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THE SILENT DEFENSE

A Story of the Remarkable
Trial of Members of the
Industrial Workers of the
World Held at Sacramento,
:: :: :: California. :: :: ::



NO. 988

PLAINTIFF'S
DEFENDANT'S EX. NO. C

FOR IDENTIFICATION

ADMITTED in evidence June 21, 1920

John M. Fountain CLERK

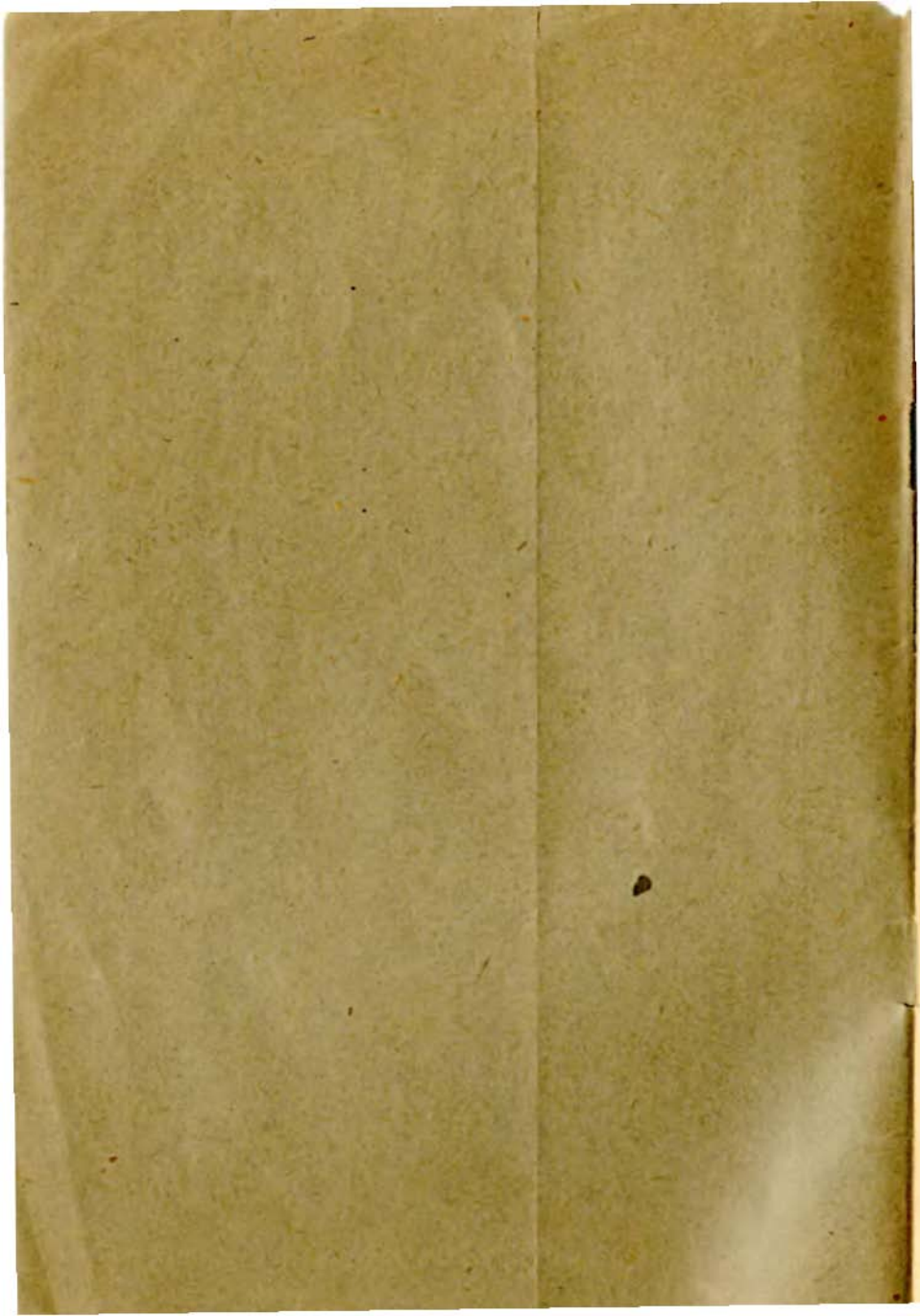
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INDUSTRIAL WORKERS OF THE WORLD

1001 W. MADISON ST.

CHICAGO, ILL., U. S. A.



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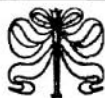
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The Silent Defense



In what is known as the Sacramento Silent Defense five men died, ten or more are physical wrecks, forty-two are undergoing prison sentences, and these are the gleanings of about 130 arrests directly connected with the case. Nearly 1,000 men and women were arrested, held incommunicado, maltreated, threatened with lynching, and then thrust out of jail with insult and crime actually solicited or suggested by guardians of the law.

Leading up to the Sacramento Silent Defense there were scores of police raids. These may be divided into three features. In California the first legal or illegal assault on the I. W. W. was made at Fresno, on Sept. 5, 1917, the day of the nation-wide raid. Sidney J. Shannon, deputy marshal, a special employee named Freeman, and a trench dodger Hudson, since appointed special agent, not only raided I. W. W. headquarters, but concluded to arrest some 130 men found in the hall and in the nearby employment offices. They sorted over this bunch and held

some two score without warrant, charge or stated reason. Two weeks after the greater part of these were released when habeas corpus was sued out. In these proceedings twenty-five men, including all secretaries of Los Angeles, San Pedro and Sacramento, were indicted. These men were accused of (see indictment) conspiring to oppress employers of labor throughout the United States.

The charge was so flagrant an attack on unionism that it was dropped. There was a mysterious explosion in Gov. Stephens' mansion, December, 1917. Curiously it was asserted one Swanson, a public utilities detective and principal sleuth in the Mooney case, was in Sacramento the day and night of the explosion. This explosion was also so timed that Prosecuting Attorney Fickert profited in the election to recall him, which occurred the following day. Fickert and Swanson were vitally interested in this election, and Swanson's alleged presence in Sacramento the night of the explosion at the governor's mansion deserves explanation. Vainly the dynamiters were sought. By accident, William Hood, an I. W. W. member, was arrested. He had nine sticks of dynamite which he said he intended to use on a gold seeking expedition up the Feather river. By accident, George Vortter, an I. W. W., was with Hood when he went to the express office. Both are convicted of having dynamite in their possession without a license. This law was a statute just passed. A few weeks earlier and they would not have been arrested. This arrest was made the basis of a raid on the I. W. W.

Fifty-three were arrested in and around the Sac-

ramento hall. These men were thrown into a city jail cell, 21x21 feet. All of them could not lie down at once. It was winter. One cotton blanket was given each. Their food was about two ounces of mush in the morning, less than two ounces of bread, and at night three fetid little smelts and less than two ounces of potatoes, with "coffee" twice a day. In the cold they shivered. Day by day they starved. By relays they slept at night; the bedlam of a city drunk tank soothed their slumbers wooed in frost and starvation. Everyone of these men had money when arrested. They sent out and bought food for themselves. This is a general privilege in the Sacramento jails. This food was placed before their cells just outside the prisoner's reach. It rotted there. They slaved and starved. Once or twice some of the "harness bulls" of Sacramento slipped their lunches to the ravenous wretches.

Hearing of the horrors, the I. W. W. District Defense Committee got busy. They started counsel who failed to see the prisoners. They protested. They agitated. Fred Esmond brought some of these facts to the attention of Attorney-General Gregory by telegraph. He was arrested, and for eight months thereafter was held incommunicado. At that time the I. W. W. was paying Nathan C. Coghlan \$1,000 per month to represent the San Francisco prisoners. During these starving times he saw this beleaguered bunch once, and that time delayed hearing. These men suffered silently. Among themselves they said, "Our case is not so important as the I. W. W.; we'll do our bit." They waited and waited.

