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J. Petryshyn

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Aller au sommaire du numéro

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Class Conflict and Civil Liberties:

The Origins and Activities of the Canadian Labour Defense League, 1925-1940

J. Petryshyn

DURING ITS EXISTENCE from 1925 to 1940, the Canadian Labour Defense League (CLDL) was subject to a wide range of interpretation. Some viewed it as a diabolical bolshevik organization designed to create dissension within Canadian society. To others, it was a humanitarian agency which sought to relieve those who had found themselves in intolerable conditions. Led by Albert Edward Smith,[1] a methodist minister turned communist, the CLDL rose in prominence (or notoriety) during the worst years of the depression, promoting communist policies, agitating on behalf of the Communist Party of Canada (CPC), and defending before the courts over 6,000 individuals — communists and non-communists alike — who had run astray of the law because of their militant activities. The CLDL was especially effective after the arrest and conviction of Tim Buck and seven other communist leaders in 1931 under the controversial Section 98 of the Criminal Code. Skillfully intertwining communism with the defense of civil liberties in Canada, the CLDL launched a series of protest campaigns which not only brought the organization a substantial following but also had a significant impact on the country's political leaders. This paper will reconstruct the origins and activities of the CLDL and assess its role in the turbulent and violent interwar years.

I

IN FEBRUARY 1922 the CPC, following the advice of the American Communist Party (CPUSA), welcomed into Canada the Trade Union Educational

[1] Albert Edward Smith (1871-1947) was born in Guelph. He began his career as a bookbinder in Hamilton in 1884 before going to Manitoba in 1890 as a student missionary. Smith proceeded to become a minister and stayed in the ministry for 29 years, becoming President of the Manitoba Methodist Conference in 1915-1916 and 1916-1917. He left the ministry in 1919 during the Winnipeg General Strike. From 1920 to 1923 he sat in the Manitoba Legislature for Brandon, where he was elected on a Labour ticket. From 1925 to 1927 he was president of the Ontario section of the Canadian Labour Party (he joined the CPC in 1925). He helped to organize the CLDL and became its first general-secretary in 1929. He was to remain in this position until 1940. Without a doubt, Smith was the linchpin and the guiding force behind the CLDL.

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League (TUEL), an American based organization which was designed to promote communist agitation within existing trade unions. Describing itself as an "educational body," TUEL sought to permeate unions with the spirit of industrial unionism and the class struggle.[2] By 1925, TUEL's "boring from within" tactics began to bear fruit among the coal-miners of Alberta and Nova Scotia. In Alberta, for example, a core group of TUEL agitators in the Drumheller-Wayne coalfields helped to disrupt District 18 of the United Mine Workers' of America (UMWA). They successfully advocated secession from the union when the union's district executive negotiated an agreement with the area's coal operators which provided for a wage reduction without submitting it to the rank and file.[3] The secessionists created a rival union, the Mine Workers' Union of Canada (MWUC). When coal operators refused to negotiate with the MWUC, the new union picketed the mines and prevented UMWA members from resuming work.[4] Disturbances continued intermittently throughout summer 1925 until police arrested a considerable number of the picketers. By August 1925, the MWUC found itself in desperate financial difficulties with over 75 of its members awaiting trial in Calgary on charges ranging from "watching and besetting" to assault.[5] As a result of these circumstances, Tim Buck, the CPC's industrial organizer and general-secretary of TUEL, organized a meeting in September 1925 to establish a "non-partisan" organization which would initiate a broad campaign for funds to help pay the lawyers' fees and fines incurred and to provide relief for families of imprisoned miners.[6]

The meeting was attended by Jack Young, president of the Toronto District Trade and Labour Council; J.L. Counsell, a wealthy Hamilton lawyer; James Simpson, then secretary-treasurer of the Canadian Labour Party; Samuel Lawrence, Hamilton alderman and trade unionist; and Tim Buck, Florence Custance, A.E. Smith, Annie Buller, Malcolm Bruce, and Robert Shoesmith — all representing the CPC.[7] Although called for the immediate purpose of aiding the Drumheller miners, it was resolved that a permanent organization be established which would "unite all forces willing to co-operate in the work of labour defense . . . that will stand as an ever willing and ever ready champion . . . of the industrial and agricultural workers, regardless of their political or industrial affiliations . . . who were persecuted on account of their activity in the struggle

[2] For more information on TUEL see Ivan Avakumovic, *The Communist Party in Canada: A History* (Toronto 1975), 42-3 and William Rodney, *Soldiers of the International: A History of the Communist Party of Canada 1919-1929* (Toronto 1968).
[3] *Labour Organization in Canada 1925*, 180.
[4] *Ibid.*, 181.
[5] *Albert Edward Smith Papers*, Private Collection, Hereafter cited as *Smith Papers*. For a general history of labour unrest in the Drumheller area see Stuart Marshall Jamieson, *Times of Trouble: Labour Unrest and Industrial Conflict in Canada 1900-1966* (Ottawa 1968).
[6] Tim Buck, *Our Fight for Canada* (Toronto 1959), 28.
[7] *Smith Papers*

for the class interests of the industrial and agricultural workers."[8] The new organization was officially entitled the Canadian Labour Defense League and a provisional executive committee was appointed. It consisted of Florence Custance, general-secretary; Jack Young, president; J.L. Counsell, vice-president; and Samuel Lawrence, controller. A.E. Smith became the League's chief organizer.

Although the individuals who formed the CLDL were not all communists they did share the belief that at the heart of the capitalist system of production lay the principle of exploitation from which flowed the distortions that existed in society. This philosophy was evident in the bulletin that the League issued to influential labour bodies throughout the country on 8 October 1925:

> From time to time organized labour in Canada is stirred because of unwarranted persecution and imprisonment of workers who take active part in the struggles of the working class against master class oppression. The period from 1918-25 alone provides many such cases. . . .
>
> The intensity of the modern struggle is shown well in Canada in the cases of the miners of Nova Scotia and Alberta. Local defense committees . . . do not fit the needs at this time. The Canadian Labour Defense League has been organized to fit this need. . . .
>
> The Canadian Labour Defense League is here to make its work part of labour's cause. It is here to give legal, financial and moral aid to the victims of the struggle. This security will strengthen the morale of the workers in their struggle.[9]

The idea of a Canadian labour defense agency was communist inspired with roots in the International Red Aid, an organization formed in 1922 by the "Society of Former Political Exiles and Prisoners" in Moscow. The object of the Red Aid was to rally "toilers throughout the world" to struggle against "capitalist injustice" and to supply relief aid to "class-war" prisoners and their families.[10] Although the Comintern had suggested such a Canadian agency to the CPC in 1924, the party's official organ, *The Worker*, did not begin to editorialize on the need for a permanent labour defense league until the Drumheller affair in 1925.[11] Meanwhile, the CPC also had an American example to follow — the International Labour Defense (ILD) — which was founded by the CPUSA in late June of that year.[12]

For the arrested Drumheller miners the CLDL solicited financial aid. It also started campaigns opposing the sentences imposed, especially those of "Kid Burns" and Cecil Terris, two organizers, who were sentenced to three years, four months and three years, six months respectively, for "assault" during the strike. Although the CLDL was unable to prevent the imposition of heavy sentences on the Drumheller strikers or the "blacklisting" of over 300 miners

[8] *Labour Organization in Canada 1925*, 208.

[9] *Attorney-General of Ontario, Communist Party of Canada*, Public Archives of Ontario, Box 11, Envelope 11. (Hereafter cited as *A.G. C.P.C.* B and E).

[10] Beckie Buhay and A.E. Smith, *The World Defense Congress — Its Lessons for Canadian Workers and Farmers* (1933), 3.

[11] See, for example, *The Worker*, 8 August 1925.

