow explained the real nature of the Seattle strike. You are all acquainted with the causes for the strike, so it is hardly worthwhile repeating.

"The prosecution," stated Darrow, "contends that the sympathetic strike is illegal."

I have respect for the man who thinks that he needs more than the good things in life. Respect for the men who will lay down their tools and take a chance of losing their jobs in order to obtain these good things. But I have infinitely more respect for the man who has a job, is satisfied with it as regards wages, hours, etc., but lays down his tools in sympathy with his less fortunate fellow-worker. It shows an idealism and a sense of justice well worth emulating. "Greater love hath no man than he gave his life for man," is the old saying. I say, "Greater love hath no unionist for another, than he lay down his tools in sympathy with him."

So long as men have human hearts, human feelings, and human emotions, so long will they strike in sympathy with their fellow-man. The love of man for man is as old as civilization itself and there is no law can prevent that love from giving expression to itself. There is something higher than laws and that is the eternal sense of human justice.

At this stage, Comerford of the prosecution interjected a remark. He stated that Darrow was irrational. Darrow just shut him up like a clam by replying, "You ought to know because you are an expert on irrationality."

"The law under which the defendants are charged," said Darrow, "has been dead for over 150 years."

The New York law has been dead since McKinley was assassinated. But the powers that have made dollars out of the blood of the people, and who want to stifle the aspirations and the hopes of the people have resurrected them and passed them in 20 states SINCE THE ARMISTICE WAS SIGNED. Sometimes when reason regains her throne, sometime when the human race gains a new frenzy, then these laws will be mourned in sackcloth and ashes.

Darrow ridiculed the contention of the state that one damning indictment of the Seattle strikers was the fact that they did not have sufficient eating houses and milk houses. "Why should the workers look after other people? Why didn't the jumping-jack Mayor, Ole Olson, do it?" asked Darrow.

As Darrow was proceeding with his address, Comerford again interrupted and asked, "Mr. Darrow, do you contend that nothing is gained by voting?"

"RATS!" replied Darrow, "I am sick and tired of hearing you talk about the ballot. If you want something you have got to go out and get it. If you get only what you vote for, you will get mighty little. Voting is merely a habit that grows on man. Better to vote for something that you want and not get it, than to vote for did NOT want and get it."

As Darrow was reeling with the question of the ballot, I noticed the editor of *Solidarity*, fellow-worker Richards, enjoying himself immensely. Likewise, a few more members of the IWW.

If political and social changes entail bloodshed, it does not mean that these changes should not come about. You might as well object to the building of huge buildings, because some unfortunate worker happens to get killed during their construction.

If lawyers would frame the laws in harmony with the laws of nature, they would not make such fools of themselves.

Dealing with the question of striking, Darrow said, "It is legal to ask the people to refuse to work until the 18th Amendment is repealed. And furthermore, gentlemen of the jury, if I could urge them to strike I would willing do it, especially on hot days like these."

The defendants say in their platform that the ballot is of secondary consideration and upon such frail grounds you are asked to find them guilty of conspiracy. I object to that section of the platform. They give TOO MUCH consideration to the ballot. It should be of much less consideration.

Darrow then went on to deal with what the workers had obtained through the use of the strike weapon. He told the story of the fight for an 8-hour day, which had been waged solely upon the industrial field. The working class had never voted for the 8-hour day, but organized and by the exercise of their economic power had succeeded in obtaining a reduction in their working hours. Anticipating the argument of the prosecution, Darrow went on to state how when the fight was over and the victory had been won the shrewd politicians had passed an 8-hour law, in order to obtain the "labor" vote.

Darrow went on to tell of the fight of the railroad. He told of the early fights, led by P.M. Arthur. He made the interesting statement that at one time, Arthur was considered an "outlaw," but when he toned down his tactics he developed into a "sane and respectable" labor leader and came to be recognized as a conservative. He told of how worker after worker went to jail and as a result the spirit of the workers was made better and they finally succeeded in winning their point. Of how they obtained higher wages, shorter hours, and safe working conditions. Not one of these things had been obtained through the ballot. All had been obtained as a result of the action of the working class upon the industrial field.

"You can vote 4 or 5 times a year in this country," Darrow told the jury, "that is, if you have no more sense." Talking quite good-naturedly to the jury he said, "I wonder if you are thanking God for the politicians who gave you something. Men get the good things of life by FIGHTING FOR THEM — NOT BY VOTING FOR THEM."