Fred Esmond, during a portion of his eight months

incommunicado, was thrown into "solitary." He suffered with angina pectoris. They say the damned suffer like this torture. Did it soften his jailers? For forty-two days and nights, without bed or blanket, Esmond lay on the cell floor and fought his battle. "Over There, Over There!" they sang beneath the jail windows, but Esmond met a "Hun" in the San Francisco dungeon. His telegrams to the attorney-general were introduced as riot acts of treason. Can you beat it? When the United States sent Don Rothban to investigate the Sacramento arrests, after many days he reported that there were no cases against these fifty-three men who shivered and starved and sang the songs of Labor through their bars. Later some of these were indicted because Special Agent Kelly said "they were singers." Rathbon's report was received with fury by the Sacramento parasites. They threatened lynching. One Carunicharl, the editor of the Sacramento Star, and others, assured Washington that they meant business. Meantime there is much proof that agents of the real estate sharks and the profiteers went through the slums inciting riot against the I. W. W. So the case went on and indictments were issued. Some few of the first band were so obviously innocent that they were freed; but in their places were selected the names of the most active committee members of the defense. Down in San Francisco stockyards some sheep ate tainted food and died. All I. W. W. members were accused of poisoning food. By some chance the city chemist told the truth and reluctantly the detectives, the press and the parasites lay off the poisoning charge. But now they had an indictment and after sixty-four nights on the cement floor of a

filthy jail the men were placed in regular jail cells. As they brought them over, Albert Whitehead, veteran of England on land and sea, showed his unconquerable spirit by walking on his hands twice the length of the tank. "You can't scare us," he laughed, but Whitehead is now one of the tubercular victims and he lies in San Francisco jail doing a year.

They now had an indictment and some reasonable treatment of prisoners was asked. John Grave, one of them, was released on bail to attend the outside wants of the prisoners. It was only a show. These men were accused of circulating the I. W. W. preamble and constitution and "History, Structure and Methods of the I. W. W." One prisoner asked John Grave to get him copies. He sought to deliver these openly in the courtroom during a hearing. Special Agent F. W. Kelly and his assistant seized the pernicious pamphlets, made a hue and cry, and for eight months thereafter John Grave was prohibited from seeing any of the prisoners. Every word of communication had to be in writing and pass through the prosecuting attorney's office. This was the basis on which a fair trial was built. While John Grave was excluded, the stool pigeon, Jackson Dymond, could see the prisoners readily to urge them to plead guilty.

Chris Lubber, secretary in Sacramento, had been included in the Fresno indictment. In his case the prosecuting attorney declared that if bail was offered for him, Lubber would be arrested on another charge and held. The same threat was made in the case of Esmond. These matters were reported to counsel, but shrugs and "it's war time, you know,"

was all the answer. In prison these men lay and rotted.

Four times the indictments were changed. Defendants were shifted and called. Accusations followed on charge. It was a wilder dream of high-handed legality. Finally all these indictments narrowed down to one which at last came to trial December 12, 1918, and dragged on until Jan. 17, 1919. In this final indictment, dynamiting, terrorism, the I. W. W. preamble, and the calculation of Mr. Dooley's "If you want a right, take it; don't let any one give it to you" was the climax. Why fifty odd persons should be accused of circulating Finley Peter Dunne's literature as a crime and Dunne let go free is a mystery which probably the lawyers who let all the above pass can explain. Law is a curious contraption.

After months of this hell, the arraignment took place on Oct. 8, 1917, before Judge Van Fleet in Sacramento. When the men were brought into court from several jails around the state they all met for the first time. Here was a conspiracy charge against 53 persons who had never assembled before. Judge Van Fleet, in one of his eloquent harangues, warned the defendants of the seriousness of the case, and after all the suffering, there in court was an office boy to defend us. He and his employers were canned right there. These Sacramento prisoners had enough. When Judge Van Fleet read a telegram asking postponement of the case until spring, he was notified that the defendants therein demanded a speedy trial and Judge Van Fleet exercised his unconstitutional power to postpone the case to a date pleasing to him

and the district attorney. This was after eight months' delay, outrage, intimidation, and acts which, when the world learns them, will stamp these legal functioners with an unenviable fame.

So the trial was postponed. Till Dec. 9 these men languished. Prosecutor Robert Duncan promised fairness in dealing with the self-defending prisoners. Judge Van Fleet stated he would set reasonably the bail for a committee to manage the defense. At Duncan's own suggestion the men elected three representatives—Phil McLaughlin, Herbert Stredwick and Mortimer Downing. He had notified the defendants that if Esmond's name was included in those elected he would arrest him until effort to release him was abandoned. When Duncan received these three names he then cut out Phil McLaughlin's name. If we couldn't have even the men of our own selection what was the use of playing that game. Duncan then called Stredwick and Downing before him and stated that it was their duty to inform the prisoners that if a plea of guilty was entered great leniency would be used to the defendants. Obediently those two laid the matter before the men. The reply was "We would not plead guilty if you had bond to turn us loose." That was all from Duncan until he got us into court. He never answered another letter. He held up appeals addressed to the presiding judge, he prevented the summoning of witnesses, etc. For instance, John Grave was the outside agent. After long protest he was allowed to talk to the men through a fine mesh screen with a guard. What a chance to summon witnesses! If we gave names of any witnesses one experience taught us they would appear on another indictment with us. It was easy

to get indictments; these men saw it done five times. So without witnesses, without counsel, with nothing but contempt, we went into court and welcomed penitentiary as a relief from their vile jails and the discipline as a happy contrast to the hypocrisy.

Before getting to court another chapter was recorded. From Oct. 8 till Dec. 9 the "flu" raged. On Dec. 10 the first victim sickened. In three tanks these men lay. U. S. Marshal Holahan was published as seeking means of protecting the men in the Sacramento jail. They lay in their tanks. Often only one could stagger around. These men sent out and hired a doctor, a nurse, and bought their own medicines. It's one more blot on Sacramento. The matron of the jail gave the men some soup and milk toast daily during the worst. That one kind act is remembered. "We never forget." These men laid there and stewed in their own effuvia. Five died. Ten or twelve are sick today.

Frank Travis was a big burly fellow with a fine voice. In October he came into Sacramento. He was a migratory worker, young and fearless. He had a nickel in his clothes. He wanted a flop. Some one said to come down to the I. W. W. hall. He followed. There the boys jollied him. He slept there and the next day went out to a job the secretary tipped him to. He worked a few days and came in and took out a card. Thirty days after he was in again with a little bigger stake. He was captured in the raid. On Oct. 22, 1918, the anniversary of his initiation, he died in agony in the jail. Kelley was asked why he was indicted. "He was a delegate," answered the special agent. "Delegate? Why he

wasn't thirty days in the organization." "Oh, then he was a singer; yes, he was a singer." And so a man was condemned to death by an official so dense that he thinks singing is a crime. Travis used to sing as he starved in the city jail, and none could scare him. He died because he sang the songs of labor!

During the "flu" these men were permitted a little run in the outer tank. On going into their cells one of the jailors ordered Fred Esmond to hurry. Pain racked, he told the jailor to go to Hades. For this he was ordered to the dungeon. He was protected by his fellows. There were eighteen men in the tank. Kelley herded forty or fifty policemen and specials into the tank and before he left every item of comfort for the men was confiscated, including some petrolatum which one was taking for constipation. They took away the typewriter which was being used to get some outside aid for the defense. All these men will pray for Kelley in the good days to come.

Just a brief sketch of the trial. Weakened and broken in ranks by death these men faced their fate. Suggestion after suggestion of attorneys had been turned down. These men came into court on Dec. 9, 1918. It was the day set for the nation-wide Mounsey strike against justice as afforded working men. Although the general strike was called off, these struck and are still dauntless that this strike will finally win. There were then strike breakers and for obvious reasons this mention will suffice. There were also some renegades, some snitches. These men were accused of aiding the Kaiser and hindering the war against him. So that being the charge and the

war occurring in 1917, if a Swede or a Hottentot got mad with his boss in 1913 and cussed him and if it was proved the worker had an I. W. W. card or appeared at an I. W. W. meeting, it was enough to convict forty-seven persons and subject them to the penitentiary for twenty years. If in the I. W. W. files all over the land one of these defendants had a letter acknowledging receipt of a letter it was positive conspiracy. They introduced stuff about stickers in 1913 and all down to 1917, but they never showed that one of the defendants sabotaged an egg. Hay stacks burst into flames when sheriffs and deputy sheriffs were right there, but never when an Industrial Worker of the World was present. Somebody robbed a car conductor and it was said that a prisoner looked like the thief. This was evidence that the defendants stopped the manufacture of ammunition. There were six stool pigeons put on the stand. One Jackson Dymond stole \$1,200 from his fellow workers, but he could connect no one with a crime. He said one defendant got phosphorus from a chemist in San Francisco. He neglected to tell why a man who had the confidence of his fellow workers so strongly that he got \$1,500 in a lump could not find the name of the chemist or produce some phosphorus. One foreman identified Bob Comellan positively as the man he saw at the lumber yard at the time Bob was in San Quinten doing time because of the Stockton strike of the A. F. of L.

