THE
ALBANY
"TRIAL"

By
CHARLES SOLOMON
One of the Expelled Socialist Assemblymen

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ADMISSION TICKET FROM THE VOTE
THUG POLITICS

SWEET

ADMISSION TICKET FROM THE VOTERS

From The Socialist Review
On November 4th, 1919, five Socialist candidates—Louis Waldman, Samuel A. deWitt, August Claessens, Samuel Orr and Charles Solomon—were elected to the Assembly from districts in New York City, two—Claessens and Waldman—by majority votes over fusion candidates, and the others by overwhelming pluralities. Their election certificates were duly issued to them and on the 7th day of January, 1920, they were sworn in as members of the state legislature along with Republicans and Democrats in the Assembly Chamber in full view of scores of other members. Shortly thereafter, the clerk of the Assembly called the body to order and the organization of the House was begun, which included the election of a Speaker of the House, Clerk and Sergeant-at-arms, and the adoption of rules. In these proceedings the Socialist members participated, nominating and voting for their own candidates for Speaker and Clerk. Then, about three hours after the Socialists had been inducted into office, Thaddeus Sweet, who had just been chosen Speaker by an overwhelming Republican majority, without notice to or motion from the floor, directed the sergeant-at-arms to present the Socialist members before the bar of the House. When they had been brought before him the Speaker addressed them as follows:

"You... have been elected upon a platform that is absolutely inimical to the best interests of the State of New York and of the United States. That platform is the doctrine of the Socialist Party and provides that every person elected thereupon subscribes to the rules and regulations, principles and tactics of that party."

In these unqualified words, before any formal charge had been made, purely on his own initiative, and before a
scintilla of evidence of any kind had been offered, before any body had been organized to receive such evidence, the Speaker of the Assembly indicted, tried and convicted five members of the House. This same man subsequently named the committee which was to give the five Socialists a fair trial—thirteen men, all but one of whom had voted to deprive the Socialists of their seats without demanding even a single item of proof against them.

Quoting from the constitution of the Socialist Party, the Speaker concluded that elected Socialist officials “are bound to act subject to instructions received from an executive committee which may be made up in whole or in part of aliens or alien enemies.”

He continued: “At the time of the entry of this country into the war the National Convention of the Socialist Party of America at St. Louis . . . 1917 . . . urged that the only struggle which would justify its members in taking up arms was the great struggle of the working class to free itself from economic exploitation and political oppression, and in such resolution appeared the following words: ‘As against the false doctrine of national patriotism we uphold the ideal of international working-class solidarity.’ The Socialist Party in convention assembled adopted a resolution of which the following is a part: ‘We, the organized Socialists of America, declare our solidarity with the revolutionary workers of Russia in support of the government of their soviets, with the radical Socialists of Germany, Austria and Hungary . . . and with those Socialist organizations in England, France, Italy and other countries who during the war as after the war have remained true to the principles of uncompromising, international Socialism. Long live the International Socialist revolution, the only hope of a suffering world.’”

The Speaker then read what purported to be a quotation from the Manifesto of the Third International, to make clear “what this solidarity means.”

“. . . If this House should adopt a resolution,” he went on, “declaring your seats herein vacant, pending a hearing before a tribunal of this House you will be given an
opportunity to appear before such tribunal to prove your right to a seat in this legislative body. . . .”

When the Speaker had concluded his remarks, Assemblyman Claessens, who had begun the service of his third term and had been designated to act as floor leader for the Socialist group, inquired:

“Mr. Speaker, do I understand that we have no rights until this body officially decides?”

“If the House so decides,” was the reply.

Assemblyman Waldman then spoke:

“According to the rules adopted by this body only a little while ago a member elected to this House can only be unseated when charges are filed against him and the Judiciary Committee reports on the situation, and then action taken by this House. Is it not true?”

No direct response to the inquiry came from the Speaker. Instead, he declared:

“The Chair rules that the Majority Leader be given an opportunity to present his resolution.”

The resolution, which was offered by Assemblyman Adler, of Rochester, recited that the party, of which the five men were members, had declared in convention at Chicago, August, 1919, “its adherence and solidarity with the revolutionary forces of Soviet Russia” and pledged itself to the “furtherance of the international Socialist revolution”; that the party had thus indorsed “the principles of the Communist International . . . pledged to the forcible and violent overthrow of all organized governments now existing”; that the national party Constitution obligated members in all their political actions to be guided by the Constitution and platform of the party; that the state constitution of the party provided a penalty of suspension or expulsion for failing or refusing, in public office, to carry out instructions received from the dues-paying party organization; that such instructions might be given by committees made up in whole or in part of aliens or alien enemies; that the party, in convention at St. Louis, in April, 1917, adopted a resolution against participation in the war; warned “against the snare and delu-
sion of so-called defensive warfare," and declared "as against the false doctrine of national patriotism we uphold the ideal of working class international solidarity"; that the party urged its members to refuse to engage even in the production of munitions of war and other war necessaries; that the five Assemblymen, as members of the party, had subscribed to its principles and its aims and purposes against the State and National Governments, and that they had been actively associated with an organization convicted of a violation of the Espionage Act.

The resolution then declared the five men deprived of their seats pending the determination of their qualifications and eligibility. The investigation was referred to the Committee on Judiciary, to be thereafter appointed.

When the Clerk had concluded reading the resolution, Assemblyman Waldman repeated his inquiry, demanding to know "whether it is not the rule of this House and the precedent of the state legislature that when charges are filed against any member of this House the duly elected member is permitted to represent his district until the Judiciary Committee renders its decision and renders a report to the legislature, whereupon the legislature acts?"

The Speaker replied, "the Constitution provides that the House is the sole judge of the qualifications of its own members and it may or may not grant a hearing. It is the purpose in this case that you shall be given a day in court."

After a few other parliamentary points had been vainly raised, a vote was taken on the resolution and it was declared carried by 140 to 6. The Socialists, excepting Waldman who refused to vote, voted against the resolution, as did Assemblymen McLaughlin and Evans, Democrats, from New York City.

Another attempt to obtain the floor was then made by one of the Socialist members who was informed by the Speaker that he had "no privileges on the floor" and that the "gentlemen involved will please retire to the back of the rail."
The Socialists remained in their seats. They regarded what had transpired as a violation of their constitutional rights and those of scores of thousands of their constituents. They refused by any conduct of theirs to acquiesce. They would wait until they were escorted out. It was an act of protest and disavowal.

"The sergeant-at-arms will request the gentlement to retire," directed the Speaker.

The five duly elected members, against whom no constitutional or personal disqualification had been proved, without being permitted a single word in their defense, and before the committee had been named which was to inquire into the charges contained in the ouster resolution, were led from their seats. The same afternoon, they issued the following statement:

"We regard our exclusion from the Assembly as organized violence on the very essence of democracy—the sacred right of the ballot. It is a denial of representative government. It is the shameless establishment of an ugly dictatorship—the dictatorship of naked plutocracy.

"The whole procedure is violative of the fundamental law of the land as expressed in the Constitution and the deepest traditions of the nation as voiced in the Declaration of Independence.

"We believe in the accepted methods of the Socialist Party—agitation, education and organization on the political and industrial field, and the organization of the workers, particularly, for the expression of social dissatisfaction through their unions and the ballot box.

"We shall continue to counsel a transformation of society in the direction of industrial democracy, which can be accomplished only when the workers own those things their lives depend upon, and we shall urge our auditors and adherents to act in an orderly and legal manner.

"It is not at all improbable that the action of the Assembly is part of a movement of organized capital, of which the Republican and Democratic parties are the political champions, to discourage the people with the methods afforded by representative government and to
provoke them to resort to the methods of violence. We shall do all in our power to expose this conspiracy and defeat its purpose.

"While this is a new experience for the five of us, it is not at all new in the history of the fight for social progress in its essential nature. Before and since Bismarck violence of this character has been employed with complete failure, and the recent history of the world especially indicates the result in this case.

"As in the past, the result of such procedure can only be to arouse additional interest in the principles which we represent and to stimulate the growth of the great movement to which we have the honor to belong. Its immediate political effect will be altogether favorable.

"We assert that not only was the organic law of the land disregarded in our case, but the rules of the Assembly were distorted to accomplish this lawlessness.

"We summon the American people to save their country from those usurpers who would make it a new czar-dom. Eternal vigilance is the price of liberty.

"We have nothing to apologize for as far as our opinions and convictions are concerned. We are all proud to be members of the Socialist Party."

II

The following day the storm broke. Speaker Sweet and his collaborators, who thought their act would be the signal for universal applause, were treated to a disquieting surprise. From press and pulpit, from leaders in political, industrial and social life all over the country, from civic bodies, trade unions and even old-party political organizations, in swelling numbers and volume, came condemnation of Sweet and the Assembly.

Along with the New York Call, the Socialist daily, the New York World led the press of the city in denouncing what the latter paper characterized the very next morning as the "legislative outrage" at Albany.

"This is a procedure as extraordinary as it is dangerous," declared the World. "For years the Socialist
Party has been recognized in every state of the Union. Its right to vote and to representation has been unquestioned. . . . Not with impunity are entire political parties thus proscribed and deprived of their rights under representative government. . . . While we are deporting aliens on the ground that they seek to substitute violence for the orderly processes of constitutional government, the New York Assembly excludes regularly elected representatives who are citizens, who were chosen by citizens, and who have strictly followed the constitutional process. What happened at Albany yesterday was a wanton denial of the fundamental principle of representative government. . . .”

The following morning, The World carried another blistering editorial in which the ouster was characterized as “The most revolutionary blow ever dealt to representative government in the United States. . . .” Quoting Speaker Sweet’s arraignment of the Socialist Party as “absolutely inimical to the best interests of the State of New York and the United States,” the World continued: “That is what every political party says about the political platform of every other party. If the action of the New York Assembly can stand as a precedent, representative government has ceased to exist in this State because all rights of the minority have been destroyed. No minority party can be represented in the Legislature except on a platform that is satisfactory to the majority party. . . . It is a doctrine of despotism in defiance of every principle upon which representative government rests. . . .

“Has the Assembly lost all sense, all reason? The thing it has done is incomprehensible. The rights and liberties of every citizen of New York, no matter what his politics may be, are put in jeopardy when the majority denies to the minority the constitutional processes of free government. It is the duty of every citizen who respects law and order and the guarantees of the Constitution to support these five Socialists in the fight they are making for the vindication of a principle without which representative institutions in this state have ceased to exist.”
"There can be but one opinion concerning the action of the Assembly at Albany yesterday in suspending its five Socialist members," came from the Evening Post, which continued: "The Assembly action is a sinister threat against the fundamentals of democracy and representative government. . . . If this stands no minority is secure in the future against excommunication on the ground that it is 'inimical' to the public interests."

"The disfranchisement of a minority, no matter how objectionable or obstreporous it may be, is a serious matter." Thus spoke the Evening Mail. "... The disfranchisement of minorities has proved a dangerous course in every country where it has been attempted." In another editorial the same paper declared: "It is a grave question in the minds of many good citizens—citizens whose Americanism is beyond question—whether such a sweeping disfranchisement would not be in direct conflict not only with the letter of the Constitution but with every tradition of democracy. It is also a grave question whether such a repressive proceeding would not directly stimulate the spirit of discontent which it is designed to suppress. . . . It is a flat contradiction in terms to demand that malcontents confine themselves to constitutional means of expressing their desire for changed political and social conditions, and then to deprive them of those constitutional means by debarring them from all participation in legislation. The issues involved . . . lie at the basis of our national life."

"Restore those Socialists!" demanded the Brooklyn Standard Union. It described the action of the Assembly as "utterly wrong in principle and lamentable as a matter of policy." The charges against the Socialist Assemblymen it said were "ridiculous."

"The five Socialists," continued the Union, "have exactly the same right and duty to sit in the Assembly as have Assemblyman Adler or Speaker Sweet. The Socialist members have neither been convicted of crime nor indicted for crime. . . . And when was the Socialist Party 'convicted' of a violation of the Espionage law? The hasty members of the Assembly who thought they were doing something very clever in suspending the Socialists
would be very much puzzled to know where to apply if they were challenged to produce a certified record of the trial and conviction of the Socialist Party for violation of the Espionage law. . . . The action of the Assembly yesterday was a blow to the system of legislative government after its slow development for 600 years. If the action of our Assembly should be permitted to stand, then anybody who might get control of a bare majority could 'purge' a legislature after the manner of Col. Thomas Pride and leave a 'rump' to make the laws. . . . There is only one thing to do when a foolish and stupid mistake has been made. Go back and undo it. Restore those Socialists to their seats at once."

The Brooklyn Daily Eagle took similar ground. Avowing its utter lack of "sympathy with the Socialist Party" and its candidates it denounced as "hasty and ill advised the action of Speaker Sweet. . . . The speaker justifies his extraordinary course by referring to the Socialist platform as one hostile to the government of the United States and, therefore, dangerous to orderly society. As the government of the United States has made no move against the Socialists it is difficult to understand the necessity for Mr. Sweet rushing to the defense of that government and, temporarily at least, denying representation in the Assembly to five constituencies in the State of New York.

"Socialism has long had in this country all the privileges of the older political parties. It has shown amazing strength on many occasions. The strength it has displayed in this city alone will not be reduced, it will be increased, and by the Speaker's summary act of yesterday."

