
The Socialist Party on Trial.

by William Bross Lloyd

Published in *The Liberator* [New York], v. 1, no. 12, whole no. 12 (February 1919), pp. 10-13.

Not a trial of the Socialist Party, *positively not* — the trial at Chicago, before Judge Landis, which began December 9th and lived into the new year. So the prosecuting attorneys scrupulously emphasized. So the Judge echoed time and again. Only a trial of five individuals joined in conspiracy to pester the military program of the United States. The reading into the case of every pronouncement about war of the American party, of similar declarations from every European country in 1914, and of the international resolutions — all merely to show “state of mind.” ...Nothing to do with socialism or socialists as such, nothing at all.

The conspirators: Victor L. Berger, Socialist Congressman-elect, member of the National Executive Committee since the party began, editor-in-chief of the *Milwaukee Leader*, a Socialist daily, international delegate of the party on many occasions; Adolph Germer, National Secretary of the party since May 1916; J. Louis Engdahl, editor of the party publications; William F. Kruse, National Secretary and Director of the Young People's Socialist League; Irwin St. John Tucker, knight errant of socialist evangelism. There is a lingering doubt about the proper handle to Tucker's name; it was “Father” on direct examination and “Mis-

ter” on cross-examination. There is doubt, too, about this defendant's conspiratorial talents; he is so Tucker-minded.... There seems to be a semblance of the Socialist Party on trial.

The conspiracy: under the Espionage Act. There you have it. District Attorney Clyne asked each juror, in precisely the same tone intonation



of solemnity, “Are you in sympathy with the Espionage Law?” Answer, “Yes,” with un-failing rejoinder, “As you are with all laws of the United States.” It is quite plausible that Christmas and New Year imprisonment has diminished this spontaneous sympathy with the Espionage Law on the part of the jurors, but it is altogether beyond question that nothing has occurred since December 9th to add to their understanding of the law. In fact, nothing has happened since June 15th, 1917, when the law went into

force, to give it definition.

The Espionage Law, legalism aside, is a clumsily subtle way of lending to the Administration the aid of the courts in enforcing the official war morality. The language of the law would seem to bear on actual military happenings, but hardly any of the Federal judges have so read it. Criminality under this law consists of any attempt to impugn the idealistic advertisement under which the war

is being imposed. And conspiracy is a joint attempt.

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The Debs trial had the severe simplicity and intensity of Greek drama. It was a five day-act performance, vibrant with the piercing personality of Gene Debs. But this party conspiracy trial is scattered, episodic, and largely trivial. It takes relief in the few chances offered to the defendants to transmit themselves to the jurors, and in the astonishing revelations of aggressive personality on the part of have a dozen witnesses who took the stand in behalf of the defendants.

Assistant District Attorney Fleming, who leads in the prosecution, is an agreeable looking young man who looks better than he sounds and sounds better than he thinks. When embarrassed he blushes and whatever he says or asks he emphasizes, simply varying the degree of emphasis. All in a full, metallic voice, yielding a grating monotony. The importance of Fleming in my present thought is that I owe him some recognition for the twenty days of irritating stupidity he has inflicted upon me. Secondly, Fleming and Clyne — and Landis and the jurors — make understandable the skirmishing against the class war in Federal courtrooms. Assassination without risk, I call it, with some talent to give grave solemnity to nothingness. This young man is curiously in earnest about what he is doing.

Having included Landis in the foregoing generalization, let me pause now to take him out — and promptly to put him back in again. His Honor has figured in these pages before, under the pen of Jack Reed and brush of Art Young. I will not venture on rivalry in description. Landis is the only interesting judge I have ever seen in action. Judges are not usually in action. Landis is. He is one of the alleviating circumstances of trial tedium. First, you must find him. Then you can study his pose. When he speaks he is either ex-

tremely quiet and expressionless or vigorously in eruption, with his eyes flashing fire out of a pallid dissipated face, given distinction only by his shaggy crest of gray. Landis is distinctly not stupid, which clearly differentiates him from district attorneys. But his judicial unconventionalities only mark an intense realism, not a diminution of faith in his judgeship. He is dead in earnest about his job, its essentials, not its frills. He takes his judgeship straight.