To corroborate the testimony of the stools and the uniforms a detective swore that he saw Mortimer Downing on the picket line every day during the Wheatland boycott and that he knew Downing was there to attend to the arson and direct the violence.

During all this time, every day of it, Downing was in the Maysville county jail. When the prosecution was informed it made no attempt to correct the error. Another stool swore that John Grave was in the Sacramento county jail and when the records were produced no step was taken to punish the manifest perjury.

When the prosecutor was summing up the case he argued before the jury concerning two of these defendants that it did not matter whether the witness lied or all of them lied. It need simply to be asked what the defendants were doing in 1916. Were they helping in the preparedness campaign; were these defendants then helping to prepare the country for war? If they were not they were guilty, and the jury should so find them. After the trial Dr. Duncan was reminded that in 1916 President Wilson was too proud to fight and he had the grace to show his confusion.

Mr. Johnson, assistant prosecutor, said it did not matter whether one of the witnesses lied or all had lied; all he need to tell the jury and prove was that each and every defendant was an I. W. W. and he was sure the jury would convict. It did. Forty-seven defendants on four counts and innumerable acts were convicted in twenty minutes. Only that time elapsed before the prisoners were called back to court, but it took one hour and ten minutes for his honor to return.

Such is a brief story of the case. The outstanding fact is the frankness of the prosecution that it only needed to show these defendants as I. W. W. to get a verdict of guilty. Judge Rudkin had ruled that it

was as legal to belong to the I. W. W. as to the Masons or Chamber of Commerce, but the jury, composed of a man wearing a star, a couple of millionaires, and a bunch of small farmers, did "their duty" as they did.

In the official record of the trial of the forty-seven I. W. W.'s in Sacramento, Cal., appears reference to correspondence between John L. Murphy and Chris. A. Luber, both defendants. Only the letter sent from Murphy to Luber was offered. Thomas Mulhall, a deputy marshal, was questioned concerning this incident and his replies were misleading.

It would be difficult to properly characterize these letters. Suffice it to say history records us other unblushing incitement and subornation of crime on the part of the U. S. government agents. John L. Murphy wrote to Luber in Sacramento asking him for information concerning the arrests. Murphy thought Luber was still in Sacramento as secretary. He inquired if he could do anything and assured Luber that he (Murphy) had straightened up and all that stuff. Luber was then a prisoner in the Fresno county jail on the Fresno indictment. This letter was seized by the prosecuting attorney, opened and read. Luber was unconvicted and in full possession of his civil rights. To purloin this letter may be excused by generous stretching of charity, but what can be said about the officials who forged Luber's name to a reply. Some official of the government replied to Luber's letter. F. W. Kelly, special agent, blushed deeply when the matter was touched.

In this letter Luber is made to tell Murphy a wierd story. He is told not to write to the I. W. W., but to a secret address. This address is the office of the

prosecuting attorney. Murphy is told that the office boy there is a bright lad and that this same underground was used by Emma Goldman and Berkman successfully as the boy always got there first and was particularly bright. Mind this is from a government agent! Murphy is told he can write as freely as he likes to their addresses. Then he begins some of the letters in which Murphy is again and again told to get busy and suggest something. He is told that Dublin Bob got \$400 for pulling off a job for some German at Knight's Landing, and later by letter, Murphy is tempted to declare himself in favor of some plan of violence. Murphy hung back and, as he explains it, thought Luber either had gone crazy or crooked. At last, after being seven times tempted, Murphy suggested that if he had the means he might get into a factory as a loom fixer and then in a few days be on his way.

Remember, all this is in reply to forged letters and forged signatures of a man in jail. No sooner had Murphy yielded than he was arrested and brought to Sacramento from Washington.

Only Luber's letters were read at the trial. Judge Rudkin resisted a motion to compel all the correspondence to be read. This frameup is notorious among all connected with this case. In the beginning the newspapers attributed it to Thomas Mulhall, but he indignantly repudiated it, while F. W. Kelly cowered and blushed. If there is anything in the Mooney case worse than the Luber forgery it is unknown, and this was not the act of some desperate politician, but of a government official. Some agent of the United States is lost to all decent respect for

prisoners' rights. This same man let manifest perjury go unpunished several times in this case, as in the instances of witnesses' agent , Grave, Comellan and Downing, when the records show the physical impossibility of the witness' truth. No notice has been taken of this forgery any more than perjury.

It is the firm belief of the now imprisoned victims that one day these facts will become known. I have never heard a complaint from these men and I am proud to be among them. We are sure of a final vindication.

The Silent Defense

By Jean Sterling

"Do the defendants, not represented by attorneys, wish to interrogate the talesman?"

The court reporter held his pencil suspended. The forty-three defendants faced with mocking eyes and closed lips their jailers, prosecutors and presiding judge.

"Do they wish to exercise the right of challenge?"

For a tense second the inexorable wheels of justice stopped turning. Some one had thrown a felt slipper in the cogs. The defendants gave the prospective juror not so much as a glance. They had read and yawned and gazed vacantly out of the high windows while the attorneys for the prosecution had been probing the talesman's soul for any humane or modern ideas on the subject of labor.

Then, after a decorous silence, such as is observed in court procedures and funeral rites, the judge said quietly, "If, then, there are no objections to the talesman, he may take his seat in the jury box."

And so the juryman, an ancient rancher, the prophesy of the type to follow, took his seat.

And in this manner did the forty-three defendants, I. W. W.'s, now being tried in Sacramento, California, on charges of conspiracy, under the Espionage act, open their "silent defense."

Three of the group have employed lawyers. All three have domestic ties or dependents, which makes this separate action imperative. But the remainder, the forty-three, who are in jail during the trial be-

cause of the exorbitant bail which was demanded in each case, will maintain throughout the entire trial a defense of unbroken silence.

"We decided upon the silent defense," said Mortimer Downing, elected spokesman for the group, "because we despair of justice for the working men being achieved through the courts. The Mooney case, the Frank Little incident, the Bisbee cases, the Chicago trials, these have convinced us of the uselessness of legal defense. We are tried in a prejudiced community. Some of our men have been held incommunicado. They have been prevented by United States agents from mailing courteous appeals to the court. Some of them have been confined, untried, for a year. These conditions are intolerable, and this 'silence strike' is to preserve the self-respect of ourselves as members of organized labor."

And so they sit there in the big white court room, challenging neither talesman nor evidence nor exhibits nor witnesses. They have grown pallid from their long sojourn out of the sight of the sun. They are emaciated. They are unshaven, many of them. Their clothes are ill-fitting and thin. But their eyes smile and are unafraid. There they sit, throughout the long sessions, coughing, coughing, several of them obviously tubercular, their incessant coughing shattering into fragments the well-cemented evidence against them. Up on his bench the judge sits with his handkerchief pressed against his nose and mouth lest the contagion from the defendants spread.

As they cough the prisoners raise their hands to their mouths—the shrivelled hands of old men, of men not old, blue and cold and calloused. These are the hands that have helped to sink the shafts

and mine the gold in frozen Alaska, that have cut spruce and pine in the deep wet forests of Washington, packed salmon in Oregon, harvested the crops in the sun-scorched valleys of California. These are the hands that have worked incredible hours in steaming canneries, in shrieking saw mills, on fog-swept wharves and down in starless mines.

Unconsciously they offer these hands in evidence of service to their country, these hands with the scars and the wounds of labor upon them. And their bodies, too, they offer, illy nourished, warped and broken by toil.

True, these defendants belong to an organization which they think will eventually prevent these wounds, these trials. Even their silence does not deny this charge in the indictment. And it may be—I do not know—that some of them as individuals have struck out in retaliation against powerful and unseen forces which sapped their vigor and burned out their youth; that they pitted their own puny force against the overwhelming force of established society.

But, whatever they have done or have not done, they will not speak in their own defense. "It is useless," they say. "We despair! Look for yourself to the history of our case. Look at the powers arrayed against us!"