[12] Theodore Draper, *American Communism and the Soviet Union: The Formative Period* (New York 1960), 180-1.

by the coal-operators, it was able to collect funds to help pay the fines imposed, the lawyers' fees, and to aid families of the miners on trial. Indeed, the League's chief organizer, A.E. Smith, toured western Canada and British Columbia in 1925 and 1926 for this purpose. A total of $4,000 was raised.[13]

The CLDL existed in the form of a provisional committee until 29 October 1927 when its first national convention was held in Toronto. Forty-five organizations were represented at the convention, including 27 local branches of the CLDL, three women's labour leagues, five trade councils, and ten other bodies. Florence Custance, CLDL general-secretary, reported to the delegates that in the two years of its existences 52 CLDL branches with 3,000 individual paying members had been formed.[14]

Officially the gathering set forth the aims of the CLDL:

1. To provide legal defense for all workers prosecuted for expressions of opinion or for working class activity.
2. To provide material and moral support for all working class prisoners.
3. To provide material support for the families and dependents of such prisoners.
4. To initiate and centralize special campaigns for the defense and release of working class victims of the courts in their struggle for the betterment of their conditions.
5. To work for the repeal of all anti-working class laws.
6. To defend foreign-born workers against persecution and unwarranted deportation.
7. To collect material and give publicity to facts regarding the persecution of workers and to expose secret anti-labour activities, labour spy systems, etc.
8. To organize campaigns of protest against the white terror in other capitalist countries and to give moral and financial aid wherever possible to the victims of such terror.[15]

Organization, membership, administration and finances were thoroughly discussed and laid down in the articles of the CLDL constitution.

Communists controlled the League's executive from 1927 to its dissolution thirteen years later. Although its first committee was decorated by such a respected non-communist as James Simpson,[16] the League was run by Florence Custance, Smith, and Beckie Buhay. Indeed, until January 1929, the national office was situated in an upstairs room in the home of Florence Custance. Early in January, however, she became seriously ill and Smith was appointed acting general-secretary by the executive. All the appurtenances of the office were moved to his home at 521 Runnymede Road in Toronto. When Florence Custance died on 12 July 1929, Smith decided to move the national office from his bedroom to a central location in the city. Two offices were secured at 105

[13] *Smith Papers*

[14] *Labour Organization in Canada 1927*, 239. Florence Custance noted that during the two years of its existence, the CLDL Executive had collected $5,485.26; expenses were $5,218.20, leaving a balance of $267.06.

[15] *Ibid.*, 239-40.

[16] Although James Simpson was on the executive committee when the CLDL was formed in 1925, by 1927 his name is not on any CLDL documents. It is difficult to ascertain precisely when and why Simpson left the League. However, it can be assumed that it was because of the dominance of the communist element in the CLDL.

Bloor Street West. Within six months, Smith was compelled to seek larger quarters; the new national office was established in the Star Building at 331 Bay Street from which it operated for the next 11 years.

II

AS WELL AS BEING the national headquarters of the CLDL, Toronto also became the major focal point of the League's activities. Beginning in autumn 1928 and continuing throughout the 1930s a massive anti-communist campaign was inaugurated by the city's Board of Police commissioners. Alarmed at the spread of communist propaganda throughout the city, especially among the foreign-born, and believing that communists were a disloyal group in the pay of Moscow, the Board passed in January 1929 two edicts which were designed to curtail communist propaganda.[17] The first forbade addresses at all public meeting in which the language was not English, adding that "no disorderly or seditious reflections on our form of government or the King, or any constituted authority will be allowed." The second stated that if owners of public halls and other places of public amusement rented their premises for "communist or bolshevik public meetings" their licenses would be cancelled immediately.[18] Led by the Chief of Police, Brigadier-General Dennis C. Draper, a man who sincerely believed that "the political and economic system of the nation was being undermined by communists"[19] and wholeheartedly supported by Samuel McBride, the mayor of Toronto, who declared publicly that "our stopping of communistic meetings shows that we are truly British,"[20] the city police launched a systematic campaign of harassment and physical abuse which usually resulted in fines and incarceration for those radicals who persisted in defying the edicts. The *Canadian Forum* described the tactics used by the police thus:

> When the communists, unable to secure rooms, attempted to hold open-air meetings the police refused to permit them to use public parks, and when they met on street-corners they were arrested for "obstructing the traffic," "creating a public disturbance," "vagrancy" and sundry other charges. The police found no difficulty in obtaining convictions in the local courts. . . .[21]

[17] See Michael Horn, "Keeping Canada Canadian: Anti-Communism in Toronto, 1928-1929," *Canada: A Historical Magazine*, 3.

[18] See *The Mail and Empire*, 23 January 1929 and *The Toronto Globe*, 31 January 1929.

[19] Lita-Rose Betcheman, *The Swastika and the Maple Leaf: Fascist Movements in Canada in the Thirties* (Toronto 1975), 58.

[20] Cited in Horn, "Keeping Canada Canadian," 43.

[21] J.F. White, "Police Dictatorship," *Canadian Forum*, XI (February 1931), 167.

The "Free Speech Struggle" in Toronto, as the communists labelled it, ensured a heavy workload for the CLDL. From January 1929 to February 1930 the League handled 88 cases in the police and county courts of Toronto.[22]

While Toronto proved to be the "hotspot" for CLDL activity, other centres in the country also commanded the League's attention. It provided legal aid, during this same period, to striking relief workers in Vancouver who demanded union wages from the city, $1,155 in support of Hamilton strikers against the National Steel Car Company, and contributed $2,800 to the defense of Arvo Vaara, the editor of the Sudbury Finnish left-wing newspaper *Vaupaus*, who was charged with seditious libel. The latter was sentenced to six months in prison and fined $1,000. In Port Arthur, the CLDL paid $150 legal expenses to investigate the disappearance of J. Voutilainen and V. Rosvall, two Finnish union organizers. They vanished in November 1929 en route from one lumber camp to another a few miles away. Their bodies were found the following spring under the ice in a stream. The case was never fully resolved.[23] Finally, in Windsor the League gave $200 in defense of two Ukrainian communists who were charged with disturbing the peace when they attempted to break up a "fascist" meeting.[24] The result of such activity was that by early 1930 the CLDL was receiving more cases than it could cope with financially. Indeed, between January 1929 and February 1930, it had accumulated a deficit of over $2500.[25]

In large part, this deficit was attributable to lawyers' fees. In September 1929, for example, the CLDL executive retained the services of a then obscure Toronto lawyer with socialist inclinations, J.L. Cohen, who would handle the majority of the cases on behalf the League throughout 1929 and 1930.[26] By the middle of August 1930, it owed Cohen $1,110.15 for services rendered;[27] by the end of April 1931, Cohen was pressing the League for payment of the balance of over $1,300 that the organization owed him.[28] Smith finally settled the account with Cohen by offering the lawyer a sum of $408, almost $1000 less than was due.[29]

[22] *The Canadian Labour Defender*, 1 (May 1930), 8; *Cohen Papers*, Public Archives of Canada (PAC), Vol. 1 and 2; A.E. Smith, *All My Life* (Toronto 1949), 110-0; *Eastern Canadian Labour Defense League Emergency Conference Minutes*, 26-27 April 1930, 3.

[23] For a full discussion see Satu Repo, "Rosvall and Voutilainen: Two Union Men Who Never Died," *Labour/Le Travailleur*, 8/9 (Autumn/Spring 1981/1982).

[24] The résumé of the cases was compiled from the following sources: *The Canadian Labour Defender*, 1 (May 1930), 8; *Cohen Papers*, Public Archives of Canada (PAC), Vol. 1 and 2; A.E. Smith, *All My Life* (Toronto 1949), 110-1.; *Eastern Canadian Labour Defense League Emergency Conference Minutes*, 26-27 April 1930, 3.

[25] The figure was calculated from the CLDL's official journal, *The Canadian Labour Defender*, 1 (May 1930), 8.

[26] Interview, Stewart Smith, 25 June 1976.

[27] *Cohen Papers*, Vol. 2.

[28] *Ibid.*, Cohen to Smith, 28 April 1931.

[29] *Ibid.*, Smith to Cohen, 6 May 1931.