Landis wanted to try this party case. He undoubtedly gave himself much satisfaction in his disposition of the “wobblies.” His wholesale distribution of 20-year sentences and maximum fines, after the automatic verdict in that case — about one-half minute per defendant — was a rare example of judicial ferocity. The refusal to allow bail pending an appeal evidenced a clear consciousness of the remorseless nature of the fight behind the courtroom fight. But Landis disdains sanctimonious pretense in serving the social system in which he functions “willfully” and “knowingly.” He denied a motion for a change of venue. A judge rarely insists on the prerogative of trying a case simply because it is on his calendar. There is no person in the courtroom who has any doubts about the sentences if there is a verdict of guilty. They will be the limit.

Fleming, inspired by a romantic young braggart named Schiller, once the reddest of the “red” among Yipsels, now the pillar of the prosecution against the American Socialist Party, has made the “conspiracy” turn upon the use of the YPSL by the Socialist Party to carry out an actual assault against the war.† The youngest defendant, Kruse, apparently ignored in the indictment, as National Director of the YPSL becomes the pivot of the “conspiracy,” and most of the Government’s testimony centers on him. The details of a convention of the Chicago branch of the YPSL, held in May 1917, were repeated ad nauseam. On this one local meeting, by Fleming’s insistence, is to turn the “criminality” of the American Socialist

Party — at a time when the whole world is veering so swiftly toward the new civilization of the dominant proletariat under socialist inspiration that the minds of men are dizzy with joy and fear.

In May 1917 the young Socialists were in a quandary. There was the war, and the imminence of conscription. There was the St. Louis protest. The authors of the anti-war proclamation and the National Executive Committee failed to make definite the implications of the party position in relation to individual military service. This was unnecessary in April 1917. It was crucial when compulsory service was ordered.

This was the first time young Americans had faced this problem. American military experience had left only the precedent of ease in raising a volunteer army. There had been nothing more than the skirmishes of marines during the lifetime of those required to register for the draft on June 5th, 1917. The European experience was not enlightening, because founded on a principle of permanent militarism, which had always been spurned as un-American. Even so, it had been vehemently argued that the European Socialists should have met death by turning against their exploiters rather than against each other. Whatever counsel came from the older American Socialists to their young comrades, when not enigmatical, was to obey the law.

William F. Kruse is a young man who should make himself count strongly in the future of American socialism. He was born in Jersey City, of German and Danish parentage. His father was a sailor. Kruse went from the factory to the Rand School, and is now completing a night law course. His physical endowments fortify his mental gifts. A tall, stalwart blond, finely featured, loose-jointed, of mild expression, a clear thinker and a forceful speaker, Kruse has exceptional equipment for party leadership. His spiritual experience of May 1917 was exactly what might be expected of a young man of fine sensitiveness facing the political and personal problems of conscription si-

multaneously. He is not the absolutist type, one whose personal actions are rigidly determined by his intellectual conclusions, like the witness Carl Haessler, whom I shall describe later. Kruse is strongly imbued with the organization sense; he sees himself as a unit in a mass, rather than as an individual against the universe.

The prosecutor unconsciously went to the heart of the whole matter in turning his assault primarily against Kruse. I have not the patience to detail here the material by which he aims to prove that Kruse was the responsible mover in anti-draft registration and anti-military-service campaigns, abetted by the propaganda and active cooperation of the other defendants. But he realized that Kruse presented the opportunity to make graphic to the jury the precise relation between anti-war sentiments and refusal or attempted evasion of army service. And, in a subconscious way, it is true that the test of socialism as antithetical to war is in the spirit of resistance of its young adherents. That resistance, carried to the last extremity by some of the young radicals, has been rewarded by imprisonment and torture. Teaching the spiritual basis of that resistance, whether inspired by economic philosophy or religious faith, has brought 10- and 20-year sentences to teachers, poets, agitators, and prophets. In this trial both these manifestations of "criminality" have been developed simultaneously.

As the facts stand, Kruse expressed ardent sympathy and admiration for the handful of Yipsels here and there who accepted the party declaration against the war as a mandate against personal service, at the cost of 10-year, 15-year, and even longer penitentiary sentences. Kruse wrote a letter on the day before the registration expressing uncertainty as to what he would do himself, though he had taken a clear stand against the YPSL as an organization going on record against compliance with the draft law. Then, on the day, he registered and advised others to register. The jurors may speculate as to the potential

insubordination which Kruse revealed to them on the witness stand, and forego any discrimination between Kruse as an individual and as a secretary.