The hidden springs of these trials began far back, even farther back than the spring of 1916, when a coast-wide drive was started against organized labor. In the seasonal trades, which form so large a part of the work of the Pacific Coast, the I. W. W. organization was numerically strong. Among these modern nomads was fast quickening a sense of industrial sol-

idity. Meanwhile in the cities, particularly in Seattle and San Francisco, the American Federation of Labor unions were politically powerful.

The Chamber of Commerce in San Francisco was said to have collected a fund of a million dollars with which to fight organized workers. Economic battles raged in camps, in fields and factory. Legal battles were fought in Everett, Washington. In San Francisco, the famous Mooney case began, backed by the Chamber of Commerce. America's entrance into the war did not reconcile the clashing economic interests except superficially. So that while the I. W. W.'s in Sacramento are being tried on charges growing out of war conditions, we find the same influences lined up, politically and industrially, as lined up before the war.

We find Deputy United States Marshal Mulhall, a special investigator for the Department of Justice in the Sacramento cases, in frequent discussion with Fickert over the methods to pursue and the probable outcome of the two cases. "I am going to link the Mooney case with the Sacramento case," Fickert tells his assistant. "I am going to have a meeting with Mulhall tomorrow." (Dictagraph record)

Mulhall came, and in the course of their conversation Mulhall told Fickert, "If ever you get in a hole send for me. I can take any of these witnesses and pull the friendly stuff on them and generally get what I go after." Mulhall discussed the possibility of losing out in the Sacramento cases and also in the Mooney case. Finally he said, "You know that if this thing ever breaks we will go down hill so fast that all hell won't save us."

These are the main facts in regard to the Sacramento case: During the course of this interminable Mooney trial a recall was started against Fickert. On Dec. 17, 1917, the night before the recall elections, a bomb exploded under the back steps of the governor's mansion in Sacramento. It did no harm, except to return Fickert to office.

A round-up of all I. W. W.'s followed. Their hall was raided, books, papers, properties were seized. Within ten days forty-eight men were in jail.

Federal investigators appeared in Sacramento; but the trail from the scene of the explosion, instead of inevitably dipping toward the jail, wound in a curiously opposite direction. Don Rathbun, special agent for the Department of Justice, reported that they "found nothing to warrant action." The governor's own detective was unable to connect the men in jail with the explosion. . . . But the men stayed in jail.

A demand was sent to the Department of Justice in Washington that the men be held. D. W. Marchichael, president of the Chamber of Commerce and head of the Sacramento city council, together with the editor of "The Sacramento Bee" and Ray Benjamin, Deputy Attorney General, Fickert's personal friend, the official whitewasher of Oxman whose perjured testimony sent Mooney to jail, demanded that the federal government take action.

"The Sacramento Bee" questioned the willingness of the United States government to act and called upon the "aroused citizens to take the law in their own hands." It printed a letter from the secretary of the Chamber of Commerce at Tulsa, Oklahoma, recommending that "a coat of tar and feathers be em-

bossed on the prisoners' backs through the lashing process."

The following February, after being held in jail for nearly three months on one charge, the charge was dismissed and the men were re-indicted by the federal grand jury. Others were added to the group. Theodora Pollok, the one woman indicted, was included.

Months went by without the defendants being brought to trial. I am told that for sixty days they slept on the cold cement floor in winter, with only a scant cotton blanket; that when food was brought to them from the outside it was placed before their eyes but out of their reach.

Meantime the daily papers abounded with "outrages" committed by the I. W. W.'s. Candidates for the governorship toured California, sowing seeds of hatred and misunderstanding. "Successful prosecution of the war for democracy" and the "extermination of the I. W. W.'s" were the two great issues common to both sides in the campaign.

In September, eight months after the original arrests, down in Fresno county another round-up of I. W. W.'s took place. Twenty men were jailed on charges of arson. "The fires in the haystacks are due to incendiary bombs," say the arresting officers. "Due to imperfectly cured hay or the 'disciplining' of refractory non-members of the Farmers' Association," say the accused men.

In October a final indictment was returned. It consolidates the Sacramento and the Fresno cases, grouping them all under the charge of conspiracy.

By this arrangement, men in jail are charged with crimes committed long after their imprisonment. This last indictment dropped a number of the lesser defendants and others took their places, more dangerous to society. Up to this day no one has been apprehended for the explosion at the governor's home a year ago.

Finally in December, a year after the original arrests, they are all brought to trial—all but five who have died in jail—brought to trial down in the rich silt valley of the Sacramento, where bitterness has grown rank, where are located the great hop ranches of Ford and Suhr fame, where "The Sacramento Bee" is to be found in every home and on every ranch—the paper that urged lynching as the solution of the labor problem. In the heart of this beautiful valley lies the city of Sacramento, gay in its Christmas greens and red street lights; and in the heart of the city stands the Federal building, a structure of enduring stone.

Walled in by the high Sierras and the Coast Range is this garden spot. Walled in by colossal prejudices and actual circumstances are the defendants. No utterances of **their** grievances, of **their** point of view, reaches the outside world. Their publicity committees are arrested. Their offices are raided. Their paraphernalia and plans of defense seized. Their Defense Bulletin is denied the mails. All incoming and outgoing mail is, of course, read by the jailers. All conversations are in the presence of detectives—as with all prisoners. Scareheads in the local papers warn the public of a possible bomb at the trial, and therefore "in the interest of the public," the spectators' door is kept locked during the

sessions. Visitors are questioned as to their interest, who they are, so that either through fear or inconvenience, no one comes to "listen" to the "silent defense." The seats for the public remain empty.

"Don't you see," they say, "the uselessness of the usual defense?"

And they continue to sit in silence. But their silence is not sullen; neither is it pert. It has back of it a conviction rather than a mood. It is intellectual rather than emotional. It is always challenging, argumentative; piquing the curiosity of the judge, of prosecutor and of jury. It is not the silence of death; not of winter, but of early spring.

Silently they sit, awaiting the inevitable sentences, so cool, so unbroken in spirit, proving that man does not live by bread alone; making strangely artificial and pompous the perfunctory decorum of the court.

In spite of the constant coughing a certain pleasantness pervades the court room. The fact that the defendants—the silent group of forty-three men—do not oppose the prosecution, or through lawyers seek to block and outwit the state, makes the prosecutor's task an easy one. He can be almost himself. And "himself" is a cheery, grandfatherly man from the little town of Ukiah, up north, and he jogs along with his load of evidence, as if on a pleasant country road. He is assisted by an amiable young lawyer of the Sunday school type who "helped" in the Chicago convictions.

So far, the prosecution have only read and read and read; hour in, hour out, from "Solidarity" and from the I. W. W. Song Book. Everything they read is intended to show the attitude of the I. W. W.'s

toward grave social questions, problems which have not as yet disturbed the sweet-scented serenity of the Sacramento valley; articles which portray the class struggle in the coarse language of the "blanket stiff" as he trudges the "dirty plate route." In kindly voice the young prosecutor explains to the jury, as one would to little children, what "sabotage" and "the cat" and "one big union" mean—to him. He shows them pictures of cats and wooden shoes.

By 4 o'clock the defendants have sunk far down in their seats. Their heads rest on the back of their chairs. The coughing is more and more frequent. The judge presses his handkerchief tightly over his mouth and nose. Can it be that there is danger of infection from these ideas? The deep-set eyes that look out over his mask seem almost tender in the fast fading light. A judge should have sterner eyes!

The jury—such old, old men! look bored and helpless. What horrible ideas they have just heard! Jesus, a "blanket stiff!" "Pie in the sky!" Employers called "snakes" and "reptiles," and the word "prostitute" right out in print! For this is a country jury, good men.

At last 5 o'clock. The judge instructs the jury to "form no opinions" and they go their separate ways. The judge comes down from his bench. The prisoners are lined up by their jailers to be taken down an elevator, through a tunnel under the Federal building, back to their jail. The big white room, tomblike in its marble, is full of shadows and unsaid things.

As the elevator with its human freight drops into subterranean regions, a hollow cough echoes up into the vaulted chambers of justice.

Ol' Rags An' Bottles

by Special Correspondence

On the grounds of the Capitol at Sacramento, amid deodars and palms, is a sun-dial bearing the legend:

The shadow creeps and creeps
And is always looking over the shoulder of sunshine.

