The Case of Fraina and Cheyney

IN the case of Louis C. Fraina and Edward Ralph Cheyney, arrested at a meeting of Conscientious Objectors, a jury in the United States District Court returned a verdict of "guilty" on the indictment alleging conspiracy to aid, abet and induce men of military age to evade and violate the Draft Law.

The government had indicted Fraina and Cheyney under the Draft Law and under the criminal section of the Espionage Act.

Each indictment carried two counts: the Draft Law indictment alleged (1) that the defendants had conspired to themselves violate the draft law by agreeing to refuse military service; and (2) that they had conspired to aid, induce and abet others to violate and evade the law.

The indictment under the criminal section of the Espionage Act charged (1) an actual attempt to create mutiny, insubordination and the refusal of duty in the army and navy of the United States; and (2) a conspiracy to commit the same offense.

The prosecution introduced as evidence the speech made by Cheyney as chairman of the meeting, and the speech of Fraina as well as his leaflet on "Conscientious Objectors." The passages in Fraina's speech considered most objectionable by Assistant United States District Attorney Harold A. Content were as follows:

"This country is blessed from the capitalist standpoint, and cursed from the working class standpoint, by a president peculiarly adept in the coining of phrases, in the making of symbols, which in themselves mean nothing in the struggle for democracy, but which are so glittering that they exert a poisonous influence on the minds of the people."

"They are not going to exempt the Conscientious Objector. They are going to penalize us. They are going to compel us, if they can compel us. But I say right now that they cannot conscript the Conscientious Objector. They cannot conscript the Conscientious Objectors, because we have made up onr minds and we are going to stick."

The passages from Fraina's leaflet considered most objectionable are as follows:

"The Conscientious Objector is determined, come what may, to rufuse all forms of military service.

"He is equally determined to refuse alternative, or non-combatant service."

"Against all forms of military service, because all are equally objectionable,—that is our animating purpose."

"The Conscientious Objector is supremely indifferent to what the government may decide."

The prosecution was determined upon a conviction, refusing counsel for the defence sufficient time in which adequately to prepare the case. It is understood that this procedure was dictated by order from above.

During the trial itself, which lasted four days, the defense, under the able management of Louis B. Boudin, counsel for Fraina, completely smashed the case of the prosecution.

Boudin first succeeded in having the first count in the Espionage indictment dismissed; and before the case went to the jury, he made a motion to dismiss the Espionage indictment entirely, on the ground that the statute referred to attempts to incite mutiny, insubordination and the refusal of service in the **actual armed forces** of the United States, and that the evidence did not show that there were present at the meeting any men actually in the military service of the United States. In spite of the frenzied arguments and objections of Prosecutor Content, the Judge granted the motion. This is an important ruling, as it shows that there should be no indictment under the Espionage Act unless the actual military forces are involved.

In his address to the jury, Mr. Content indulged in a lot of talk about Americanism, and free speech not being license, and insisted upon a verdict of guilty.

In his speech to the jury Boudin made a powerful argument on the merits of the case. This was a prosecution of over-excitement. Conspiracy is legally very broad and indefinite. A specific act or crime is not sufficient proof to convict, as the facts must show a conspiracy. The simple fact is that there has been no evidence introduced to show that these defendants entered into a cospiracy. The purpose of the meeting was to discuss the problem of Conscientious Objectors, to create public sentiment to bring pressure to bear upon the government and the president to recognize their convictions. This has been a general public problem, discussed even by the Secretary of war; and this meeting, and the speeches and leaflet, were part of this general public discussion.

When the case went to the jury, there were two counts in the indictment, the one aleging that the defendants conspired to themselves evade the draft law, and the second that they conspired to aid, abet and induce others to do the same thing. The jury found the defendants not guilty on the first count, and guilty on the second.

The Judge, Robert T. Ervin, imposed a sentence of thirty days for each defendant in the Mercer County, N. J. penitentiary. The reason for the light sentence, according to the judge, was the youth of the defendants. District Attorney Content pleaded for a heavy sentence, particularly for Fraina, whom he accused of being the more dangerous of the two, editor of The New International, and very active in the propaganda.