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Carl Haessler came to the witness stand in convict garb. The clash between the man and his clothing was an instantaneous impression. The oversized gray shirt and brown trousers seemed to have little contact with the wearer. In sharp focus was a face to rivet attention, pale and wasted, but alert, of eagle decisiveness — an exceptionally fine forehead, auburn hair, and flashing eyes. Asked to be sworn, he responded in a clear, firm voice: “I do not swear; I will affirm.” I never experienced so sudden a change of emotional atmosphere as in that courtroom in the moment when Carl Haessler stood erect, hands at sides, looking past Judge Landis to the clerk who read the affirmation.

Haessler came in at the end of two and a half weeks of the trial. Just before him came Mrs. Haessler, a demurely sad bride of “a year and a day.” In the hope of persuading the young couple to put the blame of Carl’s imprisonment — 12 years at hard labor for refusal to don the uniform — on advice of Victor Berger, who was his friend and counsellor, Clyne had gone to Fort Leavenworth to interview Carl, and Fleming had brought Mrs. Haessler in from an Illinois town where she was teaching school in his Chicago office. And it was to reveal this attempt on the part of the prosecution and its utter failure that the defense called both to the stand.

Mrs. Haessler answered under stress of high emotion in a tender voice, giving a sense of hunted bravery and pride. (Carl had been brought into the courtroom, handcuffed, while she was on the stand.) Mrs. Haessler stated that she was dismissed by the school authorities immediately after the unsatisfactory interview at Chicago. She had received the impression that if she answered Fleming’s questions satisfactorily it might be of help to Carl. Vic-

tor Berger, she knew, had urged Carl to put on the uniform because he believed individual protest was not effective.

Then came Carl Haessler, graduate of the University of Wisconsin, a PhD of Illinois, Rhodes Scholar at Oxford, professor of philosophy — convict. The play of his mind for an hour under crossfire was one of the rare sensations of a lifetime. There was no person in the crowded courtroom who missed it. He became an anti-imperialist, he explained, by virtue of the Oxford influences, in contradiction to the purpose of the great imperialist Cecil Rhodes in founding these scholarships. He doesn’t know that he has a conscience; his opposition to service in the war is not private, but public in its nature. He was against our entrance into the war because of its imperialistic impulse. He is suspicious about adventures in democracy undertaken by governments controlled by imperialists.

The answers came quick, clear, decisive, and pleasant. The examining lawyer attempted to introduce a note of pathos, which Haessler deftly countered by exhibiting a temperamental incapacity for resentment, an impersonality above taint of sentimentalism. Berger was not fast enough to travel in his company in politics and economics. He tried to act as moderator; tried to keep the witness out of jail. Berger was proud of the Socialist record of observance of law; he argued that Socialists in jail are of no use to the movement.

Then Haessler was asked to tell about his talk with Clyne at Leavenworth, and he went on at a terrific rate for about twenty minutes, uninterrupted, with brilliant answers to Clyne’s questions, none of which he seemed to have forgotten — until Clyne begged the court for mercy.

“The St. Louis platform?” A very moderate document, satisfactory as far as it went, but should have included individual as well as mass resistance to the war. “How did he get his opinions?” In England — and by a careful reading of Wilson and McAdoo explanations of the purposes of the

war. "As to Belgium?" Roosevelt had changed his mind, and the witness had not. Would the war be of any benefit? Yes, if the red flag triumphs. What did Berger say? "Why, I don't remember what Berger said; I was more interested in my own views than in his." But Haessler remembered quite perspicuously when he could contrast Berger's opportunism sharply with his own absolutism, as when he characterized Berger as a "two-shirt internationalist."

Mrs. Harriet Thomas, of People's Council distinction, heard Germer make one of the speeches which was stressed against him. Her performance on cross-examination as a witness was a delicious bit of high comedy, with Fleming as the victim of a brilliant feminine intellectuality which he could not hold within any bounds. When he tried to riddle her with the charge of pacifism he was floored with the retort that from her viewpoint the political offensive was more important than the military offensive, and that it was eight months after the People's Council had insisted upon definition of "war for democracy" that Wilson issued his first definite statement (which, by the way, is daily losing all traces of erstwhile apparent definiteness).

Before Fleming could catch his breath at one of her sallies, she turned to the Judge:

"And, Your Honor, I do not think it is necessary for Mr. Fleming to emphasize every question by continually pointing his finger at me." But Fleming was persistent.

"Now then, Mrs. Thomas, if you were a man" — and something about military service. Instantly came the answer:

"If I were a man? That hypothesis does not interest me."

"I object to the witness's voluntary answers."

"And I object to counsel's voluntary insinuations."

Poor Fleming.