Within the marble building on a recent sunny afternoon Governor Stephens was taking the oath of office and in his inaugural address made a strong denunciation of the I. W. W. He declared: "It is important that every person should understand that neither labor, organized or unorganized, nor any honest man who works either with his hands or with his brain, has anything in common with these skulking wielders of the torch." In the legislative corridors ran hot discussion of the possibility of making membership in the I. W. W. a felony. To these men in the Capitol the I. W. W. was the shadow over-creeping their prosperity.

On the other side of town at the county court house the government was trying forty-five men and one woman under a blanket indictment charging violation of the Espionage act. The defendants are all members of the Industrial Workers of the World, some of them organizers, most of them defense secretaries who had been engaged in raising funds to provide bail or counsel for their fellows. The cir-

cumstances are involved and peculiar and it is hard to get light upon the situation. The indictment, which covers sixty-nine typewritten pages, is for conspiracy to hinder the prosecution of the war by overt acts. But it is assumed that because men are fellow members of the I. W. W. they would naturally plot together; therefore, apparently, it has not been considered necessary to prove that the defendants, many of whom were entire strangers to one another until they met in jail, had been personally associated. The overt acts charged are of a nature new to most of us; it is hard to see how the sending of telegrams protesting against jail conditions, and the receipts of letters from other I. W. W.'s in Cook County jail in Chicago, may be termed overt acts.

The occasion of the first large number of arrests was the bombing of the back steps of the mansion of Governor Stephens in Sacramento. Federal authorities, however, according to the statement of the defense, uncontradicted so far as I have been able to learn, reported that the I. W. W.'s were not involved in this explosion, and recommended their dismissal; and Governor Stephens himself concurred in this action, after an investigation made by his personal detective. According to the same authority, however, an appeal was made to the Department of Justice in Washington by the president of the Sacramento Chamber of Commerce and the editor of the Sacramento Bee, with the aid of an assistant district attorney who is contemptuously characterized as the "whitewasher of Oxman." In any case, the men were kept in jail some months. After the first arrests there broke out an epidemic of small fires in various parts of the state; numerous haystacks and

barns were wholly or partially burned. At once a lot of migratory workers were rounded up (in some districts where the local quarrels of certain farmer factions amounted almost to a feud) and added to the first group.

In the meantime the Secret Service had not been idle. The entire I. W. W. Defense Committee of California was arrested, and indicted with the first group. Bail, which had originally been fixed at \$2,500, was raised to \$10,000. In five months the San Francisco headquarters for defense work were raided six times and the defense secretaries, while preparing for the trials, were arrested as often. The number of defendants has increased almost automatically: When a defense secretary is arrested another member of the organization stands ready to take his place and carry on the work, knowing that in the next swath he will fall before the machine. But the defense work throughout the state goes on with a waiting list of secretaries. Pictures of the arrested men were posted all over the state, although they were safely in jail and not fugitives from justice. This, of course, facilitated the gathering of testimony and sharpened the memories of those eager to testify. By the time the trial began the indictment had been changed four times. The overt acts now charged include arson, and by the strange supposition of conspiracy, men who have been behind the bars for months are held along with newcomers for fires which they could have set only by "absent treatment." The indictment does not charge that all the defendants set all the fires. It charges that all the defendants reached an agreement to accomplish certain unlawful purposes, and that in pursuance

of that agreement some of the defendants set the fires. All the defendants therefore are deemed to have been responsible because of the supposed common agreement.

And who are these "skulking wielders of the torch?" as the chosen representative of the people of California calls his fellow citizens. Of what type are these men so ready to surrender their freedom for the welfare of others as they conceive it? They are a typical cross-section of American life, as if all the random occupants of a street car should be cast into jail together. Among them are workers with hand and brain, university men (one from Oxford), and agricultural laborers; workers at various crafts and trades, lumbermen, chemists, journalists (one the former city editor of a Los Angeles daily, one for many years Washington correspondent for well known Western papers); a court reporter of twenty years' standing; young, old and middle-aged. Two or three Frenchmen, a Canadian, and a Syrian are not citizens of the United States, but the majority are straight American—even though their names still savor of peat; Americans of the old type now rarer east of the Rockies than west. For the most part they are sturdy, though confinement has spread tuberculosis among them, influenza is supposed to have caused the death of five, and one has gone insane. On studying the faces of the group, as they sit day after day through the dreary trial, one is struck first by the absence of sullenness or defiance in their faces. There are some weak chins and some narrowed brows among them, some visionary eyes that under injustice might flame into fanaticism. But on most of the faces one reads kindness, common-

sense, American humor. In a strange town one turns to such people to ask the way, knowing well that the man accosted will gladly turn back to set the stranger right. And among them is one woman, a high-bred daughter of our South, slender and gray haired.

So much for a first glance at the defendants. The jury, on the other hand, owing to selection, is a less diversified group—a butcher, an accountant, a retired grocer, a horse-shoer, an elevator man, an automobile salesman, and the rest ranchers. Three of them, probably, are under fifty; of the rest the average age is apparently over sixty. Eleven of them are said to be regular readers of the Sacramento Bee. Judged by their faces, their experience has not been broadening; they give the impression of men of habit rather than of intelligence. To such men, economic dissentients like the I. W. W. would naturally seem dangerous characters who should be shut away for the safety of the public.

On the bench, a forcible contrast, is United States District Judge George H. Rudkin, of Spokane, a powerful man, overtopping all others in the courtroom. Though he is past middle age, his vigor and keenness are unabated, and one feels instinctively that he will see justice done or know the reason why. The stage is set and the trial begins for the day.

Remember that the defendants have been from six months to a year in jail, only four of them having been out on bail; and that the trial has been dragging on for weeks. The defendants are shut away from their fellows, so far as one can learn,

because of their economic beliefs. Although the nominal crimes charged against them would, if true, call for only a few years of imprisonment, yet under the Espionage Law, which has been stretched its elastic utmost to cover their case, they are liable to serve twenty years.

And what are the charges preferred against them? The witnesses are called in wearisome succession—a rancher, a fire chief, an under-sheriff, more ranchers, a petty police officer, a car conductor, a relapsed I. W. W. Each man testifies to from one to three fires in his neighborhood—haystacks, barley stacks, barns, occasionally a lumber yard or a canning factory. In most cases the fire had been extinguished before doing much damage; in almost all cases the owner had been amply insured. In agricultural districts the fires had occurred in the night; in lumber yards or shops, after working hours or on Sundays; no person had suffered physical injury. What was the nature of these fires? Of supposedly incendiary origin. What evidence of this? A twist of rags the size of one's finger, about two inches long. Witness after witness testified to phosphorus-soaked rags, always of finger size, never exceeding two inches, till the defendants were in a gale of laughter. To find a needle in a haystack has always been a nine days' wonder, but how pallid an achievement compared to finding a two-inch inflammable rag in a blazing haystack! The next witness ventured from the beaten path, and his rag broadened to the size of his palm, and contained a flat cake of phosphorus with its virtue undimmed by the fire. The testifying fire chiefs were apologetic; they had been so taken up with putting out the fires

that they hadn't time to investigate sources. So much for the infamy of rags. Small bottles were next produced, said to contain poisonous or inflammatory chemicals. These were supposed to have been found near fires or on the persons of the defendants when arrested. An expert chemist—a handsome young marine—testified to the injurious character of the contents, but admitted that these preparations were frequently used for killing gophers.

The judge grew restive under the repetitions and drew the attention of the jury sharply to the fact that the testimony of the witnesses was overlapping, so that there appeared to be more fires than there actually were. Was any individual suspected of setting these fires? Apparently not, but one man was seen bicycling away from a fire at an early hour of the morning. If arson is to be proved it must be proved with rags and bottles.