I am not objecting to men voting, but I do maintain that there are many other things of more importance than voting. The actions of men and their education are of more importance than voting. Until you have organized men and educated them, their power to vote matters very little.

Talk about the ballot being the constitutional way. Why, in Belgium the workers had no vote. They had to strike to obtain the vote. The Boston Tea Party was a strike against lack of political legislation. If they had not struck, we do not know where we would have been—Belgium obtained limited suffrage through the strike and then struck for complete suffrage. During the great political strike of Belgium, there was not one drop of blood shed.

After the Russo-Japanese War, the Russian workers struck for a constitutional form of government. A strike that covered one-fifth of the entire earth. Everything was shut down, the workers simply refused to work until the

Constitutional form of government was granted.

Reference has been made to [Mitchell] Palmer, he is neither a lawyer nor an honest man. He is using his office as a means to obtain the satisfaction of his own personal ambitions.

After the Constitutional form of government had been established in Russia, the Tsar suddenly nullified the law that gave it birth. Socialists, Trade Unionists, Communists, etc. of the Russian parliament were sent to Siberia. There they suffered all the agonies of hell. Until finally in the last throes of despair, they overthrew the monster of the ages — the Tsar.

We have had other strikes, the Swedish General Strike, for instance, that was called for the purpose of bringing about woman suffrage. These things are as old as the efforts of man. As old as civilization. Within recent times we had the strike of the German workers, as a protest against the usurper, Kapp. Kapp sought to bring back the Kaiser and his gang, so the workers of Germany struck. They struck to cripple the efforts of Kapp the usurper. Having the education and organization, the German workers just struck, and without shedding one drop of blood, they prevented Kapp from succeeding in his nefarious schemes and adventures. We also had a strike by the transport workers of Britain. They downed their tools rather than send munitions, etc. to Russia. "If you want to send rifles, etc. to Russia to stifle the aims and aspirations of the Russian people, we shall refuse to work," they said. Although they were voting, they did not wait until the next election, when they might be swindled and cajoled, they simply laid down their tools and made it impossible to send troops, etc. to Russia. They [are] also talking of doing exactly the same in regard to Ireland. *The most effective power in the hands of the workers, when they have the intelligence to use it, is the power of the strike.*

We have had the example in this country of the manner in which the railroad workers obtained the 8-hour law, known as the Adamson Law. War had not yet broken in America, but its reflex had caused high prices. The men decided to get together and strike as a body. President Wilson called a conference of both sides and settled the strike by passing the Adamson bill. One example of using the strike as a political weapon.

Men lived in this world long before they voted. They tilled the solid and raised families. They built up civilization without the ballot. The ballot is secondary to the efforts of man and the things that have made us great. My clients are condemned because they believed that the ballot was secondary. Education and organization come first. Organization with their fellow-men are the things that the progress of society depends upon.

Men talk to you of legal freedom! What is legal freedom? A piece of tricky catch-phrases that have been used all through the ages to enslave man. The men who were roasted in the Spanish Inquisition has legal freedom. They were being burnt and torn on the rack with all the legal freedom that the law granted them. Servetus, whilst he burned, had legal freedom. Men and women who were burnt at the stake enjoyed legal freedom. No matter who may say it, there is only one freedom and that is freedom of the individual. Men who had their tongues torn and pierced with red-hot irons; men who were boiled in oil and bent on the rack, who had every limb torn from the body, all of these enjoyed legal

freedom. THAT IS THE SAME KIND OF LEGAL FREEDOM THAT YOU WILL ENJOY IF THE PROSECUTION HAD THEIR WAY AND THE MEN BEHIND THEM.

If you send these men to jail, America will be a country to be ashamed of. Go to it. My clients do not care. It will be you that will care. We dare you to send these men to prison, because we hold the future in our hands.

The prosecution held the SOVIET FORM OF GOVERNMENT up before you, with the hope of scaring you. I am for what the other fellow wants, if it does not interfere with the well-being of the community. Why shouldn't the workers be represented in the country's legislative halls? Why not the farmers and the workers run things, we could easily leave out the lawyers and not feel any worse?