In a powerful editorial, The New York Evening Journal declared the suspension of the Socialists to be "the most serious assault upon the liberties of the American people that has been made since a British King and Parliament forced our fathers to protect their freedom with arms in their hands. Not all the anarchists in the country multiplied by ten could strike such a deadly blow at law and order. . . . It is a high-handed act of tyranny, a criminal assault upon public liberty, a treasonable defi-
ance of the Constitution and flat rebellion against the written laws and the inherent sovereignty of the people. This treason of the majority in the legislature must be fought with every lawful weapon that a patriotic press and a patriotic citizenry can find to use. We should think that any man with an ounce of common sense could see that the denial of representation to citizens who choose representatives inimical to a majority in a legislature—or in the Federal Congress—is destructive of ALL liberties, destructive of ALL FREE GOVERNMENT. . . . The men who have committed this assault . . . are either conscious traitors to their oaths to obey and defend the Constitution and the laws, or else they are fools who are not mentally capable of understanding their own imbecile folly. . . .

"We Americans must make a stand, once for all, against the daily increasing encroachments upon our rights and our liberties, and our form of free government. The hour has come when these official tyrants of our own creation must be made to recognize the limits of their own authority, must be made to realize that this is the Republic of the United States and not a hunting reserve for plunderbunds, autocrats, bureaucrats and secret police spies.

"As a result of this war there is a powerful and very dangerous conspiracy to overthrow democracy everywhere in the world. The agents of this conspiracy are at work here in America, precisely as they are at work in Europe and in our neighboring countries on this continent.

"They are in our Congress, in our legislatures, in our newspaper and periodical offices, in our pulpits, in our schools, and everywhere they are making a simultaneous assault upon free speech, free press, free assembly, free representation. . . .

"We should hold ourselves no better than mean and cowardly traitors to every obligation of an American journal if we did not denounce and resist this assault upon the common rights and common liberties of the land and its people."

"Unless there is specific evidence of personal guilt the
excluded assemblymen should be escorted to their seats, and Speaker Sweet, in the way of making an honorable amend, might well appoint himself and Assemblyman Adler as a committee of two to perform the task," declared the New York Tribune. The same day, under the caption "Official Lawlessness," the Tribune commented:

"It is time for earnest citizens seriously to consider whether this policy, admittedly indefensible in theory and necessarily abhorrent for those who have deep reverence for law as law, can be defended on the grounds of effectiveness and practical benefit. As to this it seems impossible to resist a negative conclusion."

The morning after the exclusion of the five Assemblymen, The Call carried the following clear across the top of its first page:

DIED
At Albany, January 7, 1920
REPRESENTATIVE GOVERNMENT

A bombshell was exploded in the Sweet camp when there appeared a letter in the New York City newspapers on January 10th addressed to the Speaker by Charles Evans Hughes, former Governor of the State of New York and erstwhile Justice of the Supreme Court of the United States, in which the Socialist ouster was condemned as "absolutely opposed to the fundamental principles of our government."

"Is it proposed to drive the Socialists to revolution by denying them participation in the means we have provided for orderly discussion of proposed changes in our laws?" Judge Hughes demanded.

He continued: "The issue to my mind is very clear. I speak as one utterly opposed to Socialism... But it is because I am solicitous to maintain the peaceful processes essential to democracy that I am anxious to see Socialists as well as Republicans and Democrats enjoy their political rights..."
"I sincerely hope the Assembly will take quick action to avoid a permanent grievance on the part of those who are threatened with virtual disfranchisement. . . .

". . . Apart from the matter of principle the procedure is futile. . . ."

Pointing out that the action of the Assembly would multiply Socialists by the thousands, Judge Hughes concluded: "... it will do more to encourage the spirit of revolution and to strengthen the advocates of violence than any conceivable propaganda could accomplish."

This letter was just one large gun in a veritable battery that poured a fire of criticism and condemnation into the Sweet ranks. Members of Congress, leading educators, editors, clergymen, lawyers, labor leaders—all joined in denouncing the action of the New York Assembly. Among them were Jane Addams, Samuel Untermyer, Father John Ryan, Hamilton Holt, editor of the Independent, Ex-Governor Glynn, former Governor Whitman, Governor Frazier, of North Dakota, Mayor Thompson, of Chicago, United States Senators France, Johnson, Myers, Borah, Hardwick and Thomas, and members of the House of Representatives, Thomas L. Chadbourne, former Vice-President of the War Labor Board, Prof. Kirchway, former Dean of the Columbia University Law School, Kenneth Sills, President of Bowdoin College, Prof. Felix Frankfurter, former head of the Federal Labor Conciliation Commission, Frank P. Walsh, former Joint Chairman of the National War Labor Board, Henry S. Stimson, Secretary of War in President Taft's Cabinet, Rabbi Stephen S. Wise, Rev. John Haynes Holmes, and many, many others.

Twelve leading New York City divines signed a statement to the public in which they expressed their alarm "at the spread of the spirit of intolerance" as exemplified in the action of the Assembly which they declared was "intolerable" and "inviting revolution." The signatories were George Alexander, Minister in First Presbyterian Church; Henry E. Cobb, Minister of West End Collegiate Reformed Church; Henry Sloane Coffin, Minister in Madison Avenue Presbyterian Church; Harry Emerson Fosdick, Minister in First Presbyterian Church; Hughell
Fosbroke, Dean of General Theological Seminary; Arthur C. McGiffert, President of Union Theological Seminary; William H. Pott, Archdeacon of New York; Howard C. Robbins, Dean of Cathedral of St. John the Divine; Charles L. Slattery, Rector of Grace Protestant Episcopal Church; William Austin Smith, Editor of The Churchman; Ralph W. Sockman, Minister of Madison Avenue Methodist Episcopal Church, and Cornelius Woelfkin, Minister of Fifth Avenue Baptist Church.

From England, Philip Snowden, ex-member of Parliament and Chairman of the Independent Labor Party, cabled that the Assembly's act was "the most insane thing any parliament could do. . . . If, when duly elected to a parliament, men are unable to take their seats, then there is no other course than revolution to seek redress. If Americans have the same sense of independence the British have they wont stand for it."

George Lansbury, editor of the London Daily Herald and a former member of Parliament, said in another cable the exclusion of the Socialist assemblymen was conduct "fraught with grievous danger not only to democracy but to the whole future of civilization."

"A damnable thing" was the verdict of H. M. Hyndman, veteran British Socialist, author and scholar.

To the same effect spoke a host of civic and labor organizations in a flood of resolutions.

Another smashing blow was dealt the Sweet cause when the New York City Bar Association passed a resolution scoring the Assembly action as "Un-American" and destructive of "the rights of minorities and the very foundations of representative government." At the same time, a committee of five distinguished lawyers, headed by Judge Hughes, the other four being Morgan J. O'Brien, Louis Marshall, Joseph M. Proskauer and Ogden L. Mills, was appointed "to appear before the Assembly or its Judiciary Committee and take such action as may, in their judgment, be necessary, to safeguard and protect the principles of representative government guaranteed by the Constitution, which are involved in the proceedings now pending."

Most encouraging and significant was the response of
organized labor, in New York City particularly, to the Assembly ouster. Two days after the exclusion of the Socialist Assemblymen, the Central Federated Union of New York City met, approximately 100 delegates being present and speaking for close to 200,000 members of affiliated bodies, unanimously adopted a stirring resolution in which the action of the Assembly was "condemned vehemently and without reservation." It was resolved "that such action is a flaming torch thrown by reckless hands into the present hysteria-born fire against all so-called radical bodies;

"That the structure of labor, built by years of effort, may be caught next in its flames;

"That the action is naked evidence that independent political movements have next to no chance of getting a foothold because of the autocratic attitude of the existing parties in power, for a political party recognized by law has in this case been outlawed by a majority in the Assembly at one session;

"That the unseating of the five Assemblymen is so contrary to all precedents and ideals of our Republic that it cannot, it will not, and must not stand; and

"That it is one more terrible lesson that the working people must be eternally vigilant to hold fast to their liberties; that they have nothing to expect from the dominant parties in power, and only by uniting in one great industrial and political movement and by taking over the government can they secure for themselves true representative and industrial democracy."

The resolution was referred to the affiliated unions who were "urged to take action in the matter," and copies were sent to the press, Speaker Sweet, every member of the Assembly, to the Governor of the State, the Mayor of the City and the President of the Board of Aldermen.

The Central Labor Union of Brooklyn and Queens, whose meeting followed that of the C. F. U., acted in the same spirit, declaring in a resolution it had "reason to believe this arbitrary action was brought about by Speaker Sweet to cover his obligations to interests to which he is subservient in their efforts to prevent the
enactment of the social welfare program as proposed by
the New York State Federation of Labor" and that "as-
semblymen who have a spark of manhood in their make-
up" should "break away from the machinations of
Speaker Sweet and seat these duly elected representa-
tives of the people."

The Amalgamated Clothing Workers of America, the
International Ladies’ Garment Workers, and the United
Hebrew Trades, as well as various local unions, took
similar action.

The Monday night following the denial of their seats
to the five Socialist assemblymen, January 12, an impor-
tant conference took place in the auditorium of the
People’s House, 7 East 15th Street, New York City.
More than one hundred labor, civic, fraternal and politi-
cal organizations were represented by scores of delegates
who had come together to crystallize the sentiment that
was developing rapidly against the Albany outrage and
to co-ordinate the efforts of the many bodies who were
demanding the restoration of representative government
in the State.

The roar of public protest and censure against the
action of the Assembly had already made itself felt
among the members. While the conference was meeting
in Manhattan planning ways and means to rally the dem-
ocratic forces in the fight to restore and preserve represen-
tative government in the State, the first overt move
was being made in the Assembly Chamber to undo the
work of January 7. A motion was made to reconsider
the vote by which the ouster resolution had been carried.
It mustered 33 votes as against 71. Thirty-one members
—eighteen Democrats and thirteen Republicans—had
joined the two who, excepting the Socialists, had stood
alone against the ouster.

Forty-one assemblymen did not vote. These, accord-
ing to the New York Evening World of the following day,
"proved themselves cowards in the face of the greatest
issue that has confronted the legislature and the people
of the State of New York in a generation."

The conference had been called by a committee of
eight persons which had been constituted the same day
the ouster occurred from among a gathering a representa-
tives of the Socialist Party of the Greater City. The
committee was given the direction of the fight on behalf
of the Socialist assemblymen and the issues involved.

After several spirited speeches, a committee of seven-
teen persons was chosen from the assemblage to coope-
rate with the committee of eight in continuing the work
of the conference. Among the organizations represented
on the Committee were the Central Federated Union of
New York, the Brooklyn Central Labor Union, the Com-
mittee of 48, the American Labor Party, the Amalga-
mated Clothing Workers, the International Ladies’ Gar-
ment Workers, and others.

The conference adopted a resolution emphatically pro-
testing “against the arbitrary and unprecedented act of
the State Assembly” and called upon the Governor to in-
stitute an investigation to ascertain the ultimate respon-
sibility for what had happened at Albany. After pledg-
ing thousands of dollars to the fight, the conference ad-
journed.

The task now before the two committees that had
been created was to duplicate on a state-wide scale what
had already been accomplished in the Greater City of
New York. Accordingly, a campaign was promptly
launched for a State Convention for the Preservation of
Representative Government. The organized labor move-
ment of the entire State was communicated with through
the medium of correspondence and road organizers.
From all parts of the State came favorable responses.

The convention came together in Albany, on Sat-
urday, January 31st. Accredited delegates from more
than 150 organizations, hailing from practically every
industrial center in the State, were present. All who
had participated in the People’s House conference sent
deleagtes.

The purpose of the convention was three fold—re-
sistance to the menace to representative government and
civil liberties in the unseating of the Socialist assembly-
men, consideration of proposed peace-time sedition bills
directed against the constitutionally guaranteed rights
of freedom of speech, press and assemblage, and to protest the abuse of the injunction against organized labor.

The convention unanimously passed resolutions on the three questions. The ouster was characterized as a "brutal assault on representative government," and the demand was made "for the restoration of representative government in New York and the immediate seating by the Assembly of the ousted representatives, not because they are Socialists, but because they are the duly elected representatives of their constituencies." The body pledged itself to labor for the "defeat of every member of the Assembly in any way responsible for the un-American, unconstitutional and indefensible ousting of these duly elected representatives."

III

On the morning of Tuesday, January 20th, began the great "trial" which was not terminated until March 9th. It was close to two weeks after the exclusion. Protests from the assemblymen against delay, made soon after the ouster, were unavailing. The tardiness of the Assembly in coming to "trial" was in striking contrast to the precipitate haste with which it had acted in evicting the five Socialists.

Probably a larger gathering had never crowded into the Assembly Chamber.

The Judiciary Committee that was to listen to the evidence consisted of thirteen persons as follows: Louis Martin, chairman; George H. Rowe, James M. Lown, Jr., Edward A. Everett, Edward J. Wilson, Charles M. Harrington, Harold E. Blodgett, William W. Pellett, Theodore Stitt, Louis A. Cuvillier, Maurice Bloch and William S. Evans. All but the last five were from up state constituencies. With the exception of Cuvillier, Bloch and Evans the committee was Republican. Evans was the only member of the committee who had voted against the ouster resolution. Pellett had been a member of the Lusk Committee which the legislature created during the 1919 session and which had gathered much of the so-called proof that was to be offered against the Socialist
Assemblymen. Martin had been vice-chairman of the Committee.