One amazing manifestation common to almost all the witnesses was the photographic accuracy of their memories. A fire started, let us say, not "early in the morning," but "at 3:10 a. m., July 6, 1917." Many of us, perhaps, could remember meeting a stranger downtown late one fall afternoon; but what marvel of infallibility he must be who unhesitatingly maintains that it was at 5:25 p. m., not 5:20, on November 3, 1917, that he saw the stranger cross Main street! A young car conductor started to testify that at 12:20 on a specified night a strange man sat huddled on the front seat by the motor-man—but either memory departing or conscience returning, the story became so confused that the judge dismissed the witness. Several of the wit-

nesses were afflicted with stage fright. A liberal allowance of testimony was ruled out by the judge, but, even so, perhaps it registered the desired effect on the jury. A minister of the gospel testified that a stranger, whom he now promptly identified after the lapse of over a year, as one of the defendants, stopped him at the corner of Nineteenth and C streets, at 5:20, on the evening of the explosion at the Governor's house, and inquired the way to H street. The stranger had a package under his arm—and the Governor lived on H street! The jury saw the connection at once, and no further links had to be forged in that particular chain. Two young fellows had been arrested for receiving dynamite shipped illegally by express, also near the date of the bombing, but as the nine sticks of dynamite were introduced into court in propria persona it could not be assumed that they were the actual cause of the explosion. The judge ordered the removal of the dynamite, to the evident relief of the jury—especially as the counsel for the defense had suggested that the exhibit be tested to see if it really were dynamite.

An occasional feeble effort was made by the prosecution to show that the fires under discussion hampered the Government in the conduct of the war. Wheat had been destroyed and some lumber burned. It was pointed out that a third of the output of dried peaches had been destined for army use. Witnesses were repeatedly asked if they had heard sentiments expressed by the I. W. W's that were unfavorable to the Government. This was particularly mirth-provoking to the defendants, as for some time past baiting the Government has been a fashionable

amusement of the privileged classes in California.

Perhaps more than enough instances have been cited to show the nature of the prosecution. The mere spectator, had he been allowed to be present, would at first have laughed with the defendants over the futility and absurdity of the whole attempt, over the absolute impossibility that anyone should take this seriously. But as the days wore on and the faces of the jury grew more and more set, till it seemed that the shadow of conviction creeping over their eyes had obscured the light, then a chill would have crept up the spectator's spine. Who, he would ask, is this prosecutor wearing out the days and threatening, with tragic farce, the life and liberty of almost half a hundred persons? Who is the prosecutor? The United States Government: We the people—every man and woman of us; we are accumulating crimes to fit the punishment, straining law and truth till some way be found of silencing those who do not agree with us in favoring the old order. The Espionage Law may keep a man mute for twenty years: Let a crime be found to fit it. But the psychological effect of imprisoning a man for his beliefs is notoriously bad; it begets martyrdom and disciples. Let us therefore transform these leaders of their fellows into common criminals, above all into destroyers of property. Let these outcasts, these rags and bottles of mankind, this inflammable human waste, be utterly destroyed. The shadow is creeping and creeping—this time the shadow of a blinded figure bereft of scales.

Little has been heard about the Sacramento trial. Idle spectators are not admitted. I. W. W.'s are threatened with arrest if they besiege the door of

the courtroom. Friends of the defendants must meet the challenge of the marshal. The general public stays away from choice or prudence. At the press table are a man from a local daily and two or three women writing for weeklies. A young man from the Associated Press looks in to keep track of things. But there is no "story" here; so many hundreds, nay thousands of Americans are being tried or awaiting trial, or suffering imprisonment for their convictions, that the story no longer contains an element of news. The jaded public fails to quicken with either sympathy or indignation; it is bored by the Espionage Law.

Another unusual element that has deprived this trial of the propaganda of publicity is the situation among the defendants themselves. Early in their imprisonment they retained counsel, but as the months passed and they were prevented from discussing developments with outside friends or with their fellows who were out on bail, seldom hearing from their counsel, they lost confidence in legal defense and agreed among themselves to go on a strike of silence. Meantime those who were out on bail had continued their preparation for defense and were not party to the so-called strike. The complications ensuing are unfortunate. What might perhaps have been an unassailable wall of silence has been breached by the defense of the three. On the other hand, this slender voice of protest is almost muffled by the silence of the forty odd. The puzzled jurors may be asking: "If they aren't guilty, why don't they say so?" It is easy to understand the state of mind advocating the silent defense. When one has been arrested fifteen times in four months

as a "vagrant," although actively employed and under salary all the time; when one has been repeatedly arrested, held for days and then dismissed without trial, only to be re-arrested the following day; when the crimes charged against one multiply over night, is it to be wondered at that the defendants wearily say, "What's the use?"

Yet it is a serious question if such an opportunity for public education should be thus withheld. We should be made to recognize and face our responsibility in the matter. Perhaps, as Robert Whitaker says, we need not fewer good men in jail, but more and more until we will no longer endure injustice.

Sacramento, Cal., January 13.

(According to Associated Press dispatches of January 16, all forty-six of the defendants were found guilty by the jury, which returned the verdict after being out about an hour. Judge Rudkin's charge is quoted in part as follows:

"The mere fact that these defendants are Industrial Workers of the World should not justify a verdict of guilty. The fact that they may be found to be conscientious objectors to war should not be held against them in the consideration of this case. Opinions which they hold in opposition to war and which undeniably stand alone are not an evidence of guilt."

Referring to the "silent defense" of forty-three of the defendants who have spoken no word and have been unrepresented by counsel throughout the trial, Judge Rudkin said that such silence should not be held against them.

Private telegraphic advices are as follows:

"Blanket verdict guilty; forty-six defendants in sixty-five minutes. Judge Rudkin's charge remark-

ably fair, intimating clearly that individuals under the blanket indictment had not been shown to be connected with acts of arson or sabotage and that no individual could be held under the law on account of his economic or political views or held responsible for the politics of any organization of which he might be a member. His charge was what is known as an 'acquittal charge.'"—Ed.)

Jury Disregards Judge's Instructions

Judge Frank H. Rudkin gave instructions to the Sacramento jury that would have resulted in a verdict of "Not Guilty" if the jury had followed them. Instead it went blandly out and came as blandly in again in seventy minutes with a verdict of guilty for all forty-six on all counts.

It is possible that the jury did not understand the judge. Anyone who has watched that jury through the trial can see that that is probable. Or perhaps something in the way Tombstone Duncan looked at them was interpreted to mean: "Pay no attention to the judge; he has to say fair things in his position, but you don't have to heed him. YOU know." Or perhaps the jury had become soured on the judge because of his occasional curt words to the prosecution when that august group of legal luminaries said or did something obviously improper. Anyway, they treated the judge and his instructions with sublime contempt.

Judge Rudkin first explained the four different counts: First, conspiracy to overthrow the government; second, conspiracy to intimidate, threaten and oppress certain employers; third, conspiracy to persuade 15,000 persons to evade the Selective Service

Act; and fourth, conspiracy to violate the Espionage Act.

"Gentlemen of the Jury," he said of the first count, "these men are charged with conspiring to overthrow and put down the government of the United States and prevent the carrying out of its laws. Before you can find them guilty, you must find that the authority of the government itself was opposed. If you find these men to be arrayed against a class, that is not sufficient to constitute conspiracy against the government. There must be a concrete attempt to interfere with the government and prevent or delay the carrying out of its laws."

Was There a Conspiracy?

Of the four counts in general he said:

"While there are four counts, conspiracy is charged in each. In each case there must be proved some overt act directed against the particular federal law mentioned in that count.

"The jury will be justified in bringing in a verdict of guilty of conspiracy when the government has satisfied them beyond reasonable doubt that some unlawful act against each of the federal laws has been committed by the defendants conspiring together; when the government has satisfied them beyond a reasonable doubt that everyone of the defendants was in the conspiracy; and when the government has similarly satisfied them that the conspiracy is consistent with a rational theory.

"Consider each count separately in this manner. First, ask the question: 'Was there a conspiracy?' If you are not satisfied that there was, proceed no further, but return a verdict of not guilty. If you

are satisfied that there was a conspiracy, next consider whether or not these defendants took part in such conspiracy. If you are convinced that they did so, you are justified in bringing in a verdict of guilty."

Overlook Mere "Transgressions"

Following are the chief instructions given by the judge after his general and preliminary instruction:

"The prosecution must prove to your satisfaction and beyond any reasonable doubt that a conspiracy actually existed, and not only is this necessary, but the prosecution must also prove beyond any reasonable doubt and to your entire satisfaction that a conspiracy existed having for its purpose the particular thing charged in the indictment.

"For instance, it is charged in the first count of the indictment that the defense conspired to by force prevent the execution of certain laws of the United States. If the prosecution should fail to prove against these defendants a conspiracy which had for its purpose that particular design, no matter what other conspiracies or what other transgressions of the law the prosecution might prove, it would nevertheless be your bounden duty to find these defendants not guilty under said charge.

