

1912: The syndicalist trials



A short history of the trials and legal repression of radical trade unionists in the UK in the early twentieth century.

The relatively high degree of political liberty which was enjoyed during the first decade of the twentieth century in this country was the result of the continuous struggle which radicals and reformists had waged against their rulers for a century and a half. Cole and Postgate declare with justification 'Speech and political thought were freer than they had ever been before or are today.' and 'The Edwardian age ... seemed to be an age of ever increasing liberty. Political liberty – "civil liberty" in the common sense – had previously been immense; it was hardly at all interfered with during this period. One serious instance occurred but only one.'

That 'one serious instance', the Syndicalist Trials of 1912, was the first use of the Incitement to Mutiny Act since 1804. It is treated by Cole and Postgate as a particularly malicious but isolated set of prosecutions. Yet successful political prosecutions are not only valuable to the State in terms of immediate repression of undesirable actions, ideas and persons, they are also legal precedents. Besides being a return to the infamous prosecutions of the Press almost a century before, these prosecutions were probably the first legal proceedings on account of open trade union propaganda. The First World War deserves recognition as the watershed of civil liberty in this country, but these prosecutions were a clear indication that the tide was already turning.

This revival of the Incitement to Mutiny Act 1797 was closely linked to the increasing industrial unrest which reached a peak on 1st March 1912 when the miners went on strike to further their demand for a national minimum wage. This was the biggest strike Britain had ever seen; according to the Board of Trade over a million workers were involved. The syndicalist movement was extremely active at this time urging the workers to cease relying upon Parliament, and advocating militant trade unionism and direct action. Such a philosophy was obviously far more alarming and constituted a much more immediate danger to the capitalist state than did the socialism of the Labour MPs.

During 1910 and 1911 the army had been used against strikers in several districts and sometime in 1911 an 'Open letter to British Soldiers', urging them not to shoot strikers if ordered to do so, was published in the Irish Worker. This letter was reprinted without comment in the first edition (January 1912) of *The Syndicalist*, the new organ of that movement, from which a railwayman named Fred Crowsley had it reprinted as a leaflet at his own expense. He then personally distributed copies to soldiers at Aldershot, Hyde Park Comer and Hounslow barracks. He was arrested on 31 February and charged under the Act of 1797. Having declared that if he had succeeded in persuading one soldier from being a murderer his labour would not have been in vain, he was committed for trial.

Not content with this prosecution, the authorities indulged in a piece of persecution of a kind unknown in Britain since the early nineteenth century. Guy Bowman, editor of *The Syndicalist*, and B.E. and C.E. Buck, the printers of the paper, had three charges brought against them: two felonies under the Act of 1797, and the common law misdemeanour of 'endeavouring to incite and stir up persons 'serving in His Majesty's land forces to commit acts of disobedience to the lawful orders of their superior officers.' If this charge was good at Common Law, which is at least open to doubt (although it does not seem to have been questioned in this case) it would indeed be remarkable if the Common Law did not extend to inciting to mutiny. Endeavours to incite to disobedience are clearly not actionable under the Incitement to Mutiny Act. The first offence under Section One of that Act requires, that the endeavour should be to seduce from 'duty and allegiance'. Disobedience to lawful orders does not necessarily involve any question of allegiance to His Majesty. Consequently, the common law misdemeanour charge only requires proof of endeavour to seduce from duty and the inclusion of this charge can be seen simply as an attempt to allow for all contingencies. Such slender authority as existed in this area of law was of little assistance to the prosecution in these innovatory proceedings.

Meanwhile, the miners' strike was providing unwelcome instruction in working-class solidarity. Tom Mann (pictured above), a seasoned militant and leader of the syndicalist Movement, drew the attention of public meetings in Manchester to the fact that the authorities were having premises prepared as temporary barracks and were concentrating military forces a few miles out of the city. Several times he read out the 'Don't Shoot' letter and declared that he believed in every sentence. At one meeting on 13 March he explained what had happened to Bowman and the Bucks and stated that as he was chairman of the Industrial Syndicalist League, which was responsible for *The Syndicalist*, he did not see how he could escape prosecution.

On returning to London Mann faced the same common law charge as the others and two charges under the 1797 Act were subsequently added. The Attorney-General, Sir Rufus Isaacs, was immediately bombarded with questions in the House and in reply stated that he was desirous of 'prosecuting the person mainly responsible' and that he had consequently authorised the prosecution of Tom Mann. Refusing to withdraw the charges against Bowman and the Bucks, he maintained, 'They are made responsible because they are publishers and printers of (the paper) and that is a matter of defence equally open to them.' In defending these three, Sir Frederick Law, KC, submitted, inter alia, that the words of the letter had to be considered 'in the light of the great latitude adopted nowadays'; that an open letter was merely a common form; and that no evidence had been led that a particular number of *The Syndicalist* had ever been communicated to any soldier or anyone serving in the forces of the Crown. Mr. Justice Horridge simply pointed out that the charges were not of success in seducing soldiers, but of endeavouring to do so and all three were convicted, Bowman being sentenced to 9 months imprisonment with hard labour and the Bucks to 6 months with hard

labour. These sentences were subsequently reduced to 6 months and one month respectively without hard labour.