The counsel that appeared for the committee were John B. Stanchfield, Martin W. Littleton, Elon R. Brown, Arthur E. Sutherland, Attorney General Newton, Deputy Attorney General Berger, Archibald E. Stevenson, Henry F. Wolff, and subsequently Martin Conboy.

Berger and Stevenson had been associated with the Lusk Committee. Littleton retired from the "trial" the day following, after delivering a highly bombastic speech in which he characterized the Socialist Assemblymen as "citizens" and tools of an alleged "invisible empire." He left to take up the case of U. S. Senator Newberry who was subsequently convicted in the courts of Michigan for violations of the Corrupt Practices Act. Stanchfield stepped out at the conclusion of Sweet's case. No explanation was offered.


Hardly had the proceedings been opened, when Judge Hughes who, with his committee colleagues, had seated himself in the Assembly Chamber, asked to be heard for the Bar Association of New York City. He explained "it is our sole desire that this very important matter which is so closely related to the security of the Republic be dealt with in a manner that will commend the action of the Committee and of the Assembly to the judgment of the people of the State whose interests are here involved."

The application of the Bar Association, through its committee, to be permitted to participate in the "trial" was denied, whereupon Judge Hughes submitted a brief and statement for the Association, and before retiring with his colleagues, made the following recommendations from the floor of the Assembly Chamber:

"That the Judiciary Committee at once report to the Assembly that there is no question properly before the Judiciary Committee of any disqualification on the part of these members; that no charges against these members of any constitutional disqualification, or of any mis-
conduct in office or of any violation of law on their part have been properly made; that the members under suspension should at once be restored to the privileges of their seats and that, if it be desired to present any charges against them of any violation of law, such charges should be properly formulated, and that, until such charges, properly laid, have been established by proof, after due opportunity to be heard, these members shall enjoy all the privileges of their seats in recognition of their own rights and of the rights of their constituencies."

At the conclusion of Judge Hughes’ remarks, Chairman Martin, without any previous notice whatever, apparently without the knowledge or consent of the Assembly which had adopted the ouster resolution which contained the original charges under which the five Socialists had been denied their seats, and, according to the chairman’s statement, solely on the initiative of the committee, presented what he described as a “statement” which was in fact an additional indictment and which elaborated the “case” against the Assemblymen to include the following charges:

The platform and doctrines of the Socialist Party as advocated to-day called for and demanded the complete destruction of our form of government by the fomentation of industrial unrest, the bringing into play of force and violence, and direct action by the mass; the five assemblymen have subscribed to and advocated such principles; the five assemblymen are in favor of the absolute substitution of minority for majority rule; they are in hearty accord and sympathy with the Soviet government as it exists in Russia to-day; by voice and vote in public and in private they opposed every measure intended to aid in the prosecution of the war to a successful termination and gave aid and comfort to the enemy; they declared their “allegiance” to the Soviet government; they secured their nomination and procured their election under the pretense to the people that they were merely availing themselves of a legally established means for political representation, whereas in truth and in fact it is claimed that this was done to disguise and cover up
their true intent and purpose to overthrow this government peacefully if possible, forcibly if necessary; they are engaged in a large and well organized conspiracy to subvert the due administration of law; they desire to destroy the right to hold and own property honestly acquired, to weaken the family tie which they assert is the seed of capitalism, to destroy the influence of the church, and to overturn the whole fabric of a constitutional form of government.

The charges were still further supplemented by counsel for the Committee as the "trial" progressed.

The same fate that attended the application of the Committee for the Bar Association befell the motions that were made by counsel for the Assemblymen.

These included motions challenging, first, the committee as a whole and, second, certain members of the committee; a motion on the constitutionality of the proceedings; a motion based on the contention that the charges, if true, did not warrant the action taken, and a motion in the nature of a request for a bill of particulars.

In challenging the right of the Judiciary Committee to conduct the proceedings, Hillquit explained his motion was made "in the interest of fair play, in the interest of justice, as well as in the interest of the five men who are now being tried before your committee." He continued: "Our objection to your body as a whole is a twofold one. We hold, in the first place, that you were appointed and selected by our accuser and we hold, in the second place, that you have publicly, solemnly expressed your conviction of the guilt of the men who are before you now."

Hillquit then recounted what had transpired on the day of the suspension of the five Socialists, pointing out that the Speaker, who accused the assemblymen and affirmed their guilt, thereafter named his own committee.

"Thus, in other words," he declared, "the accuser selects his own judges. Imagine an analogous case, a criminal case, for instance, in which a prosecuting attorney would appoint his judge.

"Imagine a civil case in which the plaintiff would choose and appoint his judge to sit on his case. Has
there been any such proceeding attempted anywhere, I ask you, in any tribunal, no matter of what character in this country? Never, I make bold to state. Then, after that, there is a resolution offered, and the members of the Assembly vote, and you gentlemen, as I understand it, vote a resolution which does not recite the existence of certain charges against these men, but recites a very definite and concrete conviction of their guilt.

“The proceeding starts out with the imposition of the sentence and the ordinary speech of the judge from the bench following a conviction. It is then followed, not by charges even, but by a recital of findings against these men, and after all has been said and done, after they have been told definitely that they are criminals, they are told ‘Now get out of this company of decent men, and come back later and we will try you and find out whether or not you are actually guilty.’ I submit, gentlemen, that all of you who have voted on this resolution and have solemnly declared your belief in the guilt of these men and have not retracted it on voting for reconsideration, stand here not as judges but as accusers.

“And, gentlemen, I want to say to you if there was ever a case in the annals of jurisprudence in any State of the Union that presented an importance similar to the one now before you, I don’t know of any such case. If there ever was a case where we have a right to absolutely unbiased judges—if there ever was a case in which we have a right to have each and every one of our trial committee to come to this case without the slightest pre-conception, to come to this case absolutely free to decide upon the evidence—this case before you is such a case. And if ever there was a case in which the judges, or the vast majority of them, were publicly, definitely committed in advance to one side—and that to the guilt of the defendants before them—this is the case before you.

“Let us all feel, let the people of the State feel, that these men are not having a mock trial, that they are having a real trial, that they are being tried before judges not merely formally pledged to do justice to them, but who in their hearts and consciences can render real justice to them.”
Replying to Hillquit, Stanchfield contended the proceedings could not have been initiated otherwise and that the committee could deny the assemblymen representation; that “this committee itself could go ahead in secret and take testimony and report to the House and upon that report expulsion could be had and no one could complain.” This course had not been pursued, he explained, because the Assembly realized “it was submitting itself, its conduct and its report to the court of public opinion” which, he added, was the only “tribunal that can question your power or criticize your purposes or your motives.”

The chairman denied Hillquit’s motion, as well as the one immediately following, which was a challenge to certain “individual members of the committee for personal bias.” Two of the committeemen, the attorney for the accused pointed out, had served on another committee (the Lusk Committee) which had gathered much of what was later offered as evidence against the suspended men.

“It is a familiar rule of law that where a person has sat in an inquiry which is involved in a second proceeding, he is not a fit juror or judge in the second proceeding,” Hillquit argued. He directed a challenge against one of the committeemen [Cuvillier] who had declared the accused, if guilty, should be shot, remarking: “I respectfully submit that a person who holds such an opinion is qualified as an executioner and not as a judge.”

Hillquit then made the principal preliminary motion “that the proceedings before this Committee be dismissed and that the Committee report to the Assembly recommending the immediate dismissal of the proceedings now pending before it in connection with the five Assemblymen under charges on the ground that the proceedings are without warrant in the Constitution or in the statutes of the State of New York and are absolutely illegal and void from every point of view.”

He maintained “if every word of the resolution were proved to be true, if every charge read this morning by the Chairman of the Committee were proved beyond a shadow of a doubt to be true, that even then this Com-
mittee and the Assembly are absolutely without power to suspend or expel the five members of the Assembly under charges; that so long as there is no question about their election; that so long as there is no question about the fact that they are citizens and residents of this State and have taken the oath of office, that ends the power and jurisdiction of the Assembly with reference to them.

"I know a general impression has gone forth to the effect that the Assembly is all-powerful in determining as to whether or not members presenting themselves with proper credentials, proper on their face, may be seated or not. I maintain that this impression is without foundation in law and is absolutely erroneous. The section of the Constitution upon which this power is assumed to rest is section 10 article 3 which reads as follows: (Reading) ‘A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings and be the judge of the election returns and qualifications of its own members.’ It is the latter part of it, ‘to be the sole judge of the qualifications of its own members,’ that is popularly and loosely construed as conferring the power upon the Assembly to add such qualifications as may to it seem sufficient to those contained in the Constitution.

"I shall try to demonstrate by the expressed provisions of the law, by all the precedents in this State, as well as the Congress of the United States, and also on the basis of the general spirit of the Constitution of our State and of the institutions of our government, that this contention is absolutely fallacious.

"What we contend is that the Assembly has the power to judge the elections, returns and constitutional qualifications of members when such elections, or returns, or constitutional qualifications, are called into question. When a question of fact arises and some body—some authority—has to pass upon such question then, and then only, it is the Assembly that has the power and the right to pass upon such question.

"In other words, the law provides that the Assembly be composed of 150 members who shall be duly elected by the plurality of the votes cast at a legal election, and
the law—the statute—further provides that such members must be citizens and must be residents of the State of New York, and must be of full age.

"It is of course conceivable, and it very often occurs that all of these elements are questioned. For instance, an election may be held but it may be a legal election only in form. It may be contended that a member presenting himself for a seat in the Assembly is not a citizen, is not of age, is not a bona fide resident of the State of New York. It may be contended that he has lost his citizenship by conviction of a felony. It may be contended that he has no actual capacity as a citizen by reason of being insane—legally adjudged insane; or it may be also that he is afflicted with a loathsome contagious disease, and within the exercise of police power, just as a sanitary regulation, he may have to be excluded from the community of other men.

"Whenever a question of this kind arises it is up to the Assembly, and to the Assembly alone, to judge whether or not the alleged state of facts required for the full qualification of a member exists.... And I maintain that that and only that was what the framers of the Constitution had in mind when they provided that the Assembly shall be the judge of the election returns and qualifications of its own members.

"I contend that the framers of the Constitution not only did not intend to convey a general power to each of the two houses to devise out of the depth of their own consciousness or their own notions of expediency or propriety, any qualifications not mentioned in the Constitution—I will say more, gentlemen; I will say that the Constitution has, in express terms and unmistakable language, prohibited such procedure. Permit me to call your attention to it.

"Under article XIII of the Constitution of the State of New York is is provided by section 1 as follows:

"Members of the Legislature and all officers, executive and judicial, except such inferior officers as shall be by law exempt, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: 'I do solemnly swear
and affirm that I will support the Constitution of the
State of New York, and I will faithfully discharge the
duties of the office—in this case of member of Assem-
bly—"according to the best of my ability."

"These five men before you have taken and subscribed
to such an oath.

Now, the section further provides:

"'And all such officers who shall have been chosen
at any election'—which applies to our case—'before
they enter on the duties of their respective offices, take
and subscribe the oath or affirmation above prescribed,
together with the following addition thereto, as part
thereof: 'And I do further solemnly swear or affirm
that I have not directly or indirectly paid, offered or
promised to pay, contributed or offered or promised to
contribute, any money or other valuable thing as a
consideration or reward for the giving or withholding
of a vote at the election at which I was elected to said
office; and have not made any promise to influence the
giving or withholding of any such vote.'

"That has been sworn to by these five men. And then,
gentlemen, mark what follows: 'And no other oath, de-
claration or test shall be required as a qualification for
any office or public trust.'

"What, I ask you, gentlemen, did the framers of the
Constitution intend to convey by this very direct, very
explicit injunction? There can be but one thing. To
prohibit absolutely and definitely a proceeding of the
kind in which you are engaged now,—that is, adding a
test other than the constitutional oath as a qualification
for holding the office of member of Assembly. A test! What is a test? Let me read you some Standard dic-
tionary definitions of the word 'test'. . . . 'A test is an
examination made for the purpose of proving or disprov-
ing some matter of doubt. A critical trial.' A test is
the thing in which you are engaged now. The effort,
the proving or disproving of the charges contained in
your resolution—proving or disproving the alleged loy-
alty or other outside political, ethical or patriotic quali-
fications of members of the Assembly. 'A further defini-
tion is, 'That which may be used to determine a question
relating to the existence, the qualities or the genuineness of a thing, a criterion, a standard of judgment.' From every point of view a test is a proceeding such as you are engaged in to discover qualifications or absence of qualifications. Such a test, other than the one contained in the oath of office to support the Constitution, and the further oath to the effect that the member of the Assembly presenting himself had not been guilty of corrupt practices in connection with his election, such a test is absolutely and in express terms prohibited by the Constitution.”

The various precedents in expulsion cases in Congress were carefully reviewed by Hillquit. These included the Roberts, Smoot and Berger cases and those that arose out of the Civil War.