"You are instructed to carefully distinguish and discriminate between what may appear to you to be transgressions of the law, having nothing to do with the crime of conspiracy, and what may have some bearing upon the particular conspiracy charged. No destruction of property that is not in furtherance of a conspiracy can be taken into consideration.

Conscientious Scruples No Crime

"If the proof of the prosecution merely shows that the defendants expressed a conscientious objection to the declaration of war or continuance of a state of war between the United States and Germany, then and in that event you must find them not guilty.

"None of the defendants can be found guilty by reason of the fact that they may have stated, during times of war, that they did not believe in war, or that they did not believe in the so-called Conscription Law.

"You are instructed that you are to try these defendants and to consider this case in the same manner that you would any other case.

"These defendants are on trial, not their organization.

"The indictment is not in itself evidence of guilt.

"You are instructed to give each defendant separate consideration.

Whole Chain Breaks Down

"It is the bounden duty of the prosecution to prove every material fact by more than a preponderance of evidence. These defendants are presumed to be not guilty at every stage of procedure. If any circumstance in a series of circumstances depended upon to convict any one of these defendants is wanting, or any fact in such series of acts remains unproven to your satisfaction beyond reasonable doubt, the whole series of facts or the whole chain of circumstances falls, and you cannot find such defendant guilty.

"The prosecution cannot fasten guilt upon any defendant by suspicion, or by the mere fact that

the defendant may have been a member of an organization known as the Industrial Workers of the World, nor by a mere association of parties. Neither acquaintanceship, friendship nor association with persons proven to your satisfaction to be guilty, is to be taken as conclusive proof of the guilt of any of these defendants.

"If you find the evidence to be consistent with the theory that these defendants are guilty, and also consistent with the theory that they are not guilty, it is your duty to return a verdict of 'Not Guilty.' "

Labor Has Right to Defend

It is significant that Judge Rudkin gave a special instruction to show that labor has a right to defend its accused members. That is self-evident, one would think. But Special Prosecutor Tombstone Duncan announced gravely once during the trial that he was going to prove that certain of these defendants actually attended the trials of other members, spoke and wrote in their behalf, helped to raise funds for their defense and undertook to interest others in the case. These things he was going to charge up against members of labor organizations. They had no legal right to defend fellow members, he broadly implied. (Perhaps this belief of Tombstone's accounts for the fact that so many of the forty-six are on the indictment merely because they did defense work for men on earlier indictments.) Later in the trial Tombstone Duncan denied he ever said such a thing, but it was in the record. And enough fuss was made over labor's RIGHT to defend itself in court so that the judge included the following paragraph in his instruction:

"The law guarantees every person accused of a crime the right of defense by counsel or his or her own choice; and the friends or relatives of such accused person or fellow members of the same organization have a perfect right under the law to render assistance to such person by supplying money for attorneys, by organizing for such purpose, or by any other legitimate means."

Hits Coutts and Dymond

Coutts and Dymond were mentioned, though not by name, in the following instruction given by the judge.

"If you find the prosecution has produced in this case certain witnesses who admit that they took part in the commission of the offenses charged in this indictment or from whose testimony you are satisfied of such participation, such witnesses are to be considered by you as accomplices and co-conspirators, and the evidence of any such accomplice or co-conspirator must be received by you with great caution, unless such evidence is corroborated by the evidence of other persons who are not accomplices or co-conspirators.

"You have a right to take into consideration the demeanor of a witness on the stand in considering and weighing the credit to be given to his testimony. You have the right also in considering the testimony of a witness, to take into consideration the fact, such fact be proven, that he either expects or hopes for immunity from punishment himself or that he has been granted immunity from punishment and is testifying in this case by reason of having been given immunity or freedom from punishment.

"If any witness wilfully testifies falsely on any material fact, you have the right to throw out all his testimony except such part as may be corroborated by the testimony of other witnesses."

Judge Rudkin closed with the instruction that the fact that forty-three of the defendants had conducted a "silent defense" was not to be held against them.

Then the jury went out and found the defendants guilty.

A Defendant Speaks

"We have kept silence throughout the trial; now we speak out. We do not ask for mercy, but we do intend to bring out some of the facts that have been hushed in this trial to show the mesh of error and perjury that makes up the 'evidence' against us, and—to get a few things off our chests.

"You have heard of 'direct action' and 'violence' coupled throughout the trial by Prosecutor Duncan. You will never find an instance where the two ideas are coupled in the literature of the Industrial Workers of the World. 'Direct action' has been persistently twisted out of its evident meaning and made to include ideas to which it is not remotely related.

Worker Will Tell Boss

"Shall I tell you what 'direct action' really means? Every employer claims the right to administer his business as he sees fit. He changes hours, wages, conditions of labor as he pleases. But the workman is taught that when he wants to make any such change he must go to court.

"The I. W. W. has taught and will continue to teach that the worker on the job shall tell the boss when and where he shall work, how long, for what wages and under what conditions. It will continue to teach that gradually the worker will get more and more power until finally he will take over the industries.

"We intend to go ahead with the One Big Union. We intend to bring the workers, all the workers, into one big union, and we don't seek a statute to authorize it, either. We know that no body of men, not workers, would ever make such a statute. We know that at a convention of bourgeois 'revolutionists' held in France on Sept. 28, 1792, attended by all the great figures of the French revolution, and even our own Thomas Paine, a law was passed that made it illegal for working men to organize. In the face of opposition like that the worker has gone ahead and won what he has won.

Dealing with Men.

"We intend to go on farther, to go ahead frankly, openly, forcibly.

"When counsel was talking about 'direct action' and 'violence', he left out one very important incident narrated in Vincent St. John's book. That was the incident of McKee's Rocks You are not playing with children. You are dealing with men now who thoroughly understand conditions as they are.

"Now for some of the facts about this case:

"The prosecution has stated in court that all the defendants are members of the I. W. W. That is not true. W. H. Faust has not been a member for three

and a half years. He was prospecting out here in the hills and was arrested on the testimony of people who a year ago had jumped his claim. Felix Cedno is not a member. And furthermore he never in his life wrote a letter in English for the reason that he cannot write a word of English.

"F. A. Lamar, Horst's detective, swore he heard Freddie Esmond, Scott and McGowan say I was handling the picket line at Wheatland. I was in the Marysville jail during the whole period of the picket line, and the records will prove it. And isn't it a strange thing that with Wheatland only a few miles away, not one witness was brought from there to testify? Couldn't they get one witness in the whole place instead of going afield and bringing in a detective?"

"Now for Next Perjurer!"

"Now as to the other perjurers. Coutts! I hardly know what to say about that unfortunate creature. He is a product of the times. But Duncan himself admitted that Coutts might have lied. The attorney for the prosecution admits that during the trial his foremost witness may have lied on the stand! Can you expect us to come into court with any great respect for law that condones perjury?"

"The lid of that bean pot there is not sealed (pointing to the earthenware retort that Coutts said he made in the Oakland hall for the manufacture of phosphorus). If phosphorus were made in that retort, the gas would have left nothing alive in the place. And the retort could not possibly have been made in the Oakland hall because strong heat is required in the making of such an earthen furnace and

we had nothing there, not even a wood stove.

"O'Connell was in a hospital, as records will show, at the time Coutts had him at Westwood. Coutts himself was ordered out of camp because he stole goods from his fellow workers.

"Dymond said I was pro-Ally and against the war! And he charges me with being against the war in 1916 when, if you remember, President Wilson was 'to proud to fight'.

"I am against war, just as I am utterly and absolutely against the wage system. But I would no more make my puny effort to hamper the execution of the war than I would refuse to comply with the requirements of the wage system as long as we have it with us. If I had been called, I would have answered the call, just as I go now and find myself a master under the wage system.