It was because of these demands for its services and the resulting financial deficit that the CLDL executive launched a number of campaigns for membership and funds early in 1930. In January two organizers were sent to British Columbia, Alberta, Manitoba, and Ontario to aid in establishing District Central Councils and conscripting new members in those provinces.[30] In April an "Emergency Defense Conference" was held in Hamilton. One hundred and sixty-six delegates met representing 84 organizations (most of which were communist in nature). The purpose of the Conference was to "popularize the League, in order that new branches and affiliations could be built and the necessary funds raised."[31] In October of that year and again in January 1931, Smith made a national organizational tour. The result of this activity was that by July 1931, there were 123 CLDL branches throughout the country.[32]

III

THE ETHNIC COMPOSITION of the CLDL branches was significant. Of the 123 branches, there were 37 Ukrainian branches with a total of 1,208 members; 26 Finnish branches comprising 856 individuals; 32 English and "international" branches with 1,455 persons of which one-half were Anglo-Saxon; and 27 branches of other European national minorities with a total membership of 1,386. There was also one Chinese branch with 20 members and one Japanese branch with 30 members.[33]

Indeed, by 1932 well over half of the League's rank and file was made up of "immigrant" branches. The largest and most important of the ethnic organizations which affiliated to the League were the Ukrainian Labour-Farmer Temple Association (ULFTA) and the Finnish Organization of Canada (FOC). Established in the 1920s by ardent socialists who imported their ideas from Europe, both organizations became part of the CPC. Without these organizations the CLDL probably could not have functioned effectively.

The ULFTA officially affiliated to the CLDL in 1930. The terms of affiliation were laid out by T. Kobzey, secretary for the central committee of the ULFTA in a bulletin sent to all branches:

> The 11th convention of the ULFTA which was held on 11-14 Feb. 1930 decided that our organization of the ULFTA must affiliate with the CLDL... How should this be done? You will call a meeting to explain the role of the CLDL and the decision of the convention and after that send us the number of members, men and women and 5¢ yearly dues for every member. The central executive committee will send this money to the central executive committee of the CLDL in Toronto....
>
> All correspondence in regard to the CLDL must be sent through the central execu-

[30] C. Drayton, a CPC stalwart covered British Columbia and Alberta, while Lillian Himmelfarb, a 17 year old girl who was a "splendid fighter ter in the revolutionary movement" travelled throughout Ontario and Manitoba. *A.G.C.P.C.*, B11 E30.

[31] *Canadian Labour Defender*, 1 (May 1930), 11.

[32] *Canadian Labour Defense League Plenum Minutes*, Toronto, 11-12 July 1931, 18.

[33] *Ibid.*, 14.

tive committee of the U.L.F.T.A. We will send money for the whole membership to the N.E.C. of the C.L.D.L.

From the time that our . . . organization affiliates with the C.L.D.L. . . .the question of the C.L.D.L. must be placed on the agenda of every meeting of the branches of the U.L.F.T.A.[34]

Shortly after this circular, the National Executive Committee of the CLDL sent letters to the central executive committee of the ULFTA with instructions to send delegates to the 1931 Plenum of the CLDL to be held in July in Toronto. The response was positive. By 1932 there were 2,730 Ukrainians within the League and probably many more CLDL sympathizers.[35] The League was able to use the Ukrainian left-wing press to advocate its policies. In 1930, this press included *Robitnycki Visty* (Workers' News), a tri-weekly from Winnipeg with a circulation of 10,000, *Farmarske Zhyttya* (Farmers' Life) with a circulation of 6,000, and *Robitnyci* (Working Women) with a circulation of 6,600.[36]

Like the ULFTA, the FOC also affiliated to the CLDL in 1930. From the CPC's point of view it was mandatory to draw Finnish workers (as well as Ukrainian workers) into the general stream of a revolutionary proletariat ready to support the party. As one party directive put it: "the chief objectives of the language organizations must be to become real mass organizations which are to draw the foreign-born workers into the general stream of the Canadian labour movement . . . such as the CLDL."[37] By 1932 the CLDL had over 1,000 official Finnish members.

The ULFTA and the FOC thus provided the league with a substantial financial and membership base. As the depression continued unabated and anti-foreign sentiment became more pronounced among native Canadians, the CLDL enlarged its "foreign-born" support at the lower levels. Indeed, the "Red Scare" of 1931-32 enabled the league to mobilize not only Ukrainians and Finns, the main foot soldiers of the communist movement, but also other "radically-minded" ethnic groups. Local Italian, Greek, Latvian and Czechoslovakian branches emerged through the country, co-ordinated from the league's headquarters in Toronto.[38]

IV

THERE WAS GOOD REASON for left-wing ethnic organization to establish CLDL branches. In the 1930s the Bennett government made vigorous efforts to deport "undesirables." The vehicle was the Immigration Act. Under Section 41 of the Act,

[34] *A.G. C.P.C.*, B9 E13.

[35] The membership of Ukrainians dropped off somewhat the following year (1933) 2030 from 2730. This no doubt was due to the horrors that Stalin was perpetuating in the Soviet Ukraine.

[36] Bennett Papers, PAC, Vol. 141. Commissioner of the RCMP, to the Under Secretary of State for External Affairs, 27 August 1930.

[37] *A.G. C.P.C.*, B28 E4.

[38] Donald Avery, *Dangerous Foreigners: European Immigrant Workers and Labour Radicalism in Canada, 1896-1932* (Toronto 1979), 137-9.

an amendment dating back to 6 June 1919, persons not born in Canada regardless of how long they had lived in the country, could be deported for advocating the overthrow of constituted authority by force. Under Section 42 of the Act, immigrants who had been in Canada less than five years could also be deported if they became "public charges." Under the provisions of the Act, moreover, public trials were not necessary; individuals charged under these sections of the Act had their cases heard "in camera." The services of a lawyer and other assistance were difficult to obtain in such conditions.[39]

This threat, which hung over the heads of those immigrants who were either engaged in militant labour activities or who did not have a means of support, was a real one. Between 1903 and 1928 a total of 17,600 immigrants were deported, an average of slightly more than 1,000 annually. Thereafter, however, the rate escalated dramatically. In 1930 there were 4,025 cases of deportation; the following year the figure increased to 7,000.[40]

In order to "protect" the foreign-born, the CLDL in 1931 established "Foreign-Born Defense Councils" in almost every affiliated ethnic organization. The purpose of the councils was to solicit the aid of sympathetic bodies, conduct intense and widespread agitation on specific local cases of deportations or persecutions, and to organize demonstrations, deputations, and petitions to provincial and federal authorities for the repeal of Sections 41 and 42 of the Immigration Act.[41] Indeed throughout the early 1930s, Bennett was bombarded by thousands of petitions, postcards and delegations from hundreds of organizations affiliated to the CLDL demanding an end to deportations.[42]

Smith, in his capacity as general-secretary of the League, made frequent trips to Halifax, the detention centre for men who were slated for deportation. He often appeared before the Immigration Department's Board of Inquiry to plead the cases of men about to be deported. The best that Smith and the CLDL lawyers could usually do at these proceedings was to delay deportation. When the RCMP, for example, rounded up ten alleged "foreign-born" communists in early May 1932 and shipped them to Halifax to appear before the Board of Inquiry, the CLDL was able to halt the deportation proceedings for four and one-half months. It initiated mass protests and demonstrations on behalf of the incarcerated men and carried a *habeas corpus* appeal to the Supreme Court of Nova Scotia and to the Supreme Court of Canada. The ten Halifax prisoners, however, were ultimately deported.

There are no figures available on how many men the CLDL defended before the Board of Inquiry, but given the secrecy of the government's investigations and the League's limited resources, it could only have provided legal support to a small fraction of the total number deported. Smith was dismayed at the increasing number of deportations the government was able to carry out almost

[39] See Lorne and Caroline Brown, *An Unauthorized History of the R.C.M.P.*, (Toronto 1973), 63.

[40] *Canadian Forum* (July 1932), 368. Also see the *Canada Year Book* for the years 1929-1931 for confirmation of the figures.

[41] *Canadian Labour Defense League Plenum Report*, 1931, 24.

[42] Bennett Papers, Vols. 139-46.

at will and expressed grave concern over what would happen when "radical workers" were deported to such countries as Poland, Hungary, Yugoslavia or Bulgaria. He noted that "in such countries the last vestiges of free speech have long ago disappeared" and although Canada was repressive enough "the horrors of the Canadian third degree pale into insignificance before the bestial sadism of the European jailers."[43] It is not known how many deportees eventually ended up in the prisons of their respective native countries.