“And there is one case particularly which comes even closer to us, closer in point of analogy and closer in point of time,” he continued. “I refer to the case of Lucas E. Decker, a member of the Assembly from the fourth district of the county of Queens in the year 1918. In the case of Decker the member was charged with having failed to register for the selective draft although he was of draft age; of having falsely represented that he had been examined and discharged on account of bad health while he had not, as a matter of fact, presented himself for examination at all; and of having in November, 1917, claimed exemption as a member of the Assembly, although his term of office did not begin before January first of the next year. On all these charges, as matter of fact, he was found guilty by the committee. The committee reported that it became Decker’s duty to register on July 24, 1917; that he did not do so until November 23, 1917; that he was married November 9, 1917; that he then claimed exemption as a state officer and a married man; that he was in no sense a state officer until after January 1, 1918; that he was a lawyer and charged with knowledge of the law far beyond that of a layman in like circumstances; and the fact that for at least four months he disregarded the law while advising others to obey it, and assisted in the work of getting other young men to go to the front, would justify any
committee of citizens in taking the position which was taken in this matter by the objectors. The report continued:

"'But these circumstances were matters of public record during all the period of time said Decker was running for the office of member of the Assembly, and neither denied or affirmed by him as far as any evidence produced before us showed with the exception of the fact that he stated he had been discharged on the ground of defective eyesight; and your committee could not recommend the dismissal of said Decker from the office of Member of Assembly on the ground that he secured election by misrepresentation in any way.'

"Now listen to what follows:

"'Since his election, and since he has been in the discharge of his duties as an Assemblyman, there is no evidence that he has committed any act that disqualified him in the judgment of your committee from so acting; that the facts are insufficient for us to hold and recommend that he should be deprived of his office at this time.

"'Your subcommittee holds that in order to remove a member of Assembly from office, under the constitution, some question involving the election or returns is necessary before the Assembly has jurisdiction in the premises; or, further, that the person so elected must be entirely disqualified under the constitution or by his conduct in the house must disqualify himself. These qualifications are specifically set forth in the constitution itself, and there is no evidence before us that any of them are lacking, as far as the respondent in this proceeding is concerned.

"'We, therefore, respectfully recommend to the Judiciary Committee that a report be made dismissing the complaint and the said report be by the said committee submitted to the Assembly for further action.'

"You dismissed it by unanimous vote—144—not a single vote against. If there can be a more analogous case to the one at the bar I should like to see it, gentlemen.

"This, then, is the law. These are the precedents and
in the face of all that; in the face of the mandatory provision of the Constitution; in the face of every precedent known to law; in the face of your own unanimous action and the precedents set by you, you are asked at this late hour to come and to invent new qualifications and make them a test of the admissibility of members duly elected.

"Do you gentlemen realize what issues you are raising? We are here as representatives of a party whose platform in the last half a century has been radically different from the platforms of other parties in this House. The Socialist party has always maintained and maintains now that it alone represents the true interests of the vast majority of the people of this country—the workers of hand and brain; the workers in factory and on farm. It has been our contention right along that the old parties who stand for the perpetuation of the present economic system which enslaves the many for the profit of the few are disloyal, are acting inimically to the best interests of the vast body of the people of the United States. You come back and you tell us you represent the true interests; you represent true loyalty; that our conception of what is the actual interest of the people; our conception of loyalty constitutes treason—and who, pray, constituted you the judges as to what economic industrial policy advocated by one party constitutes or does not constitute treason?

"It is history, history alone which will render its final verdict upon you and upon us. And in the meantime we have for over 130 years been united upon the proposition that it is not given to any man; that it is not given to any body of men to decree in a free and democratic country that there are certain eternal and immutable doctrines of policy, of politics, of social philosophy, which alone we shall recognize.

"The very foundation of our government rests upon the assumption that the people as a whole, not you gentlemen, not you 145 members of this body, but the people of the whole State, the people of the whole country eventually, are to determine what is for their interests and what not for their interests; what they will tolerate as loyal conduct and what they will not tolerate, and that
the people will express their views, their desires, by proper constitutional methods; that they will meet in groups united by the same interests and ideas, by the same social concepts and will elect representatives; that they will allow other groups to do likewise and that in the clash of the conflicting interests and views and ideas and strivings, the majority will of the people will find expression; that what is considered treason to-day may become the law of the land to-morrow; just as the abolitionists who in the early days were attacked by eminently respectable gentlemen in terms in comparison with which your declarations are mere compliments, in the long run had the support of the people of this country and became the majority.

"What, I ask you, is left of representative government; what is left of democratic institutions if you will allow a majority in any sovereign house elected by the whole body of the people to pass judgment upon the views, upon the policies of their fellow members? Can't you see where that would lead you? If the Socialist members of the Assembly are to-day expelled or excluded for the sole reason that their platform, their party, are not to your taste, gentlemen of the Republican and Democratic parties, what warrant is there that the same contention won't be made, perhaps, next year, perhaps three years from now, against the Democratic Party? It seems to you impossible? It seems to you absurd? Why, this proceeding seemed impossible and absurd to us only two weeks ago, but it has happened. You set the precedent once, you sweep away the constitutional limitations and guarantees, you substitute the arbitrary opinions or arbitrary views of the majority for law, for the constitution, for the popular will, and you have a situation of chaos and civil war instead of having a regulated political democracy. Gentlemen, it has happened in this State very often that one or the other house of the legislature was either Republican or Democratic by a very narrow margin. Perhaps a few men decide. Look at the temptation to have the minority come together one particular day when the majority happens to be absent, and that minority then finding itself the majority for one single day, using its power to exclude a sufficient num-

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ber of the majority party to perpetuate itself in power. Why not? Qualifications? If there is absolutely no rule for the qualifications required you will find ample qualifications or lack of qualifications in your own minds to justify such action.

"Gentlemen, I want to close with our position made perfectly clear to you. I am not pleading for the five Assemblymen, their office, their jobs. They are entitled to their offices. But, compared with the vital importance of the case itself, their fate, their office, their services are as nothing.

"I don't even plead in behalf of the Socialist Party. Gentlemen, the Socialist Party is not on trial before you, no matter how much you endeavor to make it a trial of the Socialist Party. The Socialist Party cannot be tried, cannot be convicted, cannot be outlawed, cannot be suppressed. There never yet has been a physical power anywhere in the world that was adequate to suppress the onward surge of a great popular movement, or to stamp out a social idea or ideal. This proceeding may be delightfully novel to you. It isn't new to us. It has been tried before. Gentlemen, in the balmy days of the Czar, before the Duma was instituted, the policy of the government was to outlaw and to destroy the Socialist movement. You know who has been destroyed in Russia and who has been triumphant in Russia. It is the Romanoffs and all the instruments of oppression that have been destroyed. It is the popular movement of Socialism that has triumphed.

"Bismarck attempted to outlaw Socialism. He passed legislation to that effect. He declared the party outlawed from the political community of Germany. To-day the only question there is which of the rival Socialist parties shall control the government.

"Gentlemen, we are not afraid of suppression. At a time when one-half of the world is under Socialist control —when the Socialist movement has matured probably the only possible social organization under present conditions throughout the greater part of Europe—at such a time it is altogether too late for any body of men on this side of the ocean to determine to do their little stunt
to kill Socialism in this country. You can no more kill
the Socialist movement in the United States than you can
kill social progress, the development of industry and
growth of civilization.

"Gentlemen, that is not the point. As a party we are
not afraid of your action, but as citizens, as members of
a democratic community we have a word of solemn warn-
ing to address to you. We say to you, gentlemen, we are
living in an unusual time. Five years of war, of suffer-
ing, of destruction, have unsettled the world, have ripped
up all social institutions, have created new conditions,
conditions which are largely in the making. Our genera-
tion has to meet the greatest problems that ever con-
fronted the world. Out of the ruins of the old world, out
of the chaos created in the last few years, it devolves
upon us, upon the men and women of our generation, to
build up a new, livable world. We Socialists are ready to
contribute our share. We claim to be, we always have
been a most potent factor making for orderly, peaceful
social changes. We do not attempt to usher in a new
system by violence. We know it is just as much folly to
attempt to bring in radical reforms by violence as it is
folly to try to stem reform by violence.

And we say to you, gentlemen, the contemplated ac-
tion of this Assembly if consummated will be the first
great tragic act of political violence in this state. Vio-
ence perpetrated by the very men claiming to uphold
law. It may loosen the horrors of violent revolution
which we Socialists have always endeavored and are en-
deavoring to stem.

"As your fellow citizens, we say, gentlemen, take
care as to what you are doing."

IV

It would be impossible to reproduce here with any
kind of adequacy the actual testimony given, and all the
motions and arguments that were made during the
"trial." Exclusive of the voluminous exhibits that were
incorporated in the "case," the former would total over
a million words. The nature of the testimony and of the
issues raised are indicated in the motions and speeches here reproduced.

The "evidence" offered against the five assemblymen included reports, stenographic and otherwise, of speeches said to have been delivered by some of them at different times outside of the Assembly; speeches delivered by others in and outside of the State of New York, some of them in the presence of some of the five and others on occasions of which they had no knowledge until after they had occurred; booklets, pamphlets and editorials written, published and distributed by others—in one case a publication brought out by a Socialist organization in England—and manifestos, platforms and other pronouncements of the Socialist Party. Even bills introduced by them while serving in the Assembly and the record of their votes on other measures were offered against the Socialists.

It was brought out that not one of the witnesses had communicated with Speaker Sweet and his collaborators in the "case" until after the five men had been suspended.

Writing in Collier's Magazine, issue of March 13, William Slavens McNutt, who reported the "trial" for that publication, speaks as follows of the "evidence" offered against the Socialists:

"Everybody expected sensational developments. It was rumored—and I, for one, blush to confess that I half believed it—that at least one of the defendants was linked up directly with Trotsky and Lenin in a definite effort to overthrow the Government of the United States by force and substitute Bolshevism! I fell for it. My pride would be worse hurt, however, if I had not had so much company.

'Everyone expected some sort of real, melodramatic expose, with damning letters and bona fide signatures, translated codes and all that sort of thing.

'We waited through two days of oratory until the introduction of evidence began and then sat forward, alert, watching for the moment!

'We waited and waited and waited. We heard the Constitution of the Socialist Party, a document about as secret as the City Directory, read right out in meeting!
"We waited while counsel for the committee read Socialist speeches that had been made in public before thousands and printed in the news. We waited while they solemnly introduced in evidence copies of the 'Call,' a New York Socialist newspaper on sale at all newsstands. We waited while they read excerpts from various pamphlets on Socialism and Bolshevism that were all much less revolutionary and less brilliant than a typical political essay by Shaw, and assayed less verbal dynamite per sentence than can commonly be found in the editorials of any partisan newspaper during a hot campaign.

"Day after day, I was solemnly assured by those who were supposed to know, that on the morrow hell would break loose, so to speak, and the five suspended men would be smashed under an avalanche of terrible evidence.

"All the legal machinery of the State of New York was turning out grist for the committee counsel. All the evidence collected by the Lusk Joint Legislative Committee for the investigation of Bolshevism which investigated for months at an estimated expense of $80,000, was at hand. The hotel corridors were all cluttered up with Department of Justice agents and special policemen on hand to aid in making democracy not only safe but exclusive for Democrats and Republicans.

"The legal shock troops of the committee were led by two of the most eminent strategists of the New York Bar, Martin W. Littleton and John B. Stanchfield. They commanded a battery of eight.

"This aggregation succeeded in proving what all folk of ordinary intelligence and information have always known. They proved, for example, that the Socialist Party was opposed to war and favors recognition of the Russian Soviet Government, but they brought out no real evidence that couldn't have been bought on a public newsstand or heard in open meeting."

In opening his concluding argument, Hillquit reminded the committeemen they had not been given a general roving commission, and that they were limited in the scope of their inquiry by the provisions of the original resolution which he likened to an indictment. The addi-
tional charges contained in the independent statement of
the chairman, Hillquit contended should be entirely dis-
regarded. He argued:*  

"The charges which were made against us, the
charges on which we were summoned here to defend our-
selves before you, are charges formulated by this Assem-
bly. If any additional charges were to be made against
us, there was only one way of effecting it. The Assembly
could amend or supplement its resolution. You gentle-
men of the Committee could not do it. The agent cannot
extend the authority conferred upon him by the principal.

"But, if there was, at least, a semblance of legality
or propriety in those additional charges made by the
committee, in the statement read by the Chairman, there
certainly was none in the further additional charges
made by counsel for the Committee; and they have made
additional charges.

"It seems to be a sort of general free-for-all proceed-
ing. Here are five men brought before a court on some-
thing or other. Everybody who feels like hitting them,
go on and do so and do it in your own way.

"Imagine a defendant charged with larceny brought
to trial. The District Attorney tries the case upon an
indictment of forgery. The judge submits it to the jury
upon the theory of arson and perhaps the jury brings out
a verdict of assault and battery. This is practically what
you have before you, for the record will show that even
with all this latitude, with all this superstructure of
various charges, the evidence is not confined to the
charges.