On 25 March, Josiah Wedgwood, MP, protested in the House against the institution by the Government of prosecutions of the Press. His speech was a scathing attack on those who were intent on returning to the political prosecutions of a century before. He noted that from 1832 to 1912 – Cobbett to Bowman – prosecutions of the Press of this nature had ceased and that it was from the trial of Cobbett that the freedom of the press really dated. 'The best men in every age have been against such prosecutions', he observed, adding the warning, 'there has always been some provocation, some fear inspiring prosecution. The clamour of propertied classes has again and again deafened the Government to the still, quiet voice of reason and liberty.'

All of this had no effect on the outcome of Mann's trial on 9 May at the Manchester Assizes. Defending himself, Mann stated emphatically that he was compelled to come to the conclusion that these proceedings had been instituted because of his connection with the syndicalist movement; others had written and spoken as he had, but they were not identified with that particular movement and they had not been prosecuted. The Attorney-General had stated in the House that Tom Mann was not being prosecuted for his speeches but because he was ultimately responsible for *The Syndicalist*, in which the letter appeared. His admission of nominal responsibility was used in evidence against him, although what he had said was in reality more an accurate prediction than an admission of actual involvement in publication of the letter. He had not known of the letter's appearance in *The Syndicalist* until after it was on sale; nor was it suggested by counsel for the prosecution that he ought to have been aware of it. His own condemnation of the tactics of the prosecuting authorities had been made to count against him. He was duly convicted and Mr. Justice Bankes specifically stated that he was passing the same sentence that Bowman was already undergoing – six months imprisonment (without hard labour).

Although Fred Crowsley's committal proceedings had taken place on 7 March, which was several days before the arrest of the printers and the editor of *The Syndicalist*, and two weeks before Mann's arrest, he was not tried until over a month after Mann. It is certain that the decision to prosecute the others was taken as a result of the evidence in Crowsley's case. This in itself is hardly objectionable, but the conduct of the proceedings against Crowsley stands in stark contrast to the other trials and lends support to Mann's contention that further proceedings were not instituted simply because of an inherent illegality in the publication of the 'Don't Shoot' letter.

Crowsley was tried on 18 June at the Hampshire Assizes and on being convicted was sentenced to four months imprisonment with hard labour, subsequently reduced to two months without hard labour. After the jury had found him guilty the prosecution intimated that if he was willing to give an undertaking not to repeat the offence, the Crown would not press the charge. Crowsley had no hesitation in stating that his conscience would not permit him to give such an undertaking but Mr. Justice Channell indicated before passing sentence that had he done so 'the law might have been vindicated and the offence might have been passed over without punishment'. The learned Judge obviously appreciated that nothing would be gained by punishing this man, even though he had personally distributed two thousand copies of the letter with the avowed intention of inciting soldiers to act as the letter urged them to. He was not a syndicalist and the law had already been vindicated by the sentences passed on Tom Mann and the others who were.

The prosecution of the printers was a particularly insidious action which must be regarded as an attempt to put *The Syndicalist* out of production by intimidating any other prospective

printer. In fact, this did not happen, as widespread protest led to the four men being released long before they had served their sentences. Tom Mann was only in prison for seven weeks.

When counsel for the prosecution in the Bowman case remarked that it was hoped an example to others would be made, Sir Frederick Law, KC, retorted that if an example were necessary it ought to be drawn from a higher class. This was an allusion to contemporaneous circumstances which clearly indicated the political and class nature of the proceedings against the syndicalists. During the period from 1912 to 1914 several members of the Unionist Party made speeches about the proposal to grant home rule to Ireland, speeches which were clearly actionable under existing law. Some also engaged in activities such as gun-running and drilling the Ulster Volunteer Force, which were not only illegal, but were a grave and very real threat to the physical and social well-being of the people of Ireland. Discussion of the issues involved would be outside the scope of this study; the important point in the present context is that no legal action was taken against these individuals.

The Home Rule Bill was eventually defeated in March 1914 after a threat of mutiny in the British army at the Curragh, encouraged and incited by Tory politicians whose status assured immunity from prosecution. It was also sufficient protection for the army officers who announced their refusal to obey orders and their intention of resigning their commissions sooner than take up arms against the Ulster loyalists. This elicited a statement of support from Bonar Law, leader of the Unionist Party and future Prime Minister. In the House he declared 'any officer who refuses is only doing his duty'. In a book published in 1938, D.N. Pritt quotes several of the more blatantly 'seditious' or 'treasonable' speeches of two of the most prominent speakers against Home Rule, Sir Edward Carson, and F.E. Smith. A few of his examples enforce the point.

Speaking in County Antrim on 19 September 1912 Carson said: 'Here is what the covenant says – In the event of such a Bill being forced upon us we further solemnly and mutually pledge ourselves not to recognise its authority. I do not care twopence whether it is treason or not; it is what we are going to do.'