V

WHILE SMITH STRUGGLED to consolidate the CLDL into a nation-wide organization, the CPC, reflecting the new directions emerging from the Comintern's Sixth World Congress, established two other organizations — the Workers' Unity League (WUL) and the Farmers' Unity League (FUL).[44] Using the WUL the communists hoped to organize Canadian workers into powerful revolutionary industrial unions which would promote communist policies throughout the country. The FUL was a similar attempt to attune Canada's rural workers to communist programmes in the agrarian sector. Both organizations sought to take advantage of the economic depression to further their ends.

Increased communist activity, however, provoked a corresponding reaction by the political authorities. Fearing that in time of depression, the populace was susceptible to subversive ideas, steps were taken by the political authorities to suppress the CPC. On 11 August 1931, the Ontario Provincial Police in conjunction with the RCMP raided the offices of the CPC, the WUL, the *Worker*, and the homes of Tim Buck, Tom Ewen, and John Boychuk, all prominent in the CPC politbureau. These individuals along with other communist leaders, Matthew Popovich, Malcolm L. Bruce, Amos T. Hill, Samuel Carr, and Tom Cacic were subsequently charged and convicted of being members of an unlawful association, being officers of an unlawful association, and being parties to a seditious conspiracy under the controversial Section 98 of the Criminal Code.[45]

[43] Cited in Oscar Ryan, *Deported*, (Toronto n.d.), 11.

[44] Very little has been done on the WUL. The FUL has been better served by historians. See for example Ivan Avakumovic, "The Communist Party of Canada: The Interwar Years," David Jay Bercuson, ed., *Western Perspectives* (Toronto 1973).

[45] Section 98 of the Criminal Code of Canada was first formulated as an Order-In-Council during the Winnipeg General Strike of 1919, for the purpose of rendering such strikes unlawful. The clause on sedition declared guilt by association. Section 98 stated that "Any association, organization, society or corporation, whose professed purpose or one of whose purposes is to bring about any governmental, industrial or economic change within Canada by use of force, violence, terrorism, or physical injury to person or property, or threats of such injury in order to accomplish such change or for any other purpose or which shall by any means prosecute or pursue such purpose or professed purpose, or shall so teach, advocate, advise or defend, shall be an unlawful association. Any person who acts or professes to act as an officer of such unlawful association and who shall sell, speak, write, or publish anything as the representative or professed representative of any such unlawful association, or become and continue to be

Before the attack on the CPC, Smith and the CLDL had concentrated on defending those who had been arrested in communist-led demonstrations and in strikes. After the convictions, the CLDL shifted its emphasis somewhat from simply defending people to changing the law. Immediately after the convictions, the CLDL lodged an appeal on behalf of the men putting up $160,000 bail for their temporary release until a hearing set for February 1932 and also launched a nation-wide campaign for the repeal of Section 98 of the Criminal Code. Throughout Canada, the CLDL organized Repeal Conferences which circulated many thousands of petitions of protest.

The Port Arthur Repeal Conference held on 11 September 1932 provides an example of the League's protest campaigns. The conference, translated into Finnish and Ukrainian, not only discussed the "sinister" implication of Section 98, but also expressed concern over Sections 41 and 42 of the Immigration Act dealing with deportations. Three resolutions were passed. The first called generally for the repeal of Section 98 and Sections 41 and 42. The second was directed to the city council of Port Arthur and condemned civic authorities for carrying out the deportation policy of the Bennett government in the case of all workers forced to ask for relief. The third, forwarded to the Minister of Immigration, protested the federal government's deportation policy.[46] Through these conferences the CLDL attempted to reveal the authorities' "double-barrelled" weapon for getting rid of "undesirables." The Immigration Act applied to those who had not acquired citizenship, while Section 98 was reserved for the treatment of citizens. During these conferences, 876 organizations (including the Trades and Labour Congress of Canada and the United Farmers of Alberta) representing 171,315 people passed resolutions demanding the release of those imprisoned under the provision of Section 98.[47]

In January 1932 Smith requested an interview with Bennett to discuss the repeal of Section 98.[48] The request was denied; the prime minister felt that "as the government has no intention of repealing Section 98 there is no reason why any formality should be observed in the presentation of the petition."[49] Undaunted by the refusal, on 22 February 1932 Smith led a delegation to Ottawa,

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a member thereof, or wear, carry or cause to be displayed upon or about his person or elsewhere any badge, insignia, emblem, banner, motto, pennant, card, button or other device whatsoever, indicating or intended to show or suggest that he is a member of or in anywise associated with any such unlawful association, or who shall contribute anything as dues or otherwise to it or to anyone for it, or who shall solicit subscriptions or contributions for it, shall be guilty of an offence and liable to imprisonment for not more than twenty years."

[46] *Minutes of Port Arthur Constituency Repeal Conference*, 11 September 1932.

[47] *Eastern Canada Conference for the Repeal of Section 98*, Hamilton, 6-7 February 1932.

[48] *Bennett Papers*, Vol. 142, Smith to Bennett, 20 January 1932.

[49] *Ibid.*, Vol. 142, A.W. Merriam (Private Secretary to the Prime Minister) to Smith, 5 February 1932.

composed of representatives from Windsor, Welland, Hamilton, Port Arthur, Oshawa, Toronto, Montreal, and Ottawa to confront Bennett with a petition.

Although repeated efforts were made for several days to appear before the prime minister, this proved impossible. The reasons advanced were "pressure of important business" on the part of Bennett. Instead, W.A. Gordon, in his capacity as Minister of Labour and Immigration, officially received the delegation. Smith presented an affidavit to Gordon which declared that 876 organizations representing 171,315 persons had placed themselves on record for the repeal of Section 98, and a petition that had been signed by 66,617 persons for "Workers' Rights and Anti-Deportation Bill."[50] Gordon assured the delegation that the matter would be brought to the attention of the prime minister, but refused to make further commitments.

The debate on Section 98 and deportations spilled over in the House of Commons. J.S. Woodsworth, who had been opposed to Section 98 since its enactment in 1919, "flooded" the pages of *Hansard* with a barrage of motions to amend the Criminal Code and the Immigration Act: to strike out Section 98 of the Code, to safeguard freedom of assembly, and to eliminate the power of deportation after ten years residence in Canada.[51] Mackenzie King, capably recognizing the issue as one which would further his political fortunes, supported Woodsworth. He denounced Section 98 as "shocking" because it denied the "British principle of Free Speech and Free Association." He also attacked Bennett for seeking "dictatorship."[52] King promised that if elected, he would repeal Section 98 of the Criminal Code; it was a commitment he honoured in 1936.

Woodsworth and King were supported in their stand by the United Farmers of Alberta, the Trades and Labour Congress of Canada, and a host of church and social groups throughout the country. All wanted a repeal of the obnoxious act. The government, however, remained adamant.

Meanwhile, on 13-14 January 1932, the appeal hearing for the eight convicted communists resulted in a *status quo* decision. Chief Justice William Mulock and four of his associates quashed the conspiracy conviction, but left intact the harsh sentence of five years in the Kingston Penitentiary. Nor did matters end there. In less than eight months, Tim Buck was charged with "inciting to riot" in the October Kingston Penitentiary uprising.

Involving over 450 prisoners, the disturbance was the climax of a series of complaints against intolerable conditions including the nine to ten hours of labour a day without wages, the recreation period of only fifteen minutes a day

[50] *Eastern Canada Conference for the Repeal of Section 98*, Hamilton, 6-7 February 1932.

[51] See K. McNaught, *A Prophet in Politics: A Biography of J.S. Woodsworth*, (Toronto 1959), 244.

[52] *Mackenzie King Papers*, PAC, Vol. 156, File 1400.

[53] A.E. Smith, "The Years March On," *Canadian Tribune*, 3 August 1946. (Hereafter cited *C.T.*).

in open air, and a general condemnation of the institution's programme, the whole objective of which was punishment by every means and through all elements of the prisoners' lives.[53] For his participation in the riot, Buck received an additional nine months on top of his initial five-year term.