"Now, with reference to that evidence there is one
point I wish to make, and, gentlemen of the Comittee, I
wish to impress that upon your minds as strongly as I
can. I say regardless of the question of the relevancy or
irrelevancy of the testimony offered here and regardless
of the intention of my friends on the other side, whom I
do not charge with wilful malintention, I say the evidence

*The parts of Hillquit's speech here reproduced were taken
from the stenographic record of the "trial" and have not been
edited by him.
so absolutely distorts the vision as to be worthless and worse. My criticism is based upon two points, not so much on the point that utterances, platforms, declarations and other statements of the party or certain individuals have been misconstrued or misread. That may pass. But there is another important point and that is this. The testimony is so one-sided as to absolutely blur your vision. Let me tell you what I mean by it.

"The Socialist movement is about 70 to 75 years old in its modern phases. It has produced a literature of hundreds upon hundreds of volumes in all modern languages. The Socialist movement in the United States is almost half a century old. The present party is 20 years old. It has had numerous conventions, national, state and local. It has adopted hundreds of official proclamations of all kinds. Its press is large. Take for instance the Call alone that has been cited here so often. It is a daily. There are 365 editions of it every year. It is in its thirteenth year of existence. Consequently it has published roughly about 4,500 numbers. Each of them contains an average of from four to five editorials or contributed articles. So that paper alone has published about 20,000 different editorials and contributed articles. Now, this is only one paper. The Socialist Party at all times has had an average of about 100 papers, daily, weekly, monthly in English and other languages, supporting its policies. Imagine how many statements of all kinds these have contained. The Socialist Party is always campaigning, almost every member is a speaker, a propagandist. Millions of Socialist speeches have been made in this country within the last couple of decades. Now, here is my point. Every indiscreet statement that creeps into our literature, our press or our public forum, every foolish, irresponsible statement—and such are bound to occur occasionally—are at once seized upon by our professional opponents, the anti-Socialist leagues, the National Civic Federations, and they are immortalized; they are printed—just one particular paragraph—and they are transmitted from book to book and from paper to paper and then all are collected and turned over ready-made to a Lusk Committee or any
other committee that investigates great social problems, and learned counsel on the other side, I make bold to state, has practically every incriminating utterance of any kind ever made by the Socialist Party or any of its subdivisions or any of its members or any of its adherents or of everyone who ever called himself a Socialist. They have it all, and what do they produce before you, twenty, thirty, forty utterances, and they ask you to judge the character of the Socialist Party by these. What becomes of the millions, the thousands and hundreds of thousands of other expressions of the Socialist Party which are not brought up here? Do you think you can get a real conception of the Socialist movement by reading these conglomerations, these collections of slip-ups, if you want, and nothing else; nothing of the whole literature, proclamations, speeches, statements of the Socialist Party? Why, gentlemen, imagine, if you please, imagine I am a foreign correspondent in the United States. I am perfectly truthful except that I select my material. I don’t care for marriages. I don’t care for births. I don’t care for ordinary politics. I don’t care for the ordinary every-day life of the United States, but every crime, every murder, every assault, every lynching, every strike, every boycott, every political scandal, I report at once. I am absolutely truthful. In every case I am painstakingly truthful. What conception will they get on the other side? Why that the United States is a country of perpetual war; that it is the most lawless nation existing. Would that be correct? No. Would they have a right to arrive at those conclusions upon a basis of this testimony before them? Yes. Is the testimony false? Not formally so, but actually it is. It is true in the dry word. It is a lie in its soul and substance. And that is, gentlemen, the nature of the testimony before you."

Hillquit summarized the various charges against the Socialists under several main heads. “I think you will find that every charge, major or minor, comes within one of these heads,” he explained. Answering the charge that the Socialist Party is a revolutionary organization, he said:
"We Socialists differ somewhat from the other political parties in our first, and cardinal assumption, which is that organized government everywhere has for its primary object and function to secure the physical, mental, moral, and spiritual well-being of its members. We do not consider the government as a mere policeman, sitting there over us and passing upon our daily quarrels. We believe the function of the government is more substantial, more vital; and in that we really do more than endorse, and perhaps extend, the very well known declaration which the founders of this republic have made popular all over the world, and that is that the object of every government and of every people is to attain and maintain the right to life, liberty and the pursuit of happiness. To us, they are not phrases to be recited glibly on the Fourth of July. To us, this declaration is a living truth. What we mean when we assert the right of the people to life is the right of the people to actually live; not merely to breathe, but to have the means of sustaining and maintaining their lives; to have food, to have clothing, to have shelter, to have all the means to sustain modern civilized life.

"When we speak of liberty we do not mean merely a condition outside of jail. We mean by it actual political and economic independence; freedom of men from men; equal freedom of all insofar as such freedom is compatible with the existence of organized government.

"And when we speak of the right to the pursuit of happiness we mean the right—the concrete right—of every man, woman and child in this country and every other country to life, to sunshine, to air, to enjoyment, to amusement, to the blessings of civilization; to the products of arts and science. We mean by it the right to enjoy life as fully, as nobly, as the best members of our community are privileged to do. And starting out with these premises we say that neither our government nor any other modern government has at all achieved those fundamental objects or functions for which they have been organized.

"We say that every advanced country can to-day at the present state of development easily assure the phys-
ical and moral and mental well-being of every member of such country, that it can produce with the modern re-
resources all the food, all the clothing, all the necessaries of life, not to suffer any one, any member of the com-
munity to go hungry or to go in misery in their daily ex-
istence.

"Take our own country, the United States, and there we probably have the most striking illustration of this proposition. Here is a great and powerful country, 3,000 miles wide, 3,000 long, blessed with every element of natural wealth. The land is abundant, mostly fertile, it produces products of every clime, practically, and pro-
duces them in abundance. We have inexhaustible wealth of metals and minerals and forests; we have coast lines on both sides from one end of the country to the other. We have ports, we have waterways, and we have an alert, active, capable population of over 100,000,000, of whom the vast majority is ready and eager to lend a hand in the production of the wealth required for the sustenance of the life of the nation. We have developed the modern processes of wealth production to such an extent that we can produce to-day ten times, in some cases 100 times, more than our fathers or forefathers could with the same effort, and we have an industrial organization the like of which history has never known. If all this wealth, if all these resources, if all these great industrial factors would have been scientifically, rationally and reasonably organized, there is no reason in the world why there should be slums in any of our cities, why there should be under-feeding of children, and appalling child mortality, why there should be want, why there should be misery, why there should be those ghastly struggles for existence going on in the heart of this country day after day.

"The people of this country, as the people of every other country, do not own their countries, and that is the fundamental charge, the fundamental indictment of Socialism against the present conditions. It is not the people of the United States,—the one hundred million men, women and children who constitute that people, that own the United States.

"There is the tremendous stretch of land, a large slice
of the surface of the globe, that, if anything, should be the common heritage of all those who live on that land, but it is not. It has been parceled out, divided up into lots and plots, and has been turned over by gradual processes to a comparatively small number of landholders who own the surface of the United States and by whose permission the rest of the people, who own no land, are upon the surface of this country.

"More than seventy per cent. of the people of the United States owe their ability to walk on the streets of the country, to live in the houses of the country, to special license which is given to them by the landowning class, and when we come to the natural wealth below the surface of the earth, the vast stocks of minerals, of matters, the stocks which a benevolent Nature has created in the course of many thousands and thousands of years, and upon which to-day we depend for our light, for our heat, for our energy in production of wealth, we find another group, and a comparatively small group, of our fellow citizens, who hold that as against the rest of the whole country, and say, 'This is ours; the Almighty God has not meant the sources of life for the people who need it for their lives,—no, the Almighty God has meant it for us to turn it into franchises, to capitalize it into stocks and bonds, to derive profits, and make our individual fortunes on it'; and so with the oil wells, and so with the great arteries of trade and commerce and life in this country, the railroads, and so with our factories, with the marvellous machinery of modern production produced by the agency of many, many generations past as well as present, and the natural heritage of all men. They are owned, they are claimed by a small minority, comparatively speaking, a handful of the people who hold it as against the rest of the country.

"So that the situation is that the majority of the people, the working class of the United States, stand to-day ready, willing, eager and highly capable of turning the natural resources, the raw wealth, into consumable products for themselves, their wives and children; to turn it into food, to turn it into clothes, to turn it into dwellings, to turn it into other necessaries. They cannot do
it without the use of modern implements of labor; they cannot do it without the natural resources, the raw material; and between them and their lives stands that small capitalist class and says, 'Hold on, this is ours, the land and the fullness thereof, the land and all above it, and all below it, is ours, and if you want to live, if you want to eat, if you want to work, you must first secure a license from us and such license we shall not give you unless you stipulate to pay us a tribute, unless you stipulate to turn over to us for our personal profits, a large and substantial portion of the product of your toil.'

"And the great masses of the American people, as the great masses of the people in every modern country, by submission to this small class of industrial autocrats, work or starve, according to the dictates of that class. If a time arrives when it does not pay the owning class to continue the industries of the country, they are not responsible to anybody to do so. They shut their factories, their mines and mills, they throw millions of workers out of employment, cause the direst poverty, because it suits their business ends, and the whole country stands there, impotent, powerless to interfere with this industrial autocracy. Again it bows.

"And so we have all the special social evils of modern days resulting from this condition; so we have the few millionaires and multi-millionaires in this country, and we have the millions and millions of men, women and children whose whole life is one of toil and privation; is deprived of all joy, all sunshine, all life in the actual sense of the term. And so we have the class of the idle, who take pleasure after pleasure without rendering any useful service to society; and on the other hand, the children of the poor beginning their lives—their joyless lives—in the factories, at a tender age, growing up stunted physically, mentally and in every other way making miserable citizens, making a weak foundation for the hope of future generations.

"Had it been merely an economic question perhaps it would not have been so vital as it is now, but it isn't a purely economic question. It is very much more than
that. It goes to the very substance, to the very life nerve of our national existence. You see these conditions, the condition of a small class owning the country, and a large populous class working for it, and that has created what we have referred to here from time to time as the class struggle. We have been foolishly charged with fomenting that class struggle. Do you know, gentlemen, we are the only political party that not only is not fomenting class struggles but tries to eliminate all classes and all class struggles. But the fact of the matter is that, under present conditions, there is nothing but the struggle of classes in this country. You may not call it struggle, you may call it antagonism, but it is an antagonism and it is a vital antagonism.

"And it exists throughout the entire field of our life and economy. It exists between employer and worker everywhere, whether it expresses itself in strikes or walkouts or blacklists or not at all; or whether the personal relations between employer and employee are very bitter, or on the contrary very friendly. The fact of the matter is that the employer, under present conditions, must see to it that he makes proper profits, must see to it that he pays as little in wages as he possibly can, to get as much out of his worker as he possibly can. It is the law of present economics. It would mean economic extinction if he were not to follow it. The worker who has nothing but his labor power must see to it that he gets every dollar of wages he can; that he conserve his energy—his only commodity—as much as possible; and between these two opposing and different interests there is, and must be, a constant conflict. There is warfare between employer and employee; there is a constant competitive warfare between capitalists of different classes, and within each class separately. You know all about it. You know the history of our great financial and industrial institutions. You know how they have been built up on the ruin of smaller industrial concerns. You know how they have been eating and devouring the smaller brethren. And there is just the same war between worker and worker, because whenever, in times of industrial depression particularly, a job is open, there are hun-
dreds of workers looking for it, each one eager to get it, each one—or most of them—having wives and children to support; each of them ready to take any pay so long as he is allowed the privilege of working and earning some wages; and underbidding each other and cutting the wages against each other and bringing children from their homes to work and compete with the adults, and bringing their wives into the factories to compete against the men,—all because necessity compels them. But it is a war nevertheless.

"And there is the same antagonism between landlord and tenant; there is the same antagonism between producer and consumer. It is not a uniform system operated for the benefit of all the members of the community. It is a system of war and violence.

"And in this war of interests every class and every individual of necessity tries to exert the greatest possible power in its, or his, behalf; and so it happens that the capitalist class, the most powerful class, in order to maintain its supremacy, goes into politics and sees to it that its interests are in the control of the government. All we have been hearing and saying about political corruption and machinations in this country in the last decade—and many volumes have been written on the subject—have had their mainspring in this desire of the privileged classes to maintain their privileges against the people; and all the corruption of our schools and of our press and of our public institutions—of which there have been many and various public indictments—had their mainspring in the same source."

At this point, Hillquit liberally quoted statistics from the report of the U. S. Commission on Industrial Relations, 1914, in support of his contentions. The report recites that the rich, 2% of the people, own 60% of the nation's wealth; the middle class 35% of the people, own 35% of its wealth, and that the poor, 65% of the population, own 5% of the wealth of the country.

"And bear in mind, gentlemen, that was the report in 1914, before the war," Hillquit continued. "Since that time conditions have become incomparably worse and the contrast very much greater. In that year there were
only seventy-five hundred millionaires in the United States. To-day we count about thirty-five thousand, more than four times the number. The cost of living since 1914 has more than doubled. Wages have not kept pace. The picture so eloquently given by this report of the industrial relations commission is rosy as compared with conditions as they exist to-day.