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The experiences of the *American Socialist* and the *Milwaukee Leader* with the post office censorship were told by Engdahl and Berger. It was The Masses story over again. There was no way to comply with the Espionage Law in publishing a paper which Burleson did not like. A single issue was held unmailable; then the second-class mailing privileges were suspended because of irregularity of publication.

In this connection Frank Walsh appeared for the defense. He told about two conferences, one with an assistant to the Attorney General, the other with Postmaster-General Burleson. A number of radical papers were represented. The purpose was to establish a definite basis for the censorship so as to avoid financial ruin and imprisonment for publishers willing to conform to understandable limitations. Frank Walsh, Clarence Darrow, Morris Hillquit, Seymour Stedman, Amos Pinchot, and others made common cause in the plea for a "fair" censorship. Burleson swept the whole thing aside with the statement that the Socialists had better say nothing about the war, because they were against it. Let them confine themselves to socialism! If they had any complaints about his way of handling these papers, let them go into the courts.... Well, we have been in the courts — and are still there.

There is something refreshing about Frank Walsh. I am willing to drop my grouch against liberals when they *function* as liberals, never when they *talk* their vapidities. Walsh made over a hundred speeches for Wilson, so he testified, because Wilson "kept us out of war." He was against going in. Afterward he accepted the need for some control over the press. But espionage laws go against his instincts, and he volunteered his services to help put the censorship on a basis of open play and fair rules. Walsh submitted to President Wilson a draft of a series of rules which would at least have given decency to the process whatever may be said about censorship under any circum-

stances.

Clarence Darrow, also a witness, took the case of the American Socialist to the President directly. Wilson explained that it was hard “to draw the line.” Further, Darrow narrated, they had an agreeable and harmonious “philosophical” discussion.... Nothing slipped into the record to show any shift from the stiletto style of censorship unto this day.

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Engdahl is distinctive among these five defendants, in freedom from perplexities. Everything about Engdahl is straightforward and complete. He is dead in earnest, with sober endurance and a buoyancy of spirit to ride unperturbed through the storm. He listens as Debs did at Cleveland, as a casual auditor, not as having a personal stake in the performance. With Engdahl, logic and feelings march in even step. He approved the anti-war stand of the party, never questioned it, still approves it. He is an internationalist, in ardent sympathy with the Bolsheviks. Engdahl recounted his associations with the brilliant comrades across the water, particularly his visit with Karl Liebknecht in his Berlin law office.

If acrobatic dexterity in relation to espionage laws becomes the American way of Socialist agitation, the politically irreverent Tucker will attain daredevil distinction. Assuming, of course, that he has not yet volplaned himself into jail. Clyne, of sour, puckered mien, undertook the cross-examination of Tucker, proceeding under burden of a heavy weight of nothingness. He proved an excellent foil for Tucker’s aggressive wit. Tucker did not testify; he “held forth”... During the past three weeks Tucker has been busy writing poetry and nonsense, lecturing on ancient and modern imperialism, holding church services. He attends the

trial regularly, as the best farce in town.

Conspiracy? Tucker worked in the National Office for six weeks.

“I fired him,” Germer testified.

“I resigned,” explained Tucker, “for two reasons — one that I couldn’t get along with Germer, the other that he couldn’t get along with me.”

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And Berger — who now holds the center of the stage, and talks on the witness-stand just a little less tempestuously than in committee session, with more of the patience of the schoolmaster. His explosive naturalness of intonation and gesture, and forgetfulness of court proprieties, make the scene incongruous. Berger said that the St. Louis Convention was not his kind of a Socialist convention. He insists that he is a “constructive Socialist,” a “historical Socialist, instead of a hysterical one.” He speaks cynically of the Bolsheviks, of the IWW, of the “impossibilists.” Not anti-militarist, not anti-national, for obedience to all laws, but against this war because it is a capitalistic war. Nevertheless, a subscriber to war loans and charities, and boastful of a family record of army service.

I might recall more of Berger’s testimony. He has been at it two or three days.... I heard Debs at Cleveland. I remember everything he said. It warms the heart like the rising sun.

[After the verdict was rendered Mr. Lloyd telegraphed his final comment: “The verdict in the Berger trial proves that the Socialist Party is an illegal criminal organization, as viewed by our courts and prosecuting attorneys. Very well. So was the Russian Socialist Party, and see where it is now. No American Socialist need fear for the future of his party.”]

Edited by Tim Davenport. All ellipses in original document.

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