Smith and the CLDL intensified their campaign, adding to their agenda the demand for an investigation into the penitentiary system to remedy the "vile conditions therein." Five hundred thousand pamphlets and leaflets were issued and distributed throughout Canada; and 50,000 printed postcards addressed to Minister of Justice Guthrie were circulated, signed, and sent to Ottawa.[54] Delegations were organized to appear before city councils, provincial governments, church groups, and at mass meetings pressing the League's demands. Monster petitions were organized, including one which carried 459,000 signatures and another with 200,000.[55]

The renewed efforts made a strong impact. Guthrie, in answer to J.S. Woodsworth's motion for repeal of Section 98, let it be known in the House of Commons that the CLDL had wide support:

> I learn of the activities of this association through petitions from every quarter of this dominion. I am not overstating the case when I say that I have hundreds and hundreds of them. I have now ceased to acknowledge receipt of them. I merely hand them over to the mounted police in order that a record may be kept of the names and addresses of the people who sign them, and I make this statement so that the petitioners may know what I do with them. . . . I can assure the house that in long petitions there does not appear a single Anglo-Saxon or French Canadian name — nothing but names of foreigners, unpronounceable names for the most part. . . .
>
> No sooner did the disturbance take place in Kingston penitentiary . . . than I was flooded with telegrams and petitions from every quarter of Canada almost before the riot was well under way.[56]

Among the reasons Guthrie gave for not favouring a second reading of Woodsworth's motion but placing it on the "six-month hoist" was that the CLDL was a "dangerous communist society formed only after 1931 when the Communist Party was banned in the Dominion of Canada by the courts of Ontario." He further elaborated:

> I know that the Canadian Labour Defense League . . . [has] affiliations outside the Dominion of Canada. I know this from threatening telegrams which I have received myself. I have been informed by telegram that 50,000 communists in New York are watching me. . . . I do not know where the League gets its financial support, but financial support it certainly has, . . . nor do I know . . . all the ramifications of the C.L.D.L., but the League is operating today in a most insidious manner.[57]

The Minister of Justice concluded that Section 98 had to be retained to restrain organizations such as the CLDL.

The "riot trial," 17 October 1932 added fuel to the campaign. Not only did

[54] *C.T.*, 20 July 1946.
[55] *Ibid.*
[56] *House of Commons Debates*, 14 February 1933, 2101-2.
[57] *Ibid.*

Buck receive an additional nine months to his five year term, but it was revealed that an attempt had been made on his life by an "unknown" prison guard three days after the disturbance.[58] Smith, in an angry letter to Bennett, noted the event:

On the evening of 20 October 1932 five shots were fired into Tim Buck's cell . . . by guards of Kingston Penitentiary. . . . This murderous attempt must be placed not only against the prison guards, who were carrying out the orders of their superiors, but against the prison administration and the Department of Justice — the only possible source of such a plan.

Smith rather hysterically concluded that "your government stands indicted before the Canadian working class as the instigator of this murderous plot."[59]

In November 1943 Smith led a delegation to Ottawa to demand a public investigation into the disturbances at Kingston Penitentiary; that the eight communists be regarded as political prisoners with special treatment; and that the prisoners and their leaders be exempt from punishment because they were seeking long overdue reforms.[60] This time he was accorded an interview with Bennett and three of his cabinet ministers. Bennett's answer, as reported by Smith, was stiff and uncompromising:

There will be no investigation into the system of prisons. . . . There will be no repeal of Section 98. It is needed on the statute books. And finally there will be no release for these men. They will serve every last five minutes of their sentences. That's all there is to be said.[61]

After a heated verbal exchange between Bennett and Smith, Smith and his followers were ordered to leave. Later, Bennett vented his feelings in a letter to a friend: "I did not have any trouble whatever with the communists who came to see me, but as Smith is the instigator of most of the trouble, I did not see any reason for handling him with gloves."[62]

In the two years after the raids and arrests of the communists, the CLDL distributed five million pieces of literature, both pamphlets and manifestos. For the actual trial of the eight, three booklets and one book were printed with a total circulation of 60,000 copies.[63] As well, the League sold hundreds of coupons for 25 cents, 50 cents, and one dollar with pictures of the imprisoned

[58] See *Report of the Royal Commission to Investigate the Penal System of Canada* (Ottawa 1938), 74-5 for a description of the disturbances at Kingston in which Buck was involved; 81-97 for a description of Buck's evidence. The Commission concluded that indeed Buck was shot at.

[59] *Bennett Papers*, Vol. 145, Smith to Bennett, 13 November 1933.

[60] *Ibid.*, Smith to Bennett, 21 February 1933. Other demands included the release of Sam Carr who was seriously ill and the revoking of deportation proceedings against Tom Cacic.

[61] *C.T.*, 20 July 1946.

[62] *Bennett Papers*, Vol. 145, Bennett to Gerard Kuel, 18 November 1933.

[63] *Report of First Representative National Convention of the CLDL*, Toronto, 14-17 July 1933, 3.

men on them. These were mailed to Bennett.[64] Hundreds of protest demonstrations and meetings were held; united front conferences embracing thousands were organized from coast to coast. By the end of 1932, Guthrie begrudgingly admitted "that the CLDL had managed to build up a huge protest movement with even the churches committing themselves against Section 98."[65]

The Report of the First Representative National Convention of the CLDL, 14-17 July 1933, supported Guthrie's claim. From the time of an earlier Repeal Conference, held in Hamilton 6-7 February 1932, to the 1933 National Convention, the CLDL had increased its membership from 10,000 to over 17,000 individuals, and its branches throughout Canada from 233 to 350. According to financial statements, membership dues paid during the first six months of 1933 averaged $8,000 per month, compared to $4,000 for the first six months of 1932.[66] From a tiny nucleus, organized to defend the Drumheller miners in 1925, the CLDL emerged suddenly as a nation-wide organization, unyielding in its opposition to Section 98, to deportations, and to harsh penal practises — issues which were all part and parcel of its campaign to save the communist movement in Canada.

VI

ON 4 DECEMBER 1933 THE CLDL unleashed a new tactic in its arsenal against the authorities. That day in the Standard Theatre, Toronto, the League in conjunction with the Progressive Arts Club,[67] presented a new play, "Eight Men Speak," to a capacity house. The play, in a pointed manner, exposed alleged persecution of the eight communists in Kingston, lenience to rich prisoners, the negative attitude of government and prison officials, and the "frame-up" of Buck during the October disturbances. The play also made references to the "murder of the three Estevan miners by the RCMP;[68] the insidious character of Section 98 and the attempt to murder Buck on 20 October 1932." After its first successful debut, a second performance was prepared. Four days before it was to be presented, the Toronto Police Commission banned it because it was "distasteful."[69]

One of the play's most adamant critics was R.B. Bennett. He asked for a copy of the script. His reactions were recorded by A.E. Millar, the prime

[64] Many of these coupons can be found in *Bennett Papers*, Vol. 145.

[65] *Report of First Representative National Convention of the CLDL*., 3.

[66] *Ibid*., 4; Also see *Canada's Party of Socialism: History of the Communist Party of Canada 1921-1976* (Toronto 1982), 77.

[67] "The first Progressive Arts Club was formed in December 1931. It organized readings, symposia and exhibitions, published a small anthology of working-class songs and sponsored the Workers Theatre, which produced short plays and sketches by Canadian and foreign playwrites." Avakumovic, *The Communist Party in Canada*, 126.

[68] The CLDL was deeply involved in this strike, spending over $2650 for lawyers to defend the strikers and CPC leaders Annie Buller and Sam Scarlett.