"The Socialists propose as a remedy for this evil the nationalization of the country’s principal industries. They say it is altogether wrong, it is immoral to allow such a vital function as feeding the people, maintaining them in health, to be carried on by a group of irresponsible capitalists for their private profit without any concern for the men, women and children who have to be fed day after day, and who often die from malnutrition. We say it is wrong to allow the great industry of clothing, of sheltering the people of this country to be carried on by individual capitalists or profiteers for their own private interests. We say it is the duty of every self-respecting, rational people, organized in a proper way and on a civilized basis, to take these life-sustaining agencies out of the hands of private individuals, out of the hands of speculators, out of the chaos of competition that rules and ruins at the same time and turn them over to the people to organize properly, to organize rationally, scientifically; to organize with the view of eliminating the waste, to organize with the view of producing the maximum of wealth and distributing it as equitably as possible among all of the people. This is the program of the Socialist Party. It is the program upon which our party was founded many, many years ago. And if you want, you may call that a revolutionary program. It is revolutionary and in that sense we, the adherents of that program, we Socialists, are revolutionists. We don’t object to this term. We glory in this term. And so long as the end sought to be accomplished by us is commendable, is for the welfare of humanity, we don’t care how you label it. But we ask you, gentlemen, and we ask those who framed the charges against us, since when is it that the term ‘revolution’ or ‘revolutionary’ has become a term of opprobrium in a country which owes its existence to a
successful revolution? Since when has the doctrine been proclaimed in this country that a change, a fundamental, a radical, revolutionary change in the mode of government, in the mode of life, is not permissible so long as the people wish to introduce it? There has been a very characteristic incident in that connection. You remember when Mr. Littleton opened this case in a very eloquent address he took me to task for having said this: 'What is treason to-day may become the law of the land to-morrow.' And he said to you by way of warning: 'It will if you let traitors write your laws.' It seemed to be an eloquent argument, but what it revealed is that my good friend Mr. Littleton and those of the same social and economic school with him have gone to the point where they already consider the fundamental law of this land, the constitution of this country, with its bill of rights and Declaration of Independence, as traitorous. They are ashamed of it; they discard it. Aye, they don't have the courage to repeat it all. Mr. Littleton on that occasion read from the Declaration of Independence, and he read a portion of it, and I shall repeat it to you. He said, quoting the Declaration of Independence, 'We hold these truths to be self-evident, that all men are created equal and endowed by their Creator with certain inalienable rights among which are life, liberty and the pursuit of happiness; that to secure these rights governments are instituted amongst men deriving their just powers from the consent of the governed.' And he stopped right here. He did not dare to read what follows, and what follows is: 'Whenever any form of government becomes destructive of these ends it is the right of the people to alter or to abolish it and to institute a new government laying its foundations on such principles and organizing its powers in such form as to them shall seem most likely to affect the safety and happiness.'—Well, gentlemen, we are right here to remind you that this eloquent sentence is a legitimate and organic part of our Declaration of Independence just as well as the part read by Mr. Littleton, and we say to you that we believe, sincerely believe, that the present form of our industrial system has become destructive of the very ends proclaimed as
inalienable rights in our Declaration of Independence; the life, liberty and the true pursuit of true happiness have become impossible under the prevailing and inequitable and iniquitous, economic system, and we say that we have the right and that we have the duty to demand that this system, this pernicious system, be altered; that it be abolished, and that the people of the United States form a new industrial system, basing it upon such rights, upon such conceptions, as to them, the people of the United States, not Mr. Littleton, not counsel for the other side, not even you gentlemen of the Committee or members of the Assembly, deem proper, but the people as the people, the people as a whole, deem proper."

It was charged against the Socialists that they belonged to an organization seeking to attain its ends by means of violence. To this charge Hillquit replied:

"Ours is a movement of propaganda. We are a minority party. Our object and ideal is to convert the majority of the people to our views. Consequently, we are forced to advocate our views. To hold certain views and conceal them would be diametrically opposed to the methods and purposes of the Socialist Party. If we had assumed that anything in our program is such that we cannot stand for it publicly, what object would there be having it in our program? We stand for the things which we believe to be true, and for the things that we stand we always make public propaganda.

"On the question of violence, in connection with the Socialist transformation, or revolution, we have made it perfectly clear that we wish to introduce a radical, economic change. A change of this kind cannot be introduced by conspiracy. It cannot be introduced by acts of daring or violence of the minority. Why? Because it means a process primarily of social or economic evolution. If it is a question of an old-time revolution, having for its aim the deposing of one sovereign and electing, or appointing, another sovereign; or even, for that matter, deposing a dynasty and proclaiming a republic, perhaps a few conspirators may undertake the task and get away with it; but to transform the economic basis of our society; to turn over all the principal industries of the coun-
try and to organize the whole working community as a public instrumentality for the operation and management of such industry—how can that conceivably be accomplished by conspiracy or by violence?

"We Socialists, as strong believers in social evolution, have always been the first to decry and ridicule the romantic notions of changing the fundamental forms of society, the economic basis of society, by any acts of violence or by any conspiracy; and as it has been brought out in this testimony, in the very early days of the Socialist movement—in the days of the First International, this was the bone of contention between the Marxian Socialists on the one side, and the Bakounin anarchists on the other side. Our position is a simple one; we say we are striving for the industrial transformation of society and the political changes which, of necessity, must logically accompany them.

"When we say 'we,' we mean the Socialists of all the world. Now, of course, there are cases where there is no way except the way of violence for political changes. For instance, monarchies in which there are no parliamentary systems of representation, no ballot boxes to introduce innovations in governmental systems. Say, Russia, under the Czar, even before the days of the Duma. What kind of change could the people of Russia accomplish politically, economically, or otherwise, except by overthrowing the Czar? They could not vote the Czar out of office because they couldn't vote. They could throw him out only physically. In an instance of this kind, of course, whether we say it, whether we don't say it, everybody of any political sense knows that where there is no medium of popular expression, where there is nothing but a system of repression, violence will change that system. Let me give you another example. There was our own revolution. What was the situation there? The majority of the people of the Colonies wanted certain changes, at first not even independence; later independence from England. Could they accomplish it peacefully? No. Why not? They could not determine their own destiny. They were a subject colony. Their policies and their life were directed from England. Con-
sequently they could only emancipate themselves by a physical act, by simply saying, 'We shall no longer be your subjects,' and taking the consequences of a war. But where there is a machinery for righting of grievances, for changing of governmental forms, we Socialists say that that is the method we adopt. That is part of our program. At the same time we cannot blind ourselves to history. We cannot be blind to the fact that in actual practice revolutions, changes—fundamental governmental and economic changes, have been accompanied by violence. We say that in most cases the violence has come not from the victorious majority but from the defeated minority. In most cases it has been forced upon the majority, I might say practically in all cases, and we have cited a number of cases to you. Now, we say the Socialist Party is not a party of non-resistance, and we say further, the hypothesis having been placed before us, that if a majority of the people of this country were to vote for a Socialist change in the form of government and the capitalist minority were to attempt by force to prevent them from coming into their lawful inheritance, we would repel or advise repelling such force by force. Did you expect a different answer? Would any American make a different answer? No. And that is all there is to the theory of violence in the Socialist movement. I say as against the definite position of the Socialist Party there is absolutely nothing as definite, as concrete, as conclusive to overcome it."

The Socialist position on war generally, and the World War particularly, including the participation in it of the United States, was expounded by Hillquit in his reply to the charge that the Socialist Party was and is disloyal and unpatriotic. He declared:

"What has been proved, gentlemen, and what undoubtedly has been the fact, is this: That the Socialist Party has consistently, emphatically and at all times opposed the war; that it has been opposed to the entrance of the United States into the war, and that when the United States entered the war it was in favor of a speedy cessation of hostilities, of a speedy peace."

"We claim, I think we proved, and we shall revert to
it again, that with all that, we at all times recognized the war was on; that it had been legally declared, and that we submitted and complied with all the concrete enactments of war legislation in every respect. We did not surrender our opinion—our sincere belief that the war was wrong, a monstrous wrong, and that every day of its continuance entailed unnecessary misery and privations upon our people. We voiced those sentiments. We voiced them because we maintained, and maintain, that there isn’t an act of the Legislature, not even a constitutional enactment or amendment, which intends to silence the tongues and stifle the thought of the people, to which the people must bow, not merely in the sense of practical submission, but in the sense of intellectual and moral submission, against their open convictions. We say it was never intended that this doctrine should ever be preached in this country. It was never intended upon the declaration of war or any other great emergency, that all thoughts of this great people in this great Republic should stop, all democratic institutions should come to an end, and the destiny of 110,000,000 persons should be placed in the hands of one individual, no matter how exalted. This is not democracy. It is the worst form of autocracy. We proceeded upon the assumption that it is not only the right, but the duty of every citizen in a democracy like ours at all times, and in connection with all measures, to use his best judgment, and if he honestly, conscientiously thought that a measure enacted was pernicious or against the interests of his country, of his fellowmen, that it was his right and his duty to do all in his power to have it righted, to have it changed, to have it repealed, to have it undone; and we had ample authority in all the precedents in this country for that general theory, that the greater the crisis the greater the duty, the greater the danger of expressing a position, the higher the call of duty to brave that danger. It is the arrant political coward only who supinely submits to what he in good faith considers a crime. I again want to make it perfectly clear that does not conflict at all with the established proposition that in a land of laws, the minority must always practically submit to the concrete enactments of the majority, without necessarily approv-
ing of it; without necessarily ceasing to advocate its repeal.

"Now, I say we had abundant authority in this country to hold this position. In fact, this was the American position; the position advanced against us now is a novel, un-American proposition. And, to support this, I shall read a very few quotations from what my friend, Mr. Roe, submitted here in support of this contention. In connection with the War of 1812, Mr. Daniel Patten, representative of Virginia, said in 1813: 'It is said that war having been declared, all considerations as to its policy or justice are out of the question, and it is required of us as an imperious duty, to unite on the measures which may be proposed by them (that is, the Government), for its prosecution, and we are promised a speedy, honorable and successful issue. Do gentlemen require of us to act against our convictions? Do they ask that we should follow with reluctant step in the career which we believe will end in ruin? Or do they suppose that while on the simplest subject an honest diversity of sentiment exists, in these complicated and all-important ones, our minds are cast in the same mold? Uniformity of action is only desirable when there is uniformity of sentiment, and that we must suppose will only exist where the mind is enchained by the fear which despotic power inspires. But it has been said that obedience to the will of the majority is the first principle of representative government, and enjoins what gentlemen require. Obedience to all constitutional acts is a higher and commanding duty on the part of the minority of the people, and all factious opposition is highly criminal; but this does not prevent any one in this house, or in the nation, to use every effort to arrest the progress of evil, or to effect a bill of measures in relation to the public interests. And how can this be done, unless there is a full liberty to think and to speak and to act as our convictions shall dictate? If this be denied then there is an end to free government. A majority can never be corrupt. They are irresponsible and despotic. They may prepare the yoke when they please and we must submit in silence.'

"And with reference to the Mexican war let me
just read a few quotations from Sumner. While it was in progress he said: 'The Mexican war is an enormity born of slavery, base in object, atrocious in beginning, immoral in all its influences, vainly prodigal of treasure and life. It is a war of infamy which must blacken the pages of our history.' That was said during the existence and continuation of the war, and how does that compare with our mild statement that this was a capitalist war, having its origin in commercial rivalry and leading only to the gain of profiteers?

'It is mild in comparison with it; and the proposition was stated still more clearly by Mr. Charles H. Hudson, of Massachusetts, who said: 'Has it come to this, Mr. Chairman, that a President can arrogate to himself the warmaking power, can trample the Constitution under foot, and wantonly involve the nation in war, and the people must submit to this atrocity and justify him in his course or be branded as traitors to their country? Why, sir, if this doctrine prevails, the more corrupt the administration is, if it has the power or the daring to involve this nation in a war without cause, the greater is its impunity, for the moment it has succeeded in committing that outrage every mouth must be closed and everyone must bow in submission. A doctrine more corrupt was never advanced; a sentiment more dastardly was never advocated in a deliberate assembly. Gentlemen who profess to be peculiar friends of popular rights may advance doctrines of this character and they may be in perfect accordance with their views and feelings and in conformity with their democracy; but I have too much of the spirit which characterized our fathers to submit to dictation from any source whatsoever, whether it be foreign monarch or an American President.

'I believe, Mr. Chairman, that the first principal declaration in the message of the President—that the war exists by the act of Mexico and that we have taken all honorable means to prevent it—to be an untruth.' I could read any number of similar statements. I shall refrain. I shall notice only one thing, and that
is that the accepted American policy up to this war was as stated by the two characteristic authorities, namely, the right to criticise the war, to oppose the war, exists after the declaration of war; that if it did not exist, this nation could be turned into an autocracy very easily by means of declaring war; that if it did not exist, there would be no way of bringing a war to an end by popular will.

"We knew that at the time we were about to enter the war that about six million human beings had been slaughtered on the battlefields, a greater number than was ever destroyed in any war or the wars of any century, I believe, in the past. We knew that all Europe was in chaos, going to ruin and destruction, and we thought, 'What will this entry of the United States in this war mean? It will add to the conflagration; it will subject thousands, hundreds of thousands, and, if it continues long enough, millions of our boys to slaughter; make millions of American widows and orphans; destroy our wealth; destroy our industrial life; destroy the nation morally; that it will breed hatred in our ranks, as it has bred hatred in Europe; that it will not accomplish anything good, nothing certainly commensurate with the degree of sacrifice required. We didn't believe democracy would be assured as the result of the war.