The case is being appealed, in spite of the light sentence, because there are vital general principles involved. This is the first case where Conscientious Objectors have been convicted because of their propaganda; Fraina and Cheyney were in fact indicted as Conscientious Objectors, tried as Conscientious Objectors, and convicted as Conscientious Objectors. Through them the prosecution tried to strike a blow at the movement that they represent.

Moreover, the law of conspiracy under which they were tried is one of the most dangerous statutes that can be and has been repeatedly used against the workers and their representatives. Where the prosecution cannot prove a crime, they indict for conspiracy, and in this way secure a conviction which otherwise would be impossible. The case must be fought to a finish.

But most important of all is this fact: that if the verdict stands, organizations of Conscientious Objectors may be automatically indicted for conspiracy to violate the draft law. Here are the facts in proof:

The defense introduced in evidence two telegrams, to show that the meeting was part of a general movement to discuss the status of the Conscientious Objectors. The first telegram, sent by The League of Conscientious Objectors to Secretary of War, Newton D. Baker, was as follows:

"On behalf of 3500 Conscientious Objectors whose idealism compels them to decline all forms of military service, we ask: What of the Conscientious Objector? May we have your reply not later than Thursday, so that we can advise our meeting the stand you suggest."

The reply, sent by F. D. Keppel, Confidential Clerk to the Secretary of War, was as follows:

"Telegram received. No specific answer at present, matter being still under consideration by the President and the Secretary of War."

In his charge to the Jury, the judge used these telegrams against the defendants. He said in substance that if the defendants knew of the sending of the first telegram, and were aware that the organization holding the meeting consisted of men who "declined all forms of military service," then the defendants were guilty of implied conspiracy, and the jury should find them guilty.

This ruling is monstrous, and the verdict must not be allowed to stand. If it does, then two Conscientious Objectors are guilty of conspiracy by virtue of their convictions, and organizations of Conscientious Objectors may be automatically indicted and convicted.

The issue is serious. We must fight out the issue. The defense is organizing a campaign in order to arouse public sentiment against the outrage. It needs money. Counsel for Fraina is not being paid for his services; all money received will be used to pay the actual expenses of the appeal (printing, filing, etc.) and for printing a pamphlet describing the case in full and for general propaganda. Send all funds to S. J. Rutgers, 477 East 16th Street, Brooklyn, N. Y.

Lenin on the Russian Land Problem

SINCE the peasants form the great mass of the Russian population, the outcome of the present revolution largely depends upon their attitude, and the position taken by different parties towards the land problem therefore is most important. The fact that the Provisional Government does not even attempt to solve the problem may contribute largely to its failure.

It is of great interest to learn the attitude of the Bolsheviki towards the peasants as expressed in a letter written by Lenin, in accordance with instructions from the Central Committee of the Social Democratic Party in Russia to the Congress of Peasants' Delegates. Part of the letter relating to the land problem reads as follows:

The difference between us (the Bolsheviki and the Social Revolutionists), as well as the Mensheviki, manifest themselves in three important issues: the land problem, the war problem and the organization of the State.

All the land must belong to the people. All the land of the big land owners has to be transferred to the peasants without payment. This is relevant. But the difference regards the following: will the peasants themselves take possession of the land immediately without paying anymore rent to the land owners, without waiting for the constitutional assembly, or will they not?

Our party is of the opinion that they should do this and advises the peasants to take immediately and locally possession of the land. They should do this as much as possible in an organized way, without causing damage to the property and should use all efforts to increase the production of grain and meat, as the soldiers suffer immensely from hunger. The constitutional assembly will have to arrange for the definite division of land, but a temporary division for the coming harvest is only possible through local committees, because the Provisional Government, a government of big land owners and capitalists, postpones the calling together of the constitutional assembly. In order to bring the land to the workers, it is necessary to create a close contact between the industrial workers and the poor peasants, who are semi-proletarians. Without such co-operation, it is impossible to defeat the capitalists, and without such a defeat the land will not come in the hands of the people, and there will be no liberation from poverty. Without money, without capital, it is impossible to get tools, cattle, seeds. The peasants should not rely on capitalists nor on rich land owners, who are capitalists as well, but only on the workers from the cities.

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