Equally confident that he would not be charged with treason, Smith declared on 20 September 1913 that, 'Home rule will be dead for ever on the day when 100,000 men armed with rifles assemble at Balmoral (Belfast).'

Later, at Armagh, on 4 October 1913, he repeated: 'On the day on which there will be in Ulster 100,000 disciplined men armed with rifles, wherever else Home Rule may be talked about, it will never be talked of in Ulster.'

Like Smith, Carson was a lawyer and was well aware of the illegality of their actions. He knew that the Unlawful Drilling Act of 1819, one of the infamous Six Acts, rendered him liable to seven years penal servitude, but he was just as confident as Sir Oswald Mosley two decades later that the Act would not be invoked. On 16 May 1913, he acknowledged that drilling was illegal:

I was reading an Act of Parliament forbidding it. The Volunteers are illegal, and the Government know they are illegal, and the Government dare not interfere with them. . Don't be afraid of illegalities; illegalities are not crimes when they are taken to assert what is the elementary right of every citizen, the protection of his freedom, and if anyone tells me I should be ashamed of myself, I tell him it is the motive I live for, and if I am threatened I am prepared to defend myself . . . We will not allow any body of men, whether they call themselves a Parliament or a Government, to take away what we consider essential for the carrying on of our rights and privileges.

This assertion of the right to break the law in order to maintain the status quo clearly distinguishes Carson's philosophy of direct action from that of the syndicalists, who were far from satisfied with the existing social order. The Incitement to Mutiny Act was still an excellent weapon for limiting freedom of speech and communication: the state could at least ensure that undesirable democratic ideas did not permeate that institution whose authoritarian structure was the ultimate safeguard against civilian disaffection.

Although the Liberal Cabinet did discuss the political expediency of prosecuting Carson, Smith and others it is unlikely that the decision against doing so was difficult to reach. Whereas the syndicalists were sentenced to periods of imprisonment, Carson and Smith were destined to serve the State in a variety of capacities. Fourteen months after the Curragh Mutiny, Carson was appointed Attorney-General in Asquith's Coalition Cabinet. He became First Lord of the Admiralty in Lloyd George's administration from December 1916 to June 1917, when he entered the War Cabinet. In 1921, he was created a Lord of Appeal (by virtue of having been a law officer).

Smith continued as Carson's deputy in 1915 when he was appointed Solicitor-General. He held this post until 1919 when he earned rapid promotion, becoming, as Lord Baron Birkenhead the Lord Chancellor, head of the English judiciary. In 1921 he was created a Viscount, and in 1922 an Earl. He was also Secretary for India from 1924 to 1928. The contrast with the syndicalists speaks for itself.

OPEN LETTER TO BRITISH SOLDIERS

Men! Comrades! Brothers!

You are in the army.

So are we. You, in the army of Destruction. We, in the Industrial, or army of Construction. We work at mine, mill, forge factory or dock etc., producing and transporting all the goods, clothing, stuffs etc., which makes it possible for people to live. You are Workingmen's sons. When We go on strike to better our lot, which is the lot also of Your Fathers, Mothers, Brothers and Sisters, You are called upon by your Officers to MURDER US.

Don't do it.

You know how it happens. Always has happened.

We stand out as long as we can. Then one of our (and your) irresponsible Brothers, goaded by the sight and thought of his and his loved ones' misery and hunger, commits a crime on property. Immediately you are ordered to murder Us, as You did at Mitchelstown, at Featherstone, at Belfast.

Don't You Know, that when you are out of the colours, and become a 'Civvy' again, that You, like Us, may be on strike, and You, like Us, be liable to be murdered by other soldiers.

Boys, Don't Do it.

'Thou shalt not kill', says the Book. Don't forget that!

It does not say 'unless you have a uniform on'.

No! MURDER IS MURDER, whether committed in the heat of anger on one who has wronged a loved one, or by clay-piped Tommies with a rifle.

Boys, Don't do it.

Act the Man! Act the Brother! Act the Human being! Property can be replaced! Human Life, Never!

The Idle Rich Class, who own and order you about, own and order us about also. They and their friends own the land, and the means of life in Britain.

You Don't! We Don't!

When We kick they order You to murder Us.
When You kick, You get court-martialled and cells.
Your fight is Our fight. Instead of fighting Against each other We should be fighting with each other.

Out of Our loins, Our lives, Our homes, You come.
Don't disgrace Your Parents, Your Class, by being the willing tools any longer of the Master Class.

You, like Us, are of the Slave Class. When We rise, You rise; When We fall, even by your bullets, Ye fall also. England with its fertile valleys and dells, its mineral resources, its sea harvests, is a heritage of ages to us.

You have no doubt joined the army out of poverty. We work long hours for small wages at hard work, because of our poverty. And both Your poverty and Ours arises from the fact that, Britain with its resources, belongs to only a few people. These few, owning Britain, own Our jobs. Owning Our jobs they own Our very lives. Comrades, have we called in vain? Think things out and refuse any longer to Murder your Kindred. Help US to win back Britain for the British, and the World for the Workers.

[This appeal gave rise to the Syndicalist prosecutions of 1912. It was printed in The Syndicalist of January 1912.]

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