"We could see nothing but a colossal carnage brought on by the commercial rivalries of the people in Europe. We could see in the war nothing but a cataclysm of human civilization. We could see in it nothing but the greatest blot upon human intelligence and we said: 'Here are we, the United States, about four thousand miles away from the seat of this insane carnage, a powerful people, powerful in wealth, powerful in authority, a people that has set out to create a new civilization on this hemisphere, a people that has turned away from the intrigue, from the machinations of the old world. Here is our opportunity; let's stay out while this insane carnage goes on. Let us preserve all our resources, all our strength, in order to
render it plentifully to the distracted nations of Europe when the carnage is over and reconstruction and reconciliation and rebuilding is in order.'

"And when we saw what we considered an insane, stimulated cry for participation in this caldron, we said, the men who do that, the men who are pushing this Republic into this European carnage, with which it has no direct vital concern, may mean well, may be personally honest, but they are committing, or are about to commit, the gravest crime ever committed in the annals of history against this nation and also against the world.

"And we said, holding these views as we do, it is our sacred duty as citizens of this country, our sacred duty to our fellow-men, to protest against the war, to oppose it with every fiber of our existence, come what may, not only in the shape of disagreement, but persecution or prosecution, suffering of all kinds, and we say to you, gentlemen, if any of you had held those honest convictions, and if you were true to yourselves, true to your country, you couldn't have acted otherwise. We did not, and now that the war is over and the entire world is quivering under the tortures inflicted upon it, now that the war is over and ten millions or more human beings have been directly slaughtered and many more millions killed by the ravages of epidemics, now that all Europe is in mourning, now that the greater part of Europe is starving, succumbing, bringing up a new generation of anaemic, undernourished weaklings, now that we behold the ruins of our civilization, we are unable to rebuild the world. Now, we Socialists say we have absolutely no reason to repent our stand. If we had, we would be men enough to say so, but, in view of what has happened, we say, on the contrary, if ever there was anything in which we feel we were right, in which we feel we performed a great imperative moral duty, it was this opposition to this hideous, inhuman slaughter called war, and if occasion should present itself again, under similar circumstances, we will take exactly the same position.
It is, gentlemen, with this attitude of mind that we formulated our proclamations; formulated our programs. We submitted to the concrete will of the majority as good citizens of a democratic republic, but to go out of our own free will to in any way contribute to what we considered nothing but a senseless insane slaughter of our fellow-men, how could we consistently do it? How would you or you, or any of you act in the face of a law which you would consider absolutely noxious? You would comply with it. You wouldn't do more than that. You couldn't, if you remained true to yourselves."

Referring to the charge that the American Socialist Party approves of the Soviet form of government in Russia, and seeks to introduce a similar regime in the United States, Hillquit declared:

"We recognize the right of every people in every country to choose their own form of government and to adopt it if it suits them. We recognize besides the economic and social fact that the government of every country must correspond to the economic, political and historic conditions of that particular country; that a form of government that may suit one country may not suit the other country; and we say, just because we recognize this verity, we hold that the Soviet form of government seems to be good for Russia, and that the Parliamentary form of government seems good for the United States.

"We do not attempt to force a form of government upon the United States which is not suitable to the genius of its people. We do not approve of any attempt to force a form of government upon Russia, which is not suitable to the genius of its people. We sympathize with the Russian workers, the Russian peasants, the Russian Socialists, the Russian Communists in maintaining their Soviet government. Why? Because it is a Soviet government? Oh, no. Because it is a government of their own choosing; because it is a government of the workers and peasants, of the people. We
do not believe in this political nursery tale that it is a form of government forced upon the people of Russia by Lenin and Trotzky or any other handful of agitators. We believe it is a form of government which has evolved from conditions in Russia, and which the Russian people have adopted instinctively and have adhered to. We believe that if in the twenty-eight months of its existence no counter-revolutionary powers within; no military powers from without, have been able to disrupt it, that there must be reason for its existence. We do not believe for one moment that the government which is entirely arbitrary, which is fictitious, which is forced upon a people, will endure under the conditions under which the Russian Soviet government has endured; and we say, therefore, that we believe that is the government which the Russian people have chosen for themselves and under which they are likely to work out their eventual salvation. And because we believe in it and we express our sympathy with it, we are opposed to any external attack upon it.

"Suppose, however, the same Russian workers and peasants—the same Russian Socialists—had adopted a different form of government, say, that would have sprung from the constituent Assembly, for instance, we should not have supported it any the less; we should have supported it in exactly the same measure, for we support their government not because we indorse that particular form; we support their government because it is theirs and because they want it and because we know they are the ones, and the only ones, to determine upon the mode and form of government under which they choose to live.

"When we say we sympathize with the Russian Socialists in the maintenance of their Soviet government, and the Soviet government as a whole, we do not lose sight of the fact that much of what has been done by that government has been crude; that some of what it has done has probably been wrong. It would have been a marvel; it would have been an impossibility if they should not have blundered; if they
should not have done a wrong thing occasionally among the conditions confronting them. But we say to ourselves: 'Here is a country which, only three years ago at the utmost, began to emerge from a chaos which had been created by mismanagement of generations, of centuries even. They are trying to find their way under the greatest obstacles imaginable, such as never have existed in their history before and never have confronted any people in the past—the industrial and economic breakdown in their own country; the political breakdown; the shakeup of all the institutions; the collapse of the war; the intervention of foreign powers; the blockade; the limiting of their means of transportation—all that makes it for them exceedingly difficult. Now, it took our revolution a great many years before the country settled down to a condition of national existence, and we had at that time only three or four million people. They have a population of 160,000,000. Let us give them a chance to arrange their own affairs.'

Concluding his address, Hillquit asked:

"What have we had here after all? A delightful, and let us hope somewhat useful, academic discussion on the tenets, merits and demerits of Socialism. That was all. We should have liked to convert you, all of you, if we could, but if we cannot, it does not matter for the purposes of these proceedings. You do not have to believe as we do. We do not have to believe as you do. The question is not whether you gentlemen approve of the Socialist philosophy or the Socialist program; whether you consider us wise or unwise, rational or irrational. The question is, If you do not consider us right, or wise, have you the right to say to the constituents of these five men, that they have not the right to consider the Socialist program right or wise? See the peculiar situation into which this proceeding has led us. There you are, a lot of Republicans and Democrats, sitting in judgment upon the Socialist platform, Socialist principles, Socialist tactics. That is what it has amounted to. Imagine for one moment, gentlemen, that we, the Socialists, would do
the same! Do you think you would have much of a chance? Probably not.

"And if it were a question merely of the correctness or incorrectness, the wisdom or unwisdom of our philosophy, I should not expect much of a chance from you. You gentlemen belong to different political persuasions. Your views, your station in life, your surroundings, your education, your preconceptions—all of that predisposes you against our views and we know it. But we say that doesn't matter. What about it! This Assembly and every representative body in this country is instituted for the purpose of harboring the representatives of different and conflicting social views, with the sole provision that those who can command a majority for any measure, rule on that measure at that particular time. If you take it upon yourselves, largely or solely because you disagree, and strongly disagree with the Socialist Party, its program and policies, to bar these five representatives of the party, then what you will have said in effect is this: 'We will tolerate none in this Assembly except those whose views and platforms are approved by us'—in other words, Republicans and Democrats. And you will have said to the constituencies of these five men: 'You are altogether mistaken in your choice, you have to go back and you have to elect Republicans or Democrats, for otherwise we won't allow them to come into our Assembly.'

"We are through, gentlemen.

"Throughout all these weary days of testimony, we have been trying to be helpful to the Committee; we have not withheld anything in our possession. We have freely submitted to your Committee; we have answered all questions; we have stated our creed; we have stated our platform; we have stated our methods. We have given you all facilities to arrive at a proper conclusion. Let me be frank with you. If we had been guided only by a question of political advantage, we might have sabotaged this proceeding a little; we might have goaded you into a decision against us, for from a political point of view I cannot see anything that would benefit the Socialist Party more than an adverse decision. For remember, gentle-
men, we are a rival political party. Your political mistakes are our gain. Your political ruin will be our making, and we cannot conceive of a more flagrant political mistake, of a more crying political and moral wrong than the unseating of these five men. But, gentlemen, we also recognize the higher and more important principle involved in this proceeding, the principle greater than any possible immediate political advantage. We recognize that in trying this issue you are making political history. For the first time since the existence of this Republic, aye, I will go a step further and say for the first time in the history of any country of parliamentary government, has a case of this kind come up, a case involving the outlawry of an entire political party, a case in which the majority parties may take it upon themselves to bar a minority party because they disagree with such minority. I recognize the conditions under which this case has sprung up; the peculiar psychology which has taken hold of the people in this country, largely on account of the war; the psychology of recklessness, of partisanship, of hate, of reaction and persecution.

"I see clearly the procession of events which led up to this proceeding. First, the slight infractions of law in the prosecution of radicals, of dissenters, of so-called 'disloyalists,' in order to get a conviction where a conviction could not be had under ordinary circumstances. Then it was the imposition of sentences which in ordinary civilized time would be considered atrocious, for purely nominal offenses. Then it was a little mob rule, and condoning it complacently. Then it was the raiding and deportation of radicals. Then it became a mania, and every individual in this country who had any political ambition or any political cause to serve, saw in this great movement an occasion to get in and cover himself with glory, and one by one the popular heroes of the type of Ole Hanson, and others, arose and the number of those who envied them their laurels and sought to emulate them was legion.

"And finally, and unexpectedly, like a blow, a sudden, stunning blow, came this action of the Speaker of the House in connection with these five Socialists. It was
overstepping the limit. It has caused a reaction some-
what, and to that extent it has done good. But let me
say to you, gentlemen, it is absolutely inconceivable that
in times of normal, rational conditions, any such proceed-
ing would have been undertaken, and it never has been.
Socialists have been Socialists of the same kind, as they
are now, all the time, many and many years. They have
been elected to various offices and they have been allowed
to hold office. These very members, or a majority of
them, have been in this House, last year and the year be-
fore, after their attitude on the war had been made public
and was generally known, after these various manifestoes
dated from 1916 up, had been adopted, after these ac-
ticles written in 1909 and 1908 had been published—
these men were allowed to occupy their seats. Their
seats were never questioned. And I say it is only the
morbid political psychology which prevailed in this coun-
try a short time ago that made this proceeding possible.

"Now, gentlemen, this mood will pass. We will re-
turn to normal conditions. We will return to a normal
state of mind. We will return to the condition of an ac-
tual free and democratic republic, with toleration for all
political opinions, so long as they meet on the common
ground of the ballot box and constitutional government.
And I say if in the meantime you should unseat these
Assemblymen, that stain upon our democracy will never
be washed off, never be removed. That precedent once
created will work towards the undoing of the entire con-
stitutional, representative system so laboriously built up
and upheld.

"It is from this larger point of view, from the point
of view of the effects of your decision, upon the future of
the political institutions in this country that I ask you
to consider the evidence before you, fairly, on its merits,
without partisan bias, and if you do that I have no doubt
and no fear of the outcome of your deliberations."
April 1st—All Fools' Day—witnessed the expulsion of the five Socialist Assemblymen.

On the 30th of March the Judiciary Committee presented its report to the Assembly. The line-up of the members revealed a bare majority* of one for expulsion. Five† of the committeemen recommended that the entire Socialist delegation be continued in their seats, while one‡ was of the opinion that De Witt and Orr be retained as members of the Assembly, while Waldman, Claessens and Solomon should be expelled.

The debate on the recommendations of the Judiciary Committee began the afternoon of the 31st and continued through the whole of the day and night and a part of the following morning. There were more than twenty-two hours of speechmaking before the votes were taken which declared the Socialists expelled.

One hundred and fifteen members voted against twenty-eight to exclude Waldman, Claessens and Solomon. One hundred and four voted to reseat De Witt and Orr, while forty declared they should follow their colleagues.

Probably, the scenes that were enacted during the debate were without parallel in the history of the legislature of the Empire State. During the protracted and bitter discussion speeches were made which were a brazen advocacy of violence. Hysterical, flamboyant outbursts were greeted with prolonged applause and wild shouting. Assemblymen who pleaded against expulsion, with few exceptions, were treated with indifference when they were not ridiculed and reviled. A lynch-mob psychology prevailed.

*Martin, Cuvillier, Rowe, Wilson, Everett, Jenks and Harrington.
†Evans, Block, Stitt, Pellet, Blodgett.
‡Lown.

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Throughout the proceedings ran the evidence of the war hysteria... ran an account of the occasion in the New York Globe. "Never was there a better 'irrigated' debate... it seemed at times as if every man one met had a bottle of old-time whiskey on his hip and was ready to share it. The cloakroom of the Assembly reeked of alcohol, and most of the breaths one encountered in the lobby were redolent of the still."

According to the New York Evening Post "The sights and happenings in the Assembly cloakroom were hardly calculated to impress the spectator with a sense of legislative dignity or decorum." After the expulsion vote had been recorded, ran the same report, and an adjournment was taken to enable the members to obtain "refreshments," "many of them did not need any."

To the same effect was the report in the New York American: "The scenes that marked the final roll calls... rivaled a bacchanalian revel."