[69] *The Sedition of A.E. Smith*, (Toronto n.d.), 9.

minister's secretary, in a letter to R.C. Matthews, Minister of National Revenue: "Mr. Bennett has read the file and thinks that appropriate action should be taken through the Attorney-General of the province to protect society against these attacks. . . ."[70] Bennett's reaction was predictable. He hated communism and especially detested Smith, describing him as "an agitator who stands behind other people and saves his own skin."[71] Bennett firmly believed that "the time has come when we must no longer allow Smith and his followers to spread propaganda of gross misrepresentation, deluding the people who they exploit. I . . . am of the opinion that we should not permit liberty to degenerate into license."[72]

The opportunity to silence Smith arose early in 1934. On 17 January, the Progressive Arts Club held a protest meeting in Hygeia Hall, Toronto, protesting the banning of the play. Smith was the main speaker. In his speech, Smith dealt with the motives behind the banning of the play and with the attempt on Buck's life. Two weeks later he was indicted for sedition on the basis of that speech, more specifically, according to the police report, for stating that "I say deliberately that Bennett gave the order to shoot Buck in his cell in cold blood with intent to murder him."[73] It was an order allegedly given from Bennett to Guthrie and from Guthrie to the warden of Kingston Penitentiary. The indictment of Smith was presented by Peter White, K.C., Ontario Crown prosecutor, to Justice Kingstone and a grand jury. The document was sworn out by members of the "radical squad" of the Toronto police force — Detective-Sergeant William Nursey, Detective-Sergeant Norman Tinsley, and Detective Daniel Mann. The grand jury returned a true bill on the indictment against Smith.

Smith's case received wide publicity throughout North America and offers of aid came in from outside Ontario. From Manitoba, E.J. McMurray, K.C. of Winnipeg and a former solicitor-general of Canada, expressed great interest in the case. He wrote to a friend in Toronto expressing a desire to defend Smith. Smith was contacted and gladly accepted McMurray's offer. McMurray was well known in radical circles; he had been the chief counsel in the trials of the Winnipeg strikers in 1919 and had just recently successfully defended the Workers' Benevolent Association of Winnipeg against the attorney-general of Manitoba, who attempted to curtail the activities of the communist organization.[74] Legal aid was forthcoming as well from International Labour Defense. William L. Patterson, secretary of the American ILD, was denied entrance into Canada to attend the Smith trial but stated that "no expense would be spared in behalf of the Toronto clergyman." To aid in the defense of Smith, the ILD retained Leo Gallagher, an American lawyer who was banished from Germany after defending the communists after the Reichstag fire. Gallagher was at first

[70] *Bennett Papers*, Vol. 146, A.E. Millar to R.C. Matthews, 2 January 1934.
[71] *Ibid.*, 15.
[72] *Ibid.*, Vol. 145, Bennett to H. Ferland (Mayor of Verdun), 22 November 1933.
[73] *Toronto Daily Star*, 31 January 1934.
[74] *Ibid.*, 5 March 1934.

denied entry into Canada by immigration officials, but later was granted a visa and took his place in the court room as an advisor to chief defense counsel McMurray.[75] Also included in the coterie of defense lawyers were Glen Milton and Smith's original counsel, Onie Brown, both of Toronto.

From the outset, the Crown had found itself on the defensive in terms of public opinion. Smith, in his public life, had built up a reputation as a respected, well meaning — even if somewhat misguided — individual who had dedicated his life to the betterment of his fellow man. This image was reflected in the Toronto press. The *Toronto Telegram*, for example, had wondered why Smith's lawyer, Onie Brown, was given only two weeks to prepare his case when he had asked for two months.[76] The *Mail and Empire*, after reporting that 3,000 people had thronged Massey Hall in support of "Rev. Smith," printed an excerpt from Smith's address to that meeting:

> I am charged with sedition because I criticize our leaders. Why is Mitchell Hepburn not so charged? Does he not seek to create disaffection against the government? I am charged because Bennett is in an unstable position. After our delegation to see him . . . frenzied with rage and fear, he ordered me from his office. . . .
>
> My position is that those men who attempted to murder Tim Buck were not acting on their own initiative but they drew their actions . . . from a higher authority. . . .[77]

The *Toronto Daily Star* put the whole matter more openly: "If a man slanders the prime minister he can be tried for slander. Why should he be charged with sedition which is in a wholly different category?"[78] Smith received support from all parts of Canada, from persons ranging from Rev. Ben Spence to Tom Moore, president of the Trades and Labour Congress. Support was also forthcoming from sections of the Cooperative Commonwealth Federation (CCF) — support which was to cause a split within the party's ranks in Ontario.

The reaction of the CCF to the Smith trial delineates the ambiguous attitude social democrats exhibited toward the communists. While viewing themselves as honest defenders of civil liberties who were genuinely appalled by the prosecution of the communists, they nevertheless were deeply suspicious of all communist activity.[79] Indeed, despite specifically including the Repeal of Section 98 and an end to deportations as part of a vigorous statement on the protection of civil liberties in the Regina Manifesto, officially the founding fathers of the CCF decided to have nothing to do with the CPC or any of its front organizations such as the CLDL.

During the Regina Convention of the CCF in July 1933, Buhay sent a telegram to Woodsworth calling for a united front action for the release of all "class war prisoners" in Canada and the repeal of Section 98. She suggested

[75] *Ibid.*, 24 February 1934 and *Mail and Empire*, 26 February 1934.
[76] *The Toronto Telegram*, 2 February 1934.
[77] *Toronto Mail and Empire*, 5 February 1934.
[78] *Toronto Daily Star*, 14 February 1934.
[79] Michiel Horn, *The League For Social Reconstruction: Intellectual Origins of the Democratic Left in Canada 1930-1942* (Toronto 1980), 17, 29.

that representatives of the two executive committees discuss plans for demonstrations, mass meetings, and delegations organized jointly to promote this objective.[80] Woodsworth's reply to this proposal was negative. An official statement issued by the executive of the CCF refused the suggestion for "united front" action for two reasons. First, the CCF executive contended that working-class demonstrations, mass meetings, deputations, etc., were useless and that the objective for which the CLDL proposed united action could only be attained by the CCF securing control of the government. Secondly, after asserting that the "leaders of the C.L.D.L. believed that civil strife is inevitable" it went on to show the difference between this and the position of the CCF:

> We believe that these ends cannot be achieved except by acquiring control of the government. We believe in constitutional means to achieve this result. At that point there is a fundamental cleavage between us and the leaders of your organization, who maintain civil strife is inevitable. This policy in our opinion would result in the intensification of political oppression. We, therefore, are unable to see that any useful purpose could be served by just joint mass meetings, delegations and demonstrations as you suggest.[81]

There the matter rested until Smith's indictment.

On 17 February 1934, representatives of the CCF, United Farmers of Ontario (UFO), and the Canadian Labour Party held a conference in London, Ontario, to discuss provincial and federal election matters. At this conference the labour section of the organization presented a resolution protesting the indictment of A.E. Smith and proposing that the CCF should cooperate with the CLDL in his defense.[82] After a lengthy debate, the CCF clubs and the UFO took a firm stand that, while they might be opposed to needless railroading of any man to prison, the party could not afford to be linked up with these left-wing bodies in any joint actions.[83] When the vote was taken, the labour section's resolution was defeated.[84]

Three days later, Mrs. Elizabeth Morton, speaking before the Forest Hill-Humewood CCF club, Toronto, declared that the labour section of the CCF would defy provincial council rulings and support Smith.[85] This statement prompted Elmore Philpott, president of the association of CCF clubs, to retort that any individual would be expelled from the party if they continued to disregard the London resolution which banned protest activities on behalf of Smith. "We are not trifling with this affair," Philpott declared, "the entire membership of the C.C.F. has either got to get in line with official rulings or the

[80] William G. Godfrey, "The 1933 Regina Convention of the Co-operative Commonwealth Federation," Unpublished M.A. thesis, University of Waterloo, 1965, 54.
[81] Cited in Walter D. Young, *The Anatomy of a Party: The National C.C.F. 1932-1961* (Toronto 1969), 259.
[82] *Toronto Daily Star*, 18 February 1934.
[83] *The Evening Telegram*, 18 February 1934.
[84] *Ibid.*
[85] *Toronto Daily Star*, 22 February 1934.

rebels will have to get out no matter how influential or numerous they may be."[86] To reinforce this statement, Philpott demanded the expulsion of W. Jones, secretary of the St. Paul's CCF club in Toronto, because he had taken an official part in a Workers' Unity League meeting at Massey Hall in support of Smith.[87]