Darrow then went on to pay tribute to the wonderful work of the IWW. During which time the prosecution threatened to quote Irwin St. John Tucker against the IWW. Darrow's praise of the IWW was worthy of the organization and if the defendants go to prison, they can rest assured that their counsel did not shirk that particular section of the platform of the Communist Labor Party. Darrow went on to deal with the platform at some length. During the trial it was brought out that Edgar Owens had written to Jack Reed in regard to the musical education of his boy. His boy is a wonderful pianist, in fact he is a genius. Sitting the other evening, listening to his playing, I felt happy as I thought of the wonderful music that will be ours when the creative faculties of the working class are developed; when they will not be fettered with economic servitude. This boy of Owens is a wonderful musician. So Owens wrote to Jack Reed and expressed the wish that his boy might be the *musician of the revolution and a rebel*. The prosecution made much of these admissions. But the spectators who were fortunate enough to be in court when Darrow spoke about the boy will never forget the speech that he made. Slowly he pictured the story of the life of the boy Owens. He told of how men and women would be thrilled by his music. He told of the felon's grave that awaited him. Many shed tears during the time Darrow spoke of young Owens. Closing, Darrow made a great appeal to the jury. Speaking in a low voice, rising higher and higher up to a grand climax, Darrow made men sit up and take notice. Even the prosecution were compelled to sit still and closely follow this fighter of the years.

"Counsel accuses my clients, my friends, with believing that the people ought to take the land and

not pay for it," Darrow said.

It's true. But are these the only people who ever preached this doctrine? Why, men of the jury, it has been preached for ages. Moses preached it — but he's dead, so you can't prosecute him — lucky for Moses.

Why my learned associate (Forrest) argued that communism was a part of Christianity, counsel for state interjected with the paucity of wit that only a prosecutor is capable of, "Are these comrades the lineal descendants of Moses and Christ?"

Then, turning on Frank Comerford, who had made the remark, he roared:

Yes, they are the descendants of Christ!

And you would have prosecuted Christ — for a wage — if you had been in Galilee at the time.

Yes, the prophets, the teachers, the seers of all ages have taught communism, the common ownership of the land and the fruits thereof. And that doctrine has its place in you and you (pointing to the jurors). It's in every state's attorney — though in mighty small degree. It's in everyone who hates poverty — not so much his own poverty as that of others.

I don't know if Communism will work. You don't know; my clients don't; Lenin and Trotsky don't. But I do know that capitalism doesn't work, that it has turned the world into a frightful shambles, a travesty of civilization. But, think, you can pick out for slaughter and imprisonment 20 dreamers solely because of their belief in this age-old dream? Think you can extinguish that dream simply by imprisoning these men?

They say that these defendants have endorse the plans of Lenin and Trotsky. And they have, gentlemen, they have. What are you going to do about it? I'm willing to stand with them on the proposition. I don't know whether or not Lenin's government is right; but no man who loves liberty, no man who honors the principles upon which our own republic is based, would replace the new government of Russia with the old. If nothing good came out of the war, the end of the Tsar was good.

Darrow's highest flight of oratory was a eulogy of the Red Flag.

"I'll tell you why every tyrant — why every man whose heart is with his money bags — hates that flag," he declared.

The Communist Labor Party didn't invent it. The Socialist Party didn't invent it.

It flew at Bunker Hill and at the Battle of Lexington. And Washington, according to Longfellow's poem, used it before the Stars and Stripes had been devised. But the Red Flag was invented before those times. It was devised even before it was used by the working men when they first were admitted to the armies of ancient Rome. Its symbolism came from the red rays of the sun, before history began to write accurately of mankind. And then it became the emblem of the common blood of all men. As such, it was the flag of the

people for centuries. And, whether or not you send these men to Joliet Penitentiary, it will continue to be the flag of the common people for generations to come. For it represents the old oppression of the workers. It's the workers' banner and you can't take it away by this verdict. You can't take it away until the ancient oppressions of the masses of men are removed — and then it will fly to symbolize the common brotherhood of man.

Men of the jury, you can send these 20 men to prison and they will not care. They know that 10,000 will arise and take their places. You know nothing of the deep emotions that are a constituent of every fiber. If you think that you can kill COMMUNISM by sending Communists to prison, do it! You now have the chance. You 12 men have the power to destroy an idea that is as old as the earth itself. An idea that is sweeping through all countries, over mountains, and by the use of electricity sweeps across the ocean, kindling the brain and imagination of man. It is not the FIRST TIME that men have been appealed to, to send men like these to prison. I am interested in Bolshevism. I want to know what it is all about, so that I can, at least, make up my mind. If I did not care for the liberties of America, I would say to you men, send them to prison. Aye, kill them if you think it necessary. If I wanted to make their party grow, I would send these men to prison. I am interested in this case, as always, because I do not want you to lose the right to speak and say what you think should be said."