Senator George F. Thompson, of Niagara, Republican, later charged in the Senate that intoxicants had been liberally consumed by members of the Assembly during the debate, and that the liquor had been supplied by one Mark Daly, a lobbyist at Albany for certain manufacturing and commercial interests. When proof of his charges was demanded, the Senator declared he was reliably informed and challenged investigation. Thompson's remarks were subsequently expunged from the record. In the debate on the motion to strike them out, the Senator, although bitterly assailed, stated he could not honestly make any retraction.

The expulsion of the Socialist Assemblymen provoked the same condemnation from press and public men as did their suspension.

"The Socialists stand as the champions of constitutionalism and orderly processes of law," ran an editorial in the New York Tribune... "The case against the expelled Socialists rested on a false foundation. It was assumed they are the Representatives of
the Socialists. They are not such in a legal or constitutional sense. They are representatives of the electors of definite Assembly districts. When a man goes into a polling booth he may privately be a Socialist, a Republican, a Democrat or a Prohibitionist, but he votes, and votes only as a citizen. . . . When a district is denied freedom of choice a blow is leveled not only at our constitutional system, but at every democratic scheme of government . . . ."

The New York Evening World declared: "The Assembly is a 'rump.' Some 50,000 voters may properly raise the cry of 'Taxation with representation,' which stirred American colonists in 1776.

"The verdict is in—but is it?

"Here in New York the short-sighted and mistaken political cunning of one man, misplaced in a position of power, conceived that he could mount to higher place by an appeal to mob passion.

"Is the verdict in?

"In other states there are ambitious schemers with opportunities similar to Thaddeus Sweet's. No one had attempted to duplicate his feat. They realized that Sweet misjudged and overreached himself. They correctly interpreted the popular verdict which was recorded immediately after the trial began, and which eventually will prevail.

"Sweet did not win. . .

"The people's verdict is against Thaddeus Sweet.

"If democracy must learn by mistakes, then Thaddeus Sweet is a great teacher."

The New York Globe described the process against the Socialist Assemblymen as "an artificial commotion, staged for effect. But, though the state was aware of that from the beginning, the comedy had to go on. Having announced his program in an unmistakable manner, the speaker was obliged to do or die. It remains to be seen what verdict the voters have passed on him."
The Socialist Assemblymen have been expelled by a vote which in all cases was decisive and in some cases overwhelming," ran an editorial in the New York Evening Post. "But the only thing the vote is really decisive of is the effectiveness of the party whip in a campaign year. . . . The Socialist party has been expelled into tens of thousands of new votes for the next legislature."

The New York Morning World declared "the action of the Assembly makes the re-establishment of representative government the vital concern of every man and woman in New York who believes in American institutions and is determined to maintain them. . . there will be a general election in the fall and as far as The World is concerned it intends to support these Assemblymen for re-election."

"Even the Kaiser never went as far as Sweet has gone," the same editorial declared. "Even the Prussian junkers were never able to throw the German Socialists out of the Reichstag. The legislative lynching was decided on three months ago when Speaker Sweet suspended five Socialist members of the Assembly . . . The hearing before the Judiciary Committee was merely a concession to form. Having set out to promote his candidacy for Governor by expelling the five Socialist Assemblymen in proof of his militant '100 per cent Americanism,' Speaker Sweet was obliged to see the thing through, in spite of the protests of bar associations and of the ablest and most responsible members of his party. It is not difficult for a Speaker to carry out such a program. He appoints the committees and is the master of legislation. No member who offends him is likely to receive much consideration on local bills, which are often the measure of his value to his constituents, and so the fiat of an arbitrary Speaker often becomes law. That is what happened at Albany and by the irony of fate Mr. Sweet's program was consummated on All Fools' Day. . . ."

Declaring that a republican form of government
had ceased for the time to exist in the State of New York, the editorial continued: "There can be no republican form of government when minority parties are arbitrarily outlawed, when representation is denied, when legally elected and legally qualified members of the legislature are expelled because their political principles are offensive to the majority, when whole constituencies are arbitrarily disfranchised because they refuse to vote the way somebody else thinks they ought to vote."

Judge Hughes, declaring he had no reason to change his earlier opinion, characterized the expulsion of the Socialists as "nothing short of a calamity." He added, "Those who make their patriotism a vehicle for intolerance are very dangerous friends of our institutions." Similar sentiments were expressed by other prominent men and women in all walks of life.

On behalf of the five expelled members, Assemblymen Waldman and Solomon issued the following statement on the day of the expulsion:

"Treason has been committed in the New York Assembly by Republicans and Democrats, with few honorable exceptions. A bi-partisan combination has overthrown representative government. The representatives of a political party have been driven from the legislative halls solely because their platform was distasteful to their political opponents.

"The Constitution has been lynched and the perpetrators of this outrage must be brought to justice. The spirit of the mob breathed in the Assembly debate throughout the weary hours. Under the leadership of Speaker Sweet, man after man openly incited to violence. The doctrine of arbitrary power was shamelessly proclaimed again and again.

"The forces of plutocracy and reaction have temporarily triumphed. The common people have been told they have no voice in government, except on the sufferance of the hirelings of vested interests, to whom the powers of state have been surrendered."
"The outrage at Albany is a clarion call to the people of America to rally for the revival of their ancient liberties. The life of democratic institutions is at stake, and the people must get together to right the wrong. The workers by whom we were elected must and will be heard. If the people are to be driven from the ballot box where shall they go?

"The right of the ballot is an American right and those who deny it are traitors.

"The Assembly has consummated the act of lawlessness it began on January 7. Where the verdict was not the product of hysteria and ignorance it was the fruit of contemptible political jobbery. The Albany outrage is the culminating step in a series of assaults on our popular liberties which will jolt the people into a new political consciousness.

"The Socialist party refuses to regard the act of the Assembly as more than a mad manifestation of fear for the growing political power of labor.

"It will not be swerved from its historic course and mission. With greater faith and vigor than ever, it will go on agitating, educating and organizing the workers for peaceful social change.

"Socialists will not be goaded into violence or driven underground. These have never been the methods of Socialism. Always and everywhere it has waged its fight in the open, and where this opportunity has been denied it has ceaselessly fought for political democracy.

"We shall go back to our districts with complete confidence. The people who sent us here knew us, and they will repeat their sovereign will in overwhelming numbers."

* * * *

The majority members of the committee declared in their report, "it is abundantly established, even proven to the point of demonstration, that the Socialist party is at present committed to a continuing policy of disloyalty. Its members, by virtue of their participation therein, have repudiated their national alle-
giance and the party and its members have dedicated themselves to the overthrow of the Government of the United States by all available means, dependent only upon national conditions and exigencies," and that "each and every charge made against the five Socialist Assemblymen in the resolution adopted by the Assembly . . . has been established."

The majority further found "that every charge material to the inquiry . . . contained in the statement made by the chairman of the Judiciary Committee . . . has likewise been established . . . ."

"The Socialist party as now constituted," asserted the majority members, . . . "is not a loyal American organization or political party disgraced occasionally by the traitorous act or declaration of a member, but is a disloyal organization composed exclusively of perpetual traitors."

Assemblyman Lown joined with the majority members in condemning the attitude of the Socialist party, which "conducted a disloyal propaganda according to our standards of loyalty . . . ." He dissented "from the view that the evidence fairly construed shows that the Socialist party is a conspiracy to overthrow this government by force and violence and not a political party," declaring "the Socialist party has been a recognized political party in this State for upwards of twenty years." He continued: "The war program of the Socialist party of America, while unpatriotic according to our standards of patriotism, did not disclose the overt acts of violence against the government necessary to convert it from the status of a political party to that of a criminal and treasonable conspiracy against the government." Lown recommended that De Witt and Orr be reseated.

Assemblymen Pellet and Stitt asserted:
"To exclude a duly elected member because of membership in a particular political party or because of his political or economic views not only would be contrary to the spirit of the Constitution, but would be a most dangerous attack on the rights of representative
government and free political action, the fundamental principles upon which our republic was founded . . .

"In view of this long-established recognition of the Socialist party as a political party, we cannot say now that it is not a political party and, by excluding its representatives, disfranchise the people of five Assembly districts.

"Guilt cannot be established by proof of a state of mind. Evidence of overt acts is required. An individual may hold opinions, economic or political, which differ from those held by the majority of his fellow-men and still be qualified to sit in the legislature. He may have ideas as to the degree of support of the government required of him in time of war absolutely contrary to those of other citizens, but the holding of such opinions does not violate the law of the land, and he is neither amenable to the law nor disqualified as a member of the body which makes those laws. The remedy lies with the electorate which chose him; theirs is the right to determine whether he shall be returned as their representative."

The recommendations to unseat the five Socialists were characterized by Pellet and Stitt as indicating "a desire to substitute a policy of suppression of thought and of political action for one permitting a free presentation of grievances to be followed by intelligent discussion in an effort to solve the problems presented. Such a policy . . . would make a mockery of the statement in the Declaration of Independence that governments derive their powers 'from the consent of the governed.'"

The statement concluded, the "record is insufficient to justify the exclusion of any of them by reason of disloyalty."

Assemblyman Blodgett found:

"These five men, having proper credentials, duly elected as Socialists, which party has an official place on our ballot and has for many years last past been recognized by our election laws, are denied their seats
because of their membership in the Socialist party. It is charged that this party has the sinister motives as set forth in the resolution of the House. Accepting this as true, can it be urged that membership in a party as such disqualifies any or all of its members from public trust? It was first charged by counsel for the committee that the Socialist party was a treasonable and criminal conspiracy having for its purpose the destruction of the government by force of arms, and the premise was urged that any of its members, and these five men in particular, were, ipso facto, traitors and conspirators under the theory of law pertaining to criminal conspiracy. . . . In support of this theory most of the evidence in this case was offered.

"Here we have a political party of great numbers, with well defined aims and purposes, openly avowed, extending over the whole country, with similar movements in all civilized countries. If this contention were to obtain, we would have something more than conspiracy—we would necessarily have rebellion. The position is untenable, and there is no evidence of rebellion."

Blodgett, pointing out that the word "loyalty" admits of many definitions and that its meaning varies with the time, person accused and his accusers, contended, "It must be admitted that any citizen has the right to criticize his government at any time, if by so doing he violates no law.

"If this were not true a government might perpetuate itself and the people would be estopped from asserting their constitutional rights."

Referring to the position of the Socialists in the war, Blodgett declared, "We must admit that the opposition of these men was such as not to come into conflict with the law. . . . Historical precedent has shown that Webster, Clay, Lincoln and others were revered, likewise criticized wars while they were in progress, and I recall the case of Lloyd George and Asquith in their opposition to the war of England against the
Boers, and their right to do so has never been denied.” The committeeman further pointed out: “History has taught one lesson, if no other. That an idea, good or bad, cannot be throttled. If everyone were exterminated who held a certain idea, the act of extermination would perpetuate it for all time.”

The statement concluded:

“I am greatly concerned with that portion of the State Constitution, Article I, Section 8, which provides: ‘Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of press.’ . . . If I err in these conclusions, I err on the side of constitutional liberties, trusting in the strength of the sovereign people to maintain itself.”

Assemblyman Evans argued:

“We do not question . . . the Assembly has the naked physical power to expel or suspend any member for any reason whatever . . . What we urge is that the Assembly must never exercise a power purely physical unless it is likewise a legal power. Naked physical power, without legal basis, is force. The Assembly must not expel these Socialists by force. The question is not whether the Assembly has the mere naked power to expel; the question is solely does the legal constitutional power exist in this case. This proceeding is authorized by the Constitution of the State and we are limited by the Constitution as to our power in the premises . . . These constitutional restrictions we must implicitly respect. Since we stand for the maintenance of constitutional government and demand that the Socialists respect constitutional authority, we must first ourselves respect that self-same authority. . . .

“If we disqualify Socialists from sitting in our legislative branch of the government merely because we abhor their ideas and ideals, our democratic government will not long endure. Ours is a government of law, not of men . . . The minority has the right to preach doctrines and theories of all kinds. We cannot
bar them. If the minority doctrines are disloyal, unpatriotic, insane or foolish, we must rely on the electorate to reject them? We reject the doctrines of the Socialist party, but so long as the Constitution and laws allow them life it is our duty to maintain their right to preach their ideals. . . .”

Evans went into the constitutional phases of the question at length, contending the law prohibited the expulsion of members of a legislature except for the lack of specified constitutional requirements.

Declaring in unmistakable terms his disagreement with the Socialists, whose beliefs he characterized as “false” and “opposed to all that is American,” Evans concluded:

“They possess the necessary constitutional qualifications.”

In his memoranda Assemblyman Block, after considering the constitutional provisions applicable to the proceedings, declared:

“Liberty involves the right to think wrong.”

He reminded the Assembly of the Decker case, in which the Judiciary Committee, under the chairmanship of Assemblyman Martin, in 1918, had found that the accused Assemblyman, although the charges against him were true, had reported back “that in order to remove a member of the Assembly from office under the Constitution some question involving the election or returns is necessary before the Assembly has jurisdiction in the premises.”

Reciting what he regarded as the essential points to be considered in the proceeding, namely, the charges against the five Assemblymen, the fundamental rights of their constituents, and the significance of the precedent that would be established in the event of the acceptance of the majority report, Block concluded that “to unseat these men would be in violation of our own oath of office and jeopardize the principal of constitutional government and civil liberty.”

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<td>Trial of Scott Nearing and The American Socialist Society</td>
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