Never a Good War

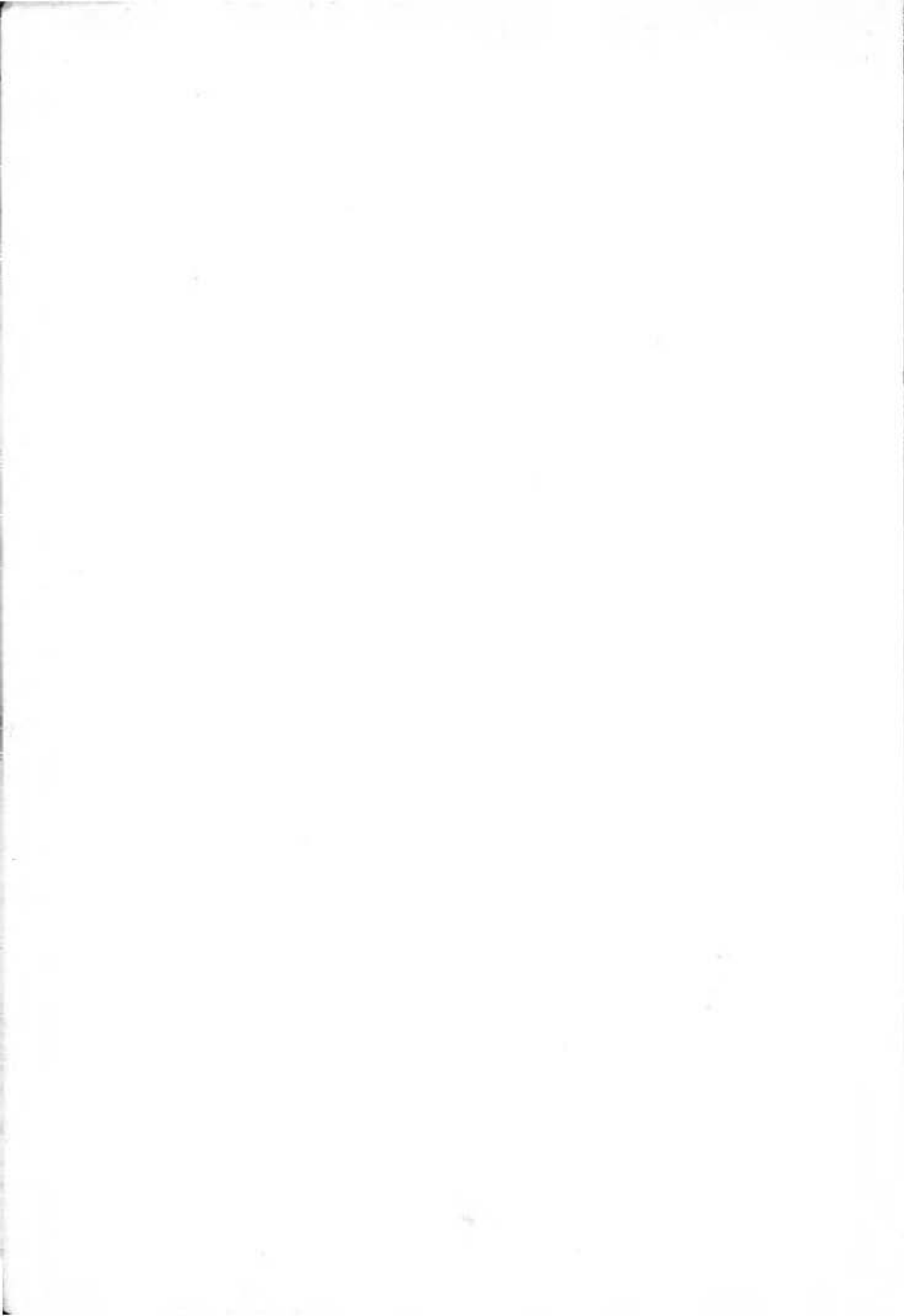
"There never was a good war nor a bad peace. But the war in Europe was an absolutely necessary and inevitable thing, a readjustment of outworn conditions. Germany was lapsing over into the present day of the feudal system and had to be eliminated. The Junker gang had no more conception of its place in society than if it had come down from the Middle Ages. War IS a survival of the bestial state.

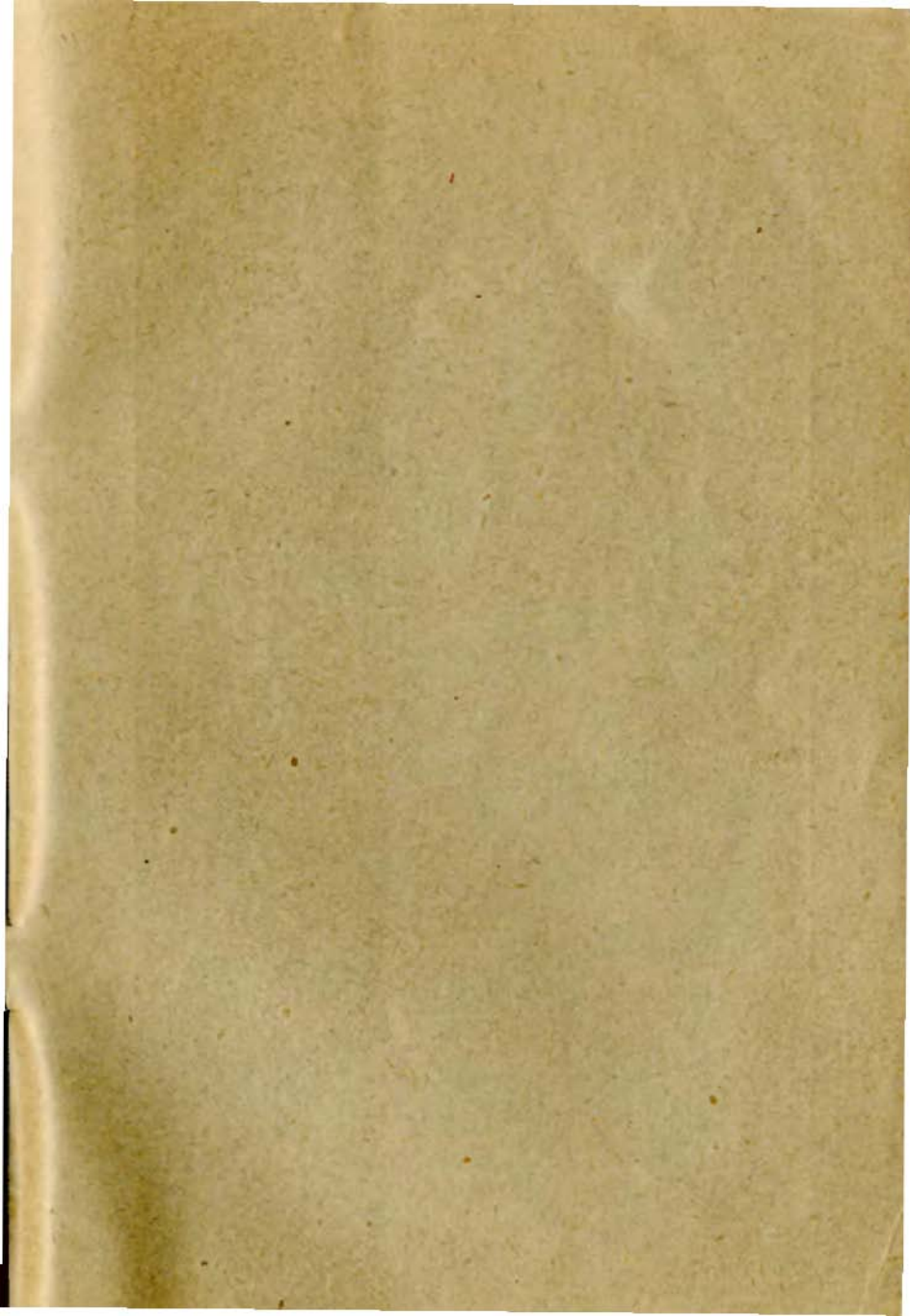
"Only one generous, kindly doctrine ever came into the world, only one that will put individual responsibility where it belongs. That is the doctrine that might is right.

"In 1914 there were at all technical schools, colleges, universities and other higher educational in-

stitutions in this country, 266,000 persons. Out of 110,000,000 only 266,000 have a chance for real culture. Set against that the fact that in the same year there were in this country more than 500,000 public prostitutes, not counting the thousands of poor girls that are doubly exploited by their employers. That is what we have to show as the flower of our civilization, a civilization that could seize Freddie Esmond, a seriously sick man, and make him sleep on the jail floor without bedding for more than two months.

"I am against this, against the civilization that produces such things. I hope to see the day when there shall be a different degree of sweetness and light in this country.





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