Darrow became so intensely interesting that we could not take notes. But we remember his final words: "Gentlemen, this is the age-long fight that we are fighting all over again, just as if we were struggling with the emotions of primitive man. We are fighting for freedom, gentlemen of the jury. We leave the issue in your hands."

Comerford then followed Darrow and made the closing speech to the jury. Comerford told the jury that the reason why he is prosecuting this case is because he is fighting for HIS country. This virtuous young lawyer would have you to believe that he is what he says he is, "A CHRISTIAN AND A MORAL MAN." COMERFORD FIGHTING FOR HIS COUNTRY! Imagine the nerve of a man who would stand before a jury and deliberately LIE, in order that he might send 20 men to prison for ONE HUNDRED YEARS! COMERFORD WANTED THE DEFENDANTS TO HAND HIM THEIR CASE and now he is prosecuting them. We should have him tried for attempted treason. For if to prosecute is to fight for your country, then to defend such prosecution must be treason!

Comerford is a brave man. Standing before the jury he waved the red flag. A red flag that was made by the deceased wife of Edgar Owens. In order to stam-

pede the jury, he threw the red flag upon the floor and stamped upon it. We venture to say that he would not have the guts to do that in a small Socialist or IWW local. Comerford is the last excuse for a man. Prates about his Christian feeling and morality. Talks about the work HE did during the war through a spyglass, watching other men fight. He told the jury of how these men believed in force and said that this war was a capitalist war. Turning around to the defendants he dramatically said, "When you say that this war is a capitalist war you are a lot of cowardly and ugly liars." WONDER WHAT HE WOULD SAY ABOUT PRESIDENT WILSON? President Wilson in his speech at St. Louis during 1919 stated that THIS WAR WAS A COMMERCIAL WAR. We venture to say that comerford would not stand up and call PRESIDENT WILSON A LIAR.

Comerford was so miserably rotten in his conduct that even lawyers who are opposed to Communism objected to his remark. He attempted to make a fool of Darrow and only succeeded in convincing us of the fact that you cannot fool nature. How wonderfully he portrayed the story of the war, but he never told of how wars are brought about. He never told of the reasons why men fight. He knew the reasons, but he was out to make money and so he lied and lied and then some more. Comerford the brave and courageous being defies 20 men who are under arrest and are unable to attack him. Comerford is a typical product of the system. *You cannot expect angels out of brothels!*

Rapidly reviewing the trial, whilst the jury deliberates, we have nothing to add to our criticism of the capitalist system. The prosecution has justified everything that the Communists have said about the system. The class instincts of the capitalist class have not changed on iota since Wendell Phillips' time when he exclaimed in anger at their traitorous schemes: "*The time will yet come in America when we shall have to hang the bankers (meaning the capitalist class).*" They have not changed since Lincoln's time, when he himself was compelled to say — he who tried to bear malice to none, charity to all — was forced by the infernal looting of the nation's wealth by the railroad robberies, which bled the country nigh to death — was forced, I say, to cry in bitter rage at the financial speculators, "YOU OUGHT TO HAVE YOUR DEVILISH HEADS SHOT OFF."

Today, masters of America, despite what your servants of the state of Illinois may state to the contrary, civilization has been crushed. The real civilization, whose test is a state in which every man fully realizes his social duty and adequately performs it, does not exist. It will never exist until those whom you exploit rise up and organize society on such a basis. Reason has been dethroned because you dared not reason. Intelligence no longer exists free, it has been bought or bribed by you. No longer does truth rule the affairs, because you are afraid of the truth. The world lies stewing, festering, rotting in misery, vice, and crime and you are powerless to heal its wounds. You, masters of America, do not understand, because your minds are too narrow, bigot-stuffed, and atrophied.

That YOU should send men to prison because it is alleged that they believed in force is a joke, if it were not a grim tragedy. *You*, who herd millions of children into the mine, the mill, the coal-breaker, the foul and noisome factory. *You*, with the profit-lust that pants for war; that adulterates food, which poisons the stomachs of millions so that you might make a few more dollars. *You*, who employs soldiers and gunmen to shoot down strikers; you, who slug, shoot, and even burn women and children. *You*, who by the lash of starvation drive women to the streets. YOU talk of force? Might well the gods laugh!

You, who have sunk so low in life that in your greed you dry the milk in the working class mother's breast; each year you crush and mangle half a million workmen in your slave-driven factories; *you*, who own and operate railroads and hurl thousands of victims to their death, year by year, because you want huge dividends. YOU talk of force?

GOOD NIGHT!

Edited with footnotes by Tim Davenport.

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