The rupture between the "left-wing members" in both the labour and club sections of the CCF widened rapidly when the St. Paul's club, largely labour in membership, refused to expel Jones.[88] Having this defiance thrown at him, Philpott and the provincial executive requested the national CCF headquarters to expel the entire Ontario labour conference from membership in the CCF. Although Woodsworth was reluctant to do so and expressed surprise at the drastic action of the Ontario executive, the "house cleaning" of the CCF was made official on 26 February 1934 by the ousting of labour affiliates.[89]

Fully incensed, the expelled labour section held a conference 4 March in Hamilton in a determined effort to maintain its position as an integral part of the CCF, despite the actions of the other two sections to the contrary. The provincial executive of the labour section argued that each section was autonomous with the right to carry on its own activities. At the same time, it contended that the appeals of the UFO and club sections to the national executive for the expulsion of the Ontario labour section were absolutely unconstitutional, not having been preceded by appeals to the labour section for the removal of offending members.[90] Finally, the Conference passed the following resolution: "that participation in A.E. Smith prosecution protests, or participation in protests to prosecutions under Section 98 and other anti-labour sections of the criminal code be not considered contrary to the best interests of the C.C.F. having regard to the national constitution of the C.C.F."[91]

The disarray of the CCF over the Smith affair was best summed up by the *Toronto Herald*:

> The fact that the leaders have forbidden their followers to participate in demonstrations in favour of Rev. A.E. Smith brings them pretty close to the lines of the old time politician. Personally, we know quite a few members of the C.C.F. and most of them are quite open in espousing the accused minister's cause. But the leaders evidently believe that the public avowment of such principles is not good politics. It is sure hard to play with fire without being scorched a bit.[92]

Thus, despite repugnance toward communist tactics and goals and official party disapproval many of the rank and file within the CCF collaborated with communists on specific issues.[93]

[86] *Ibid.*
[87] *Ibid.*
[88] *The Evening Telegram*, 26 February 1934.
[89] *Toronto Daily Star*, 26 February 1934.
[90] *Mail and Empire*, 5 March 1934.
[91] *Ibid.*
[92] *Toronto Herald*, 22 February 1934.
[93] Horn, *The League for Social Reconstruction*, 72, 124.

Ultimately, the Smith affair led to a total reorganization of the CCF in Ontario. The labour conference and the association of clubs were abolished and labour parties and clubs became affiliated with the Ontario CCF on an individual basis. These gradually gave way to constituency associations and a few clubs.[94]

Meanwhile, the league exploited the sympathetic climate of opinion by publishing a number of pamphlets which portrayed Smith as the courageous, unflinching leader of the suffering working class in Canada. In contrast, Bennett was shown to represent the ruthless capitalist class, who hated and feared Smith and were attempting to do away with him. One such pamphlet described Bennett's life thus:

On July 3rd, 1870, the ocean seethed. At Hopewell, N.B. the earth groaned. Above, the heavens parted in fire. A babe was born into the comfortable household of Mr. and Mrs. Bennett. All who saw the little creature marvelled, not so much at its beet-red face and bellowing voice, but because of a strange phenomenon: For in one pudgy fist the child grasped a bag of gold, and on one pink foot there grew a cast iron heel. . . .

Richard arose in the world, to fame and fortune, with the aid of the Eddy millions bequeathed to him. . . . He gave his party a million to get into office. . . . He gave a Saskatchewan farmer a cool fifty bucks when the whole country denounced him as a starver of the unemployed. . . . He says that poverty is a wonderful thing for developing character and various virtues. . . .[95]

Although ludicrous, the imagery was effective.

The actual trial was a comedy of errors. E.J. McMurray, chief counsel for Smith, scored the first tactical victory when he demanded that Buck be brought from Kingston Penitentiary as a material witness. He argued:

that the testimony of the said Tim Buck is of paramount importance to the defendent, A.E. Smith, as it would show there did exist an error in the administration of justice in Canada, which the defendent was attempting to alter by lawful means. . . .[96]

Murray's motion was granted.

On the second day of the trial, Buck was brought in as the first defense witness. While Buck was giving his testimony, a demonstration of over 4,000 people was taking place in Queen's Park in defense of Smith. McMurray, in fine rhetorical form, asked Buck if he remembered 20 October 1932. "I remember it very well," replied Buck. "What particularly impressed it on your mind?" And the answer, "I was shot at —" brought White to his feet in objection to the evidence. For 20 minutes he argued the point and won approval of the bench. After stating those few lines, Buck was led out to be returned to Kingston, after coming to Toronto at the expense of $100 to the CLDL.[97] Undaunted, the defense proceeded to call witness after witness who testified that they were at the Hygeia Hall meeting at which Smith spoke and denied the allegations of the Crown and its police witnesses.

[94] Young, *Anatomy of a Party*, 145.
[95] *The Sedition of A.E. Smith*, 3-4.
[96] *Mass Unity Wins. The Story of the A.E. Smith Trial* (Toronto n.d.), 10.
[97] *Ibid.*, 16.

It soon became apparent that the Crown had no substantial case against Smith. Meanwhile, the defense stressed the importance of the verdict:

If you punish Smith then you are going back to the Spanish inquisition. Certain reactionary forces will be pleased if Smith is taken away. But out over Canada today this case is a state trial. This is a political trial. I often wonder, gentlemen, whether jails are built for labour leaders. Smith's fate is being watched in B.C., in the shanties among the miners of Alberta, in Brandon where he laboured as a young man, all over among people of the universities all interested in the fate of this man.[98]

These words were well taken; Smith was found not guilty.

It was an important verdict. It was welcomed almost unanimously by the press of the day. Perhaps the best summation of the whole affair was voiced by the *Toronto Herald* in an editorial entitled "A Good Day's Work":

The jury which handled the case of the crown against Rev. A.E. Smith, charged with sedition did a good day's work for Canadian freedom and common sense when they found the accused not guilty. The rev-gentleman is no friend of ours — not even an acquaintance and he seems to harbour a lot of views on life and its problems which we entirely disagree with. . . . But we are glad the jury squelched the proposal to send him to jail for venturing to air his opinions. If we are going to send every man to the pen who holds views contrary to our own or who ventures to severely criticize the government in power we will have to build bigger and better jails to hold them all.[99]

Thus the attempt to silence Smith failed. In the end, the verdict not only undermined the prestige of the Crown and further tarnished Bennett's image, but also put into question the conviction of the eight communists for sedition.

On 6 July 1934 Matthew Popovich and Samuel Carr were released from Kingston because of ill health; the others, with the exception of Cacic, who had been deported, and Buck, were freed six days later, when they were due for parole. Buck, because of his additional nine month sentence was not set free until 24 November, his parole date.

Thus it appeared that Bennett, who had vowed to Smith that the communists would not be released until they had served their full terms, had relented in the face of the constant pressure exerted not only from the CLDL but from various organizations and political parties who had attacked the use of Section 98.

VII

PARADOXICALLY, WHILE SMITH'S trial marked the high point of the CLDL's influence and prestige, it also signalled the beginning of its decline. Immediately prior to his trial the organization enrolled 5,000 new members boosting the individual membership to 20,000.[100] After Smith's acquittal, however, many of these new members drifted away. By July 1934, the League witnessed a turn-over of almost 60 per cent in its new membership. Smith commented:

[98] *Ibid.*, 19.

[99] *Toronto Herald*, 9 March 1934.

[100] *Documents on Tasks and Role of the Canadian Labour Defense League* (Toronto 1934), 6.

New branches are created and disappear within a few weeks, thus many of the 50 new branches established this year have disappeared and despite the fact that we have recruited 5,000 members this year we have at the present time less members than in July of last year.[101]

Defections from the League increased with the release of the last communist from Kingston Penitentiary in November 1934. The government, in freeing the communists, eliminated another exploitable issue. As one CLDL member noted, because the communists were released, "the workers of Canada had dropped the vigilance and mass action that had been raised to tremendous levels by the C.L.D.L. demanding the release of our comrades."[102]

By the time the League held its third national convention, 19-20 October 1935, in Toronto, its individual membership was down to approximately 10,000.[103] At the convention great concern was expressed over the "fluctuation in the membership." The League's loss of membership was blamed on its sectarianism and its label as a "red" organization which "tended to narrow down the scope of our defense movement." It became increasingly clear to the CLDL executive that, stained with the tint of communism, the core of its immediate demands dissipated, the League could not maintain the "dynamic atmosphere" which had conscripted to its cause people from all sections of the country.

Matters grew worse for the CLDL the following year. On 14 October 1935, R.B. Bennett and the Conservative Party were turfed out of office by an alienated electorate. The new prime minister, Mackenzie King, was now free to carry out his promise of repealing Section 98 of the Criminal Code. On 24 June 1936 the King government replaced Section 98 with a less obnoxious subsection to section 133 of the Criminal Code. Although Smith rejoiced at the repeal of Section 98, its eradication undermined yet another major issue by which the League had been able to gather support. On 24 October 1936 a revealing bulletin was issued by Smith to all CLDL branches, to trade unions and to former members of the League. It stated:

The developments of the past two years [with respect to the C.L.D.L.] have not become as coherent and steady as was expected. . . . The permanent defense movement . . . has not been realized. . . . For the moment the political situation in Canada seems somewhat quieter and the political reaction, in its more arrogant methods has been temporarily defeated.[104]

Given such a situation, Smith posed the question whether the League should suspend all activity. He provided his own answer by stating that "the proper cause to follow is for the C.L.D.L. to maintain the machinery we have . . . and

[101] *Ibid.*, 7.
[102] Speech of A. Campbell at the *Proceedings of Annual District Convention C.L.D.L., Toronto District*, 14-15 September 1935, 2.
[103] *Minutes of Third National Convention of the Canadian Labour Defense League*, Toronto, 19-20 October 1935.
[104] *C.L.D.L. National Executive Bulletin*, 24 October 1936. *Smith Papers*.

to be prepared, whenever possible, to build the broadest forms of defense around the cases which may arise locally as well as nationally."[105]

However, from this memorandum until 1939, the CLDL lapsed into dormancy. Smith, for his part, became preoccupied with events outside the country. In March 1936 he set sail for Europe, touring Rumania, Yugoslavia, the Balkans, and the Soviet Union. In July 1937 he journeyed to Spain acting as an emissary of the "Friends of the Mackenzie-Papineau Batallion" in charge of $25,000 worth of supplies for Canadian volunteers in the Spanish Civil War.

Meanwhile, the world was racing toward war. On 1 September 1939 German troops invaded Poland; on 3 September England and France terminated diplomatic relations with Hitler; on 10 September war was declared and Canada became inextricably involved in the conflict.

The CPC supported the war effort for the first few days; however, it quickly reversed its policy when the Soviet Union joined Germany in the 17 September 1939 attack on Poland. In faithful mimicry of the Comintern, which was denouncing the "warmongers" in London and Paris, the Canadian communists declared that the war was an "imperialist one" and began a campaign to "withdraw Canada from the Imperialist War" and called on Canadians "to make it abundantly clear to the King government that the Canadian people are more interested in an early peace than in the prosecution of the war."[106]

The communists' position did not endear them to the heart of the federal government or to the majority of Canadians. By the end of 1939 Ernst Lapointe, the Dominion's Minister of Justice, was under tremendous pressure from Quebec and other parts of the country to abolish the twin evils of "communism and fascism in Canada."[107] The federal government, fearing subversive activity in Canada during the war, enacted the "Defense of Canada Regulations" pursuant to the "War Measures Act" (originally passed in 1914) which empowered the Governor-in-Council — in reality the government — to "do and authorize such order and regulations, as he may by reason of real or apprehended war, invasion or insurrection deem necessary or advisable for the security, defense, peace, order and welfare of Canada." This, in effect gave the government arbitrary powers in dealing with "enemy aliens and also with persons engaged in subversive activities of various kinds and in all their ramifications."[108] Through the Act, the government secured control of censorship, arrest, detention, deportation, appropriation, forfeiture, and disposition of property for the duration of the war. The Act descended on Canadians very quickly. It had been drawn up by an interdepartmental committee in the spring of 1939 and had been approved by the cabinet. Although Parliament met from 7-13 September, the regulations were not discussed.

[105] *Ibid.*

[106] Ivan Avakumovic, *The Communist Party*, 140.

[107] Numerous letters advocating the outlawing of communism and fascism are contained in the *Lapointe Papers*, P.A.C., Vol. 16, Files 40-41.

[108] *Revised Statutes of Canada*, 1927, Chapter 206.

Smith, of course, in full accord with the twists and turns of Comintern policy, saw the Act as a threat to civil liberties or more precisely as a direct threat to the CPC's anti-war activity. "Parliament," he declared, "had given to the Governor-in-Council, for the duration of the war, virtually as much authority as the German Reichstag in 1933 surrendered to the government of Herr Hitler."[109] On 26 November 1939 Smith announced his intentions to fully reactivate the CLDL in a campaign against the War Measures Act:

> The Government of the day has adopted a policy which is thought to be necessary in the time of war. Under this procedure the changes made in the laws of the Dominion and the events which have arisen from the application of these laws has forced to the front the burning question of the civil rights of citizens of this country. In this situation there is a need which amounts to a call, for the return of the C.L.D.L. to public activity.[110]

Shortly thereafter, a petition entitled "Resolution in Defense of Civil Rights in Canada During the War" was issued by the NEC to be circulated by all districts and branches. It in part read: "we desired to urge the removal of the following section of the Canada regulations:"

> *(Sec. 15), which provides for destructive censorship of the press;* (Sec. 21) *which* embodies "preventive arrest," the deadliest blow that can be aimed at the institutions of a free country; (Sec. 39) which destroys freedom of speech; (Sec. 39a) which crushes the workers press and bans all printed opinions contrary to reactions; (Sec. 61) which alleges an offense before there has been submitted evidence thereof in a court of law; (Sec. 62) 4 and 5, which are designed to crush organizations, etc., and which embodies the Un-British principle of 'guilty' before any charge has been proven against the accused. . . .[111]

The CLDL's revived activity did not go unnoticed by the authorities. On 4 June 1940 by order-in-council, the King government declared all communist and pro-nazi organizations illegal. On 6 June Smith learned through the pages of the *Toronto Daily Star* that the CLDL was included in the 16 organizations declared illegal. That day he issued this bulletin to the districts and branches of the CLDL:

> It is necessary at this time to formally advise you that the CLDL has been declared by the Federal Government to be illegal . . . pursuant to the provisions of an order-in-council amending the Canada Regulations.
>
> . . . The immediate effect of this is to disband our former organization. The former National office has been closed. The same applies to all former local branches and district offices. No further correspondence can be conducted as an organized body. Any matters of a personal character should be sent to me personally . . . .[112]

Thus all forms of CLDL activity ceased.

[109] *Smith Papers.*
[110] *Ibid.*, Bulletin issued to all CLDL districts and branches.
[111] *Ibid.*
[112] *Ibid.*

VIII

THE CLDL'S EMERGENCE as a national organization with substantial support throughout Canada underlines not only the feverish activities of the communists, but also exposes the violence and civil strife which existed in the nation in the interwar years. In the tense atmosphere of the depression, it became easy for political authorities, under the pretext of preserving respect for law and order, to disregard the normal precepts of "British justice" in the name of saving British institutions. The dramatic increase in deportations, the use of section 98 of the Criminal Code on the leaders of the CPC, and the indictment of Smith for sedition were all manifestations of the state's fervent desire to mute any movement or party which sought in times of crisis to foment dissatisfaction toward the state. Conversely, in the turmoil of the depression, it also became relatively easy for the CLDL to act as a vehicle of legitimate dissent against the apparent submergence of democratic values and personal liberties. Through campaigns, demonstrations, and the courts, the CLDL inextricably intertwined civil and humanitarian causes with communism, a process which generated a great deal of publicity and sympathy, two ingredients which the communist movement normally would not have received. Indeed, the CLDL did conscript into its ranks individuals who normally would have had nothing to do with the communists. Through its activities, the CLDL saved the communist movement in the 1930s from prolonged disarray. Like the CPC, however, the CLDL reflected once too often the "Real Politik" inside the Kremlin rather than the indigenous forces within the country. This ensured its suppression by the political authorities in